

SUPREME COURT OF KENTUCKY

Commonwealth v. Hernandez-Gonzalez

72 S.W.3d 914 (Ky. 2002) · No. 2001-SC-0600-CL · Decided May 16, 2002

SUMMARY

The Supreme Court of Kentucky held that the implied-consent warning in KRS 189A.105 is defective as applied to suspected first-offense DUI offenders who are not necessarily subject to mandatory jail time. The court nevertheless concluded that the defect did not violate constitutional due process or improperly coerce submission to blood-alcohol testing because Kentucky law imposes a duty to submit and provides no constitutional right to refuse such testing. The court certified the law accordingly.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Graves; Justice Johnstone
JURISDICTION	Kentucky
DECIDED	May 16, 2002
DOCKET	2001-SC-0600-CL
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Kentucky granted the Commonwealth's motion for certification of the law after the Jefferson District Court suppressed the blood-alcohol-test results, acquitted Hernandez-Gonzalez of DUI, and convicted him of reckless driving.
STANDARD OF REVIEW	Certification of the law involving statutory interpretation and constitutional questions
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Kentucky; binding Kentucky precedent.
PARTIES	Commonwealth of Kentucky v. Fernando Hernandez-Gonzalez

TOPICS

- criminal procedure
- statutory interpretation
- due process
- search and seizure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the implied-consent warning required by KRS 189A.105 is defective on its face or as applied to a suspected first-offense DUI driver who may not be subject to mandatory jail time.
2. Whether any defect in the warning unconstitutionally coerces a person to submit to blood-alcohol testing in violation of federal or Kentucky due process protections.

HOLDINGS

1. The implied-consent warning is defective as applied to suspected drunk drivers who are not necessarily subject to minimum jail time because the warning does not accurately describe the consequences of refusal in those circumstances.
2. The defect in the implied-consent warning does not violate due process or otherwise constitutionally coerce submission to blood-alcohol testing because a suspected drunk driver has no constitutional right to refuse the test.

KEY QUOTATIONS

“Thus, the implied consent warning contained in KRS 189A.105 is not so defective as to prejudice, as a matter of law, a suspected drunk driver's decision-making process since there is no constitutional right to refuse to submit to a test to determine blood alcohol concentration.” (918)

“Accordingly, the law is so certified.” (918)

FACTUAL BACKGROUND

Hernandez-Gonzalez was arrested for first-offense driving under the influence and was given the implied-consent warning required by KRS 189A.105. The warning stated that refusal of chemical testing would result in a mandatory minimum jail sentence twice as long as the mandatory minimum sentence imposed if the person submitted to testing. Because first-offense DUI may result in a fine without mandatory jail time absent aggravating circumstances, the district court found the warning inaccurate, suppressed the blood-alcohol-test results, and acquitted Hernandez-Gonzalez of DUI.

PROCEDURAL HISTORY

Hernandez-Gonzalez was arrested for first-offense DUI. The Jefferson District Court suppressed the blood-alcohol-test results and found him not guilty of DUI but guilty of reckless driving, concluding that the implied-consent warning required by KRS 189A.105 was inaccurate and unconstitutionally coercive. The Commonwealth sought certification under Kentucky Constitution section 115 and CR 76.37(10), and the Supreme Court accepted the certified question.

DISPOSITION

other

CASES CITED

- Hess v. Pawloski, 274 U.S. 352 (1927)
- Breithaupt v. Abram, 352 U.S. 432 (1957)
- Schmerber v. California, 384 U.S. 757 (1966)
- South Dakota v. Neville, 459 U.S. 553 (1983)
- Commonwealth v. Wirth, 936 S.W.2d 78 (Ky. 1996)

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