

SUPREME COURT OF MISSOURI

State v. Galazin

58 S.W.3d 500 (Mo. banc 2001) · No. SC 83415 · Decided October 23, 2001

SUMMARY

The Missouri Supreme Court affirmed Mark Galazin’s conviction for felony driving while intoxicated. The court held that Galazin did not preserve a challenge to the arresting municipal officer’s authority because he did not file a timely motion to suppress or adequately assert an unlawful-arrest claim, and the record did not establish plain error. A dissent argued that the record showed no competent evidence authorizing the officer’s extraterritorial arrest in Lakeview.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	John C. Holstein; Limbaugh, C.J.; Wolff, J.; Benton, J.; Price, J.; Gary M. Gaertner, Sp.J.; Ronnie L. White, J.; Laura Denvir Stith, J. (not participating)
JURISDICTION	Missouri
DECIDED	October 23, 2001
DOCKET	SC 83415
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his felony driving-while-intoxicated conviction, arguing that the trial court improperly admitted the arresting officer's testimony because the State had not shown that the municipal officer had authority to arrest outside Lake Ozark. The Supreme Court of Missouri granted transfer after the court of appeals issued an opinion and affirmed the judgment.
STANDARD OF REVIEW	For preserved suppression issues, the facts and reasonable inferences are viewed favorably to the trial court's ruling, while contrary evidence and inferences are disregarded. Plain-error relief requires a showing that the alleged error substantially affected the defendant's rights and resulted in manifest injustice or a miscarriage of justice.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; majority opinion is precedential.
PARTIES	Mark T. Galazin v. State of Missouri

TOPICS

criminal procedure

suppression of evidence

search and seizure

preservation of error

appellate procedure

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether Galazin's trial objections preserved a claim that the arresting officer lacked authority to arrest him outside the officer's municipality.
2. Whether the trial court committed plain error by admitting the officer's testimony about the stop, arrest, and Galazin's intoxicated condition without requiring the State to prove the officer's arrest authority.
3. Whether the officer's firsthand observations were inadmissible under the best-evidence or other evidentiary rules because the alleged mutual-aid agreement was not produced.

HOLDINGS

1. A challenge to an unlawful search or seizure, including a claim that a municipal officer lacked authority to make an arrest, must ordinarily be raised by a pretrial motion to suppress. Evidentiary objections asserting foundation, relevancy, hearsay, or best evidence do not preserve that constitutional or suppression claim.
2. The unpreserved claim that the officer lacked authority to arrest in Lakeview did not warrant plain-error relief.
3. The best-evidence rule did not bar testimony based on the officer's personal knowledge merely because a document, such as a mutual-aid agreement, might also contain the same information.

KEY QUOTATIONS

“Unlawful search and seizure claims must be raised by a motion to suppress evidence before trial.” (504)

“The only recognized exception to the requirement of a pre-trial motion, and the only one raised here by defendant, is where the defendant had no reason to anticipate that the unlawfully seized evidence would be introduced and was surprised by its introduction.” (506)

“The record falls far short of establishing the sort of compelling evidence of egregious police misconduct to constitute a manifest injustice under plain error analysis.” (508)

FACTUAL BACKGROUND

A Lake Ozark police officer responded to a radio call and stopped Mark Galazin in Lakeview after observing his vehicle cross the center line several times. Galazin had no valid driver's license, failed three field-sobriety tests, had slurred speech, smelled of intoxicants, and had empty beer containers in his vehicle. The officer arrested him, and Galazin refused chemical or breath testing at the station. The arrest occurred outside the officer's municipality, and the trial record did not include the alleged mutual-aid agreement between Lake Ozark and Lakeview.

PROCEDURAL HISTORY

Galazin was convicted of felony driving while intoxicated and other offenses in the trial court. He appealed only the DWI conviction. After the court of appeals issued an opinion, the Supreme Court of Missouri granted transfer under article V, section 10 of the Missouri Constitution. The Supreme Court affirmed, holding that the challenge to the legality of the arrest was not preserved and did not warrant plain-error relief.

DISPOSITION

affirmed

CASES CITED

- State v. Yowell, 513 S.W.2d 397, 402 (Mo. banc 1974)
- State v. Harrington, 435 S.W.2d 318, 321 (Mo. 1968)
- State v. Conn, 950 S.W.2d 535, 537 (Mo. App. 1997)
- State v. Villa-Perez, 835 S.W.2d 897, 902 (Mo. banc 1992)
- State v. Eisenhouer, 40 S.W.3d 916, 919 (Mo. banc 2001)
- State v. Anderson, 698 S.W.2d 849, 851 (Mo. banc 1985)
- State v. Hadley, 815 S.W.2d 422, 425 (Mo. banc 1991)
- State v. Odom, 353 S.W.2d 708, 712 (Mo. 1961)
- State v. Britton, 444 S.W.2d 465 (Mo. 1969)
- State v. Jackson, 477 S.W.2d 47 (Mo. 1972)
- State v. Edmondson, 379 S.W.2d 486, 489 (Mo. 1964)
- State v. Kinkead, 983 S.W.2d 518, 519 (Mo. banc 1998)
- State v. Isa, 850 S.W.2d 876, 884 (Mo. banc 1993)
- State v. Fowler, 938 S.W.2d 894, 898 (Mo. banc 1996)
- State v. Brown, 708 S.W.2d 140, 145 (Mo. banc 1986)
- State v. Carrico, 696 S.W.2d 511 (Mo. App. 1985)
- State v. Corpier, 793 S.W.2d 430 (Mo. App. 1990)
- State v. Pfleiderer, 8 S.W.3d 249 (Mo. App. 1999)
- State v. Morrow, 996 S.W.2d 679 (Mo. App. 1999)
- State v. Clark, 26 S.W.3d 448 (Mo. App. 2000)
- State v. McElroy, 838 S.W.2d 43 (Mo. App. 1992)
- State v. Holcomb, 86 Mo. 371, 381 (1885)
- Rodgers v. Schroeder, 220 Mo. App. 575, 287 S.W. 861, 862 (1926)
- Kimber v. Director of Revenue, 817 S.W.2d 627, 631 (Mo. App. 1991)
- City of Fredericktown v. Bell, 761 S.W.2d 715, 716-17 (Mo. App. 1989)
- City of Advance v. Maryland Casualty Co., 302 S.W.2d 28, 31-32 (Mo. 1957)
- Abbott v. City of Crocker, 30 F.3d 994, 996-1000 (8th Cir. 1994)

- State v. Goodman, 449 S.W.2d 656, 658 (Mo. 1970)
- Hacker v. City of Potosi, 340 S.W.2d 166, 168-69 (Mo. App. 1960)
- State ex rel. Kaercher v. Roth, 330 Mo. 105, 49 S.W.2d 109 (1932)
- State v. Burkhardt, 795 S.W.2d 399, 404 (Mo. banc 1990)

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