

ARIZONA SUPREME COURT

State ex rel. Montgomery v. Harris, 237 Ariz. 98

346 P.3d 984 (2015) · Decided April 22, 2014

SUMMARY

The Arizona Supreme Court held that the phrase “its metabolite” in A.R.S. § 28-1381(A)(3) refers only to metabolites of a proscribed substance that are capable of causing impairment. Because Carboxy-THC is a non-impairing metabolite, its presence alone could not support the charged offense. The court vacated the court of appeals’ decision and affirmed dismissal of the charge.

CASE DETAILS

COURT	Arizona Supreme Court
WRITING FOR THE COURT	Justice Brutinel; Justice Bales; Justice Berch; Justice Pelander; Justice Timmer
JURISDICTION	Arizona
DECIDED	April 22, 2014
DISPOSITION	vacated
PROCEDURAL POSTURE	The State sought review of a court of appeals special-action decision that granted relief and reinstated a driving-under-the-influence charge based solely on the presence of Carboxy-THC. The Arizona Supreme Court granted review.
STANDARD OF REVIEW	De novo review of questions of statutory interpretation.
PRECEDENTIAL VALUE	Published Arizona Supreme Court opinion; precedential.
PARTIES	State of Arizona ex rel. Montgomery v. Hrach Shilgevorkyan

TOPICS

statutory interpretation legislative intent legislative history absurdity doctrine criminal procedure

PRACTICE AREAS

criminal law criminal procedure statutory interpretation driving under the influence

QUESTIONS PRESENTED

1. Whether the phrase "its metabolite" in A.R.S. § 28-1381(A)(3) includes any metabolite of a proscribed drug, including the non-impairing metabolite Carboxy-THC.
2. Whether a driver may be convicted under A.R.S. § 28-1381(A)(3) based solely on the presence of a non-impairing metabolite of marijuana.

HOLDINGS

1. The phrase "its metabolite" is limited to metabolites of a proscribed substance that are capable of causing impairment; it does not include a non-impairing metabolite merely reflecting prior drug use.
2. Because Carboxy-THC is a non-impairing metabolite and was the only metabolite found in Shilgevorkyan's blood, its presence could not support an A.R.S. § 28-1381(A)(3) conviction.

KEY QUOTATIONS

"We find that the legislature intended to prohibit driving with any amount of an impairing substance resulting from a drug proscribed in § 13-3401 in the body." (237 Ariz. at 104, ¶ 24)

"Drivers cannot be convicted of the (A)(3) offense based merely on the presence of a non-impairing metabolite that may reflect the prior usage of marijuana." (237 Ariz. at 104, ¶ 24)

"Accordingly, we vacate the court of appeals' opinion and affirm the trial court's dismissal of the (A)(3) charge." (237 Ariz. at 104, ¶ 25)

FACTUAL BACKGROUND

Police stopped Hrach Shilgevorkyan for speeding and unsafe lane changes and administered field sobriety tests. He admitted smoking marijuana the previous night and voluntarily submitted to a blood test that detected Carboxy-THC. Expert testimony established that Carboxy-THC is an inactive, non-impairing metabolite that can remain in the body for twenty-eight to thirty days.

PROCEDURAL HISTORY

After police detected only Carboxy-THC in Shilgevorkyan's blood, the justice court dismissed the A.R.S. § 28-1381(A)(3) charge, and the State voluntarily dismissed a separate impairment-based charge. The superior court affirmed the dismissal. The court of appeals accepted the State's special-action petition and granted relief, holding that the statute covered Carboxy-THC. The supreme court vacated the court of appeals' opinion and affirmed the trial court's dismissal.

DISPOSITION

vacated

CASES CITED

- State ex rel. Montgomery v. Harris ex rel. Cnty. of Maricopa, 232 Ariz. 76, 301 P.3d 580 (App. 2013)
- State v. Hammonds, 192 Ariz. 528, 968 P.2d 601 (App. 1998)

- State v. Phillips, 178 Ariz. 368, 873 P.2d 706 (App. 1994)
- State v. Hansen, 215 Ariz. 287, 289 ¶¶ 6-7, 160 P.3d 166, 168 (2007)
- Bilke v. State, 206 Ariz. 462, 464 ¶ 11, 80 P.3d 269, 271 (2003)
- State v. Wise, 137 Ariz. 468, 470 n.3, 671 P.2d 909, 911 n.3 (1983)
- Baker v. Univ. Physicians Healthcare, 231 Ariz. 379, 384 ¶ 15, 296 P.3d 42, 47 (2013)
- Arizona Citizens Clean Elections Comm'n v. Brain, 234 Ariz. 322, 325 ¶ 13, 322 P.3d 139, 142 (2014)
- Mendelsohn v. Super. Ct. in and for Maricopa Cnty., 76 Ariz. 163, 169, 261 P.2d 983, 987-88 (1953)
- Gallic v. Kongable, 195 Ariz. 496, 500 ¶ 16, 990 P.2d 1055, 1059 (1999)
- Aros v. Beneficial Arizona, Inc., 194 Ariz. 62, 66, 977 P.2d 784, 788 (1999)
- State v. Korzep, 165 Ariz. 490, 493, 799 P.2d 831, 834 (1990)
- Grant v. Bd. of Regents of Univ. and State Colls. of Ariz., 133 Ariz. 527, 529, 652 P.2d 1374, 1376 (1982)
- State v. Barnett, 142 Ariz. 592, 597, 691 P.2d 683, 688 (1985)
- State v. Cooperman, 232 Ariz. 347, 350 ¶ 10, 306 P.3d 4, 7 (2013)
- Fuenning v. Super. Ct. in and for Maricopa Cnty., 139 Ariz. 590, 595, 680 P.2d 121, 126 (1983)
- State v. Boyd, 201 Ariz. 27, 29-30 ¶¶ 12-13, 31 P.3d 140, 142-43 (App. 2001)
- State v. Gomez, 212 Ariz. 55, 60 ¶ 28, 127 P.3d 873, 878 (2006)
- Hayes v. Cont'l Ins. Co., 178 Ariz. 264, 272, 872 P.2d 668, 676 (1994)

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