

SUPREME COURT OF NORTH DAKOTA

State v. Guttormson

2015 ND 235 · No. 20150035 · Decided September 17, 2015

SUMMARY

The North Dakota Supreme Court affirmed Chad Scott Guttormson’s conviction for refusing to submit to an onsite screening test. The Court held that admitting a silent squad-car video and testimony from a backup officer did not violate the Sixth Amendment Confrontation Clause because the evidence did not contain testimonial hearsay. The Court also held that sufficient circumstantial evidence supported the conviction, but remanded for correction of a clerical error in the criminal judgment.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Dale V. Sandstrom; Lisa Fair McEvers; Daniel J. Crothers; Carol Ronning Kapsner; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	September 17, 2015
DOCKET	20150035
DISPOSITION	affirmed_and_remanded
PROCEDURAL POSTURE	Defendant appealed a criminal judgment entered after a jury convicted him of refusing to submit to an onsite screening test.
STANDARD OF REVIEW	Constitutional-right claims are reviewed de novo. Sufficiency of the evidence is reviewed by determining whether competent evidence and reasonable inferences, viewed in the light most favorable to the verdict, would permit a rational factfinder to find guilt beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Chad Scott Guttormson v. State of North Dakota

TOPICS

- sixth amendment
- hearsay
- evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether admission of the silent squad-car video and Officer Birney's testimony about Officer Gonzalez's actions violated Guttormson's Sixth Amendment right of confrontation.
2. Whether the State presented sufficient evidence that the officer had reason to believe Guttormson committed a moving traffic violation and formulated an opinion that Guttormson's body contained alcohol, as required for an onsite screening-test refusal conviction.
3. Whether the criminal judgment required correction because it cited the chemical-test refusal subsection rather than the onsite screening-test refusal subsection.

HOLDINGS

1. There was no Confrontation Clause violation because the challenged evidence did not contain testimonial hearsay. Birney could testify about events he personally observed, and Gonzalez's requests, actions, and the silent video were not admitted for the truth of an asserted matter.
2. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that the statutory requirements for refusal to submit to an onsite screening test were satisfied.

KEY QUOTATIONS

“Officer Gonzalez’s statements and actions during the encounter are not testimonial, and therefore admission of his actions without an opportunity for cross-examination did not violate Guttormson’s right to confrontation.” (¶ 9)

“The State was not required to prove the traffic violation itself beyond a reasonable doubt, nor was it required to prove that Guttormson’s body contained alcohol beyond a reasonable doubt.” (¶ 19)

“Because Guttormson’s Sixth Amendment right of confrontation was not violated and sufficient evidence exists to support his conviction, we affirm the judgment of the district court, but remand for the district court to correct the judgment to reflect the conviction under N.D.C.C. § 39-08-01(1)(e)(3).” (¶ 22)

FACTUAL BACKGROUND

In July 2014, Officer Jorge Gonzalez stopped Chad Guttormson after an alleged traffic violation and arrested him for driving under the influence and refusing an onsite screening test. Backup Officer Ryan Birney observed Guttormson's poor balance, swaying, difficulty standing, and apparent intoxication, and personally observed Gonzalez recite the implied-consent advisory, request an onsite breath test, and arrest Guttormson after he refused. A silent squad-car video depicting the encounter was also admitted. The jury convicted Guttormson of refusal to submit to an onsite screening test.

PROCEDURAL HISTORY

Guttormson was charged with driving under the influence and refusal to submit to an onsite screening test. The district court dismissed the DUI charge on the State's motion, and a jury found Guttormson guilty of refusal to

submit to an onsite screening test. He appealed, challenging the admission of evidence under the Sixth Amendment Confrontation Clause and the sufficiency of the evidence.

DISPOSITION

affirmed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court to correct the criminal judgment so that it reflects a conviction under N.D.C.C. § 39-08-01(1)(e)(3), refusal to submit to an onsite screening test, rather than § 39-08-01(1)(e)(2), refusal to submit to a chemical test.

CASES CITED

- State v. Blue, 2006 ND 134, ¶ 6, 717 N.W.2d 558
- Crawford v. Washington, 541 U.S. 36, 51-52, 59 n.9, 68 (2004)
- Ehrlich v. Backes, 477 N.W.2d 211, 214 (N.D. 1991)
- Moen v. Thomas, 2001 ND 95, ¶ 11, 627 N.W.2d 146
- State v. Welch, 426 N.W.2d 550, 555 (N.D. 1988)
- Tennessee v. Street, 471 U.S. 409, 414 (1985)
- Michigan v. Bryant, 562 U.S. 344, 1160 n.11 (2011)
- Bullcoming v. New Mexico, 131 S. Ct. 2705, 2709-11 (2011)
- Melendez-Diaz v. Massachusetts, 557 U.S. 305, 310-11 (2009)
- State v. Sorenson, 2009 ND 147, ¶ 16, 770 N.W.2d 701
- Davis v. Washington, 547 U.S. 813, 823 (2006)
- State v. Nakvinda, 2011 ND 217, ¶ 12, 807 N.W.2d 204
- State v. Kinsella, 2011 ND 88, ¶ 7, 796 N.W.2d 678
- State v. Morales, 2004 ND 10, ¶ 27, 673 N.W.2d 250
- City of Grand Forks v. Thong, 2002 ND 48, ¶ 18, 640 N.W.2d 721
- State v. Tibor, 2007 ND 146, ¶ 33, 738 N.W.2d 492
- State v. Noorlun, 2005 ND 189, ¶ 20, 705 N.W.2d 819
- State v. Steinbach, 1998 ND 18, ¶ 16, 575 N.W.2d 193

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