

SUPREME COURT OF COLORADO

Fitzgerald v. People

2017 CO 26 (2017) · No. 15SC340 · Decided April 17, 2017

SUMMARY

The Colorado Supreme Court considers whether admitting a defendant's refusal to submit to blood- or breath-alcohol testing as evidence of guilt violates the Fourth Amendment. The court holds that Colorado's Expressed Consent Statute permits use of refusal evidence without impermissibly burdening the defendant's constitutional right to be free from unreasonable searches. The court affirms the district court's judgment upholding Fitzgerald's DWAI conviction.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hood; Chief Justice Rice; Justice Coats; Justice Eid
JURISDICTION	Colorado
DECIDED	April 17, 2017
DOCKET	15SC340
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fitzgerald sought review of the district court's affirmance of his DWAI conviction after the trial court denied his motion in limine to exclude evidence of his refusal to submit to blood- or breath-alcohol testing.
STANDARD OF REVIEW	De novo review of a legal question involving statutory interpretation and Fourth Amendment case law.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado, decided en banc.
PARTIES	Daniel Fitzgerald v. The People of the State of Colorado

TOPICS

fourth amendment

search and seizure

criminal procedure

suppression of evidence

evidence

PRACTICE AREAS

criminal procedure

DUI/DWAI

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the prosecution violated the Fourth Amendment by introducing a defendant's refusal to consent to a warrantless blood- or breath-alcohol test as evidence of guilt in a DUI or DWAI prosecution.
2. Whether Colorado's Expressed Consent Statute permits refusal evidence without impermissibly penalizing the exercise of a constitutional right to be free from unreasonable searches.

HOLDINGS

1. The prosecution's use of a defendant's refusal to consent to a blood or breath test as evidence of guilt, when authorized by Colorado's Expressed Consent Statute, does not violate the Fourth Amendment.
2. Admission of refusal evidence does not constitute an impermissible penalty on the exercise of a Fourth Amendment privilege because a motorist has no constitutional right to refuse a blood- or breath-alcohol test.

KEY QUOTATIONS

“We take that short leap today and conclude that introducing evidence of Fitzgerald’s refusal to consent to a blood or breath test to determine his BAC did not impermissibly burden his Fourth Amendment right.” (¶ 26)

“The prosecution’s use of a defendant’s refusal to consent to a blood or breath test as evidence of guilt, in accordance with the terms of Colorado’s Expressed Consent Statute, does not violate the Fourth Amendment.” (¶ 27)

FACTUAL BACKGROUND

After midnight on June 30, 2013, Detective Billy Todis stopped Daniel Fitzgerald after observing erratic driving and a missing headlight. The detective smelled alcohol, observed Fitzgerald's watery eyes, and learned that Fitzgerald had consumed one beer; Fitzgerald declined voluntary roadside sobriety maneuvers. After arresting Fitzgerald for suspected DUI, the detective gave him oral and written expressed-consent advisements, but Fitzgerald refused blood- or breath-alcohol testing. At trial, the prosecution introduced the refusal as evidence of consciousness of guilt, and the jury convicted Fitzgerald of DWAI.

PROCEDURAL HISTORY

After Fitzgerald refused chemical testing following his DUI arrest, the prosecution introduced the refusal as evidence of guilt, and a jury convicted him of DWAI, a lesser-included offense of DUI. Fitzgerald appealed to the district court, which affirmed. The Colorado Supreme Court granted certiorari and affirmed the district court's judgment.

DISPOSITION

affirmed

CASES CITED

- E-470 Public Highway Authority v. 455 Co., 3 P.3d 18 (Colo. 2000)

- Colorado Department of Revenue v. Garner, 66 P.3d 106 (Colo. 2003)
- Eddie's Leaf Spring Shop & Towing LLC v. Colorado Public Utilities Commission, 218 P.3d 326 (Colo. 2009)
- Skinner v. Railway Labor Executives' Association, 489 U.S. 602 (1989)
- Birchfield v. North Dakota, 136 S. Ct. 2160 (2016)
- Griffin v. California, 380 U.S. 609 (1965)
- Apodaca v. People, 712 P.2d 467 (Colo. 1985)
- South Dakota v. Neville, 459 U.S. 553 (1983)
- Schmerber v. California, 384 U.S. 757 (1966)
- Cox v. People, 735 P.2d 153 (Colo. 1987)
- Missouri v. McNeely, 133 S. Ct. 1552 (2013)
- People v. Hyde, 2017 CO 24