

SUPREME COURT OF VIRGINIA

Rix v. Commonwealth, 282 Va. 1

714 S.E.2d 561 (2011) · No. Record No. 101737 · Decided June 9, 2011

SUMMARY

The Supreme Court of Virginia affirmed Ellen Marie Rix’s convictions for driving under the influence and refusing a blood or breath test. The court held that Rix was an “operator” of a motor vehicle under Virginia Code § 46.2-100 because she took actual physical control of a fully operational vehicle on a highway while the engine was running, even though the officer did not see her drive the vehicle.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Virginia
DECIDED	June 9, 2011
DOCKET	Record No. 101737
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rix appealed convictions for operating a motor vehicle while intoxicated and refusing to submit to a blood or breath test. The Supreme Court of Virginia granted the appeal from the Court of Appeals, which had affirmed the convictions.
STANDARD OF REVIEW	Because the facts were undisputed, the appeal presented only a question of law concerning the legal conclusion to be drawn from those facts.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Virginia
PARTIES	Ellen Marie Rix v. Commonwealth of Virginia

TOPICS

criminal procedure

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

Criminal law

Criminal procedure

DUI/DWI

QUESTIONS PRESENTED

1. Whether a person who takes the driver's seat of a fully operational vehicle on a highway, while the engine is running and the ignition is on, is an operator of the vehicle under Code § 46.2-100 even though the person was not observed placing the vehicle in motion.
2. Whether the convictions for operating a motor vehicle while intoxicated and refusing a blood or breath test should be affirmed.

HOLDINGS

1. A person is an operator of a motor vehicle when the person takes actual physical control of a fully operational vehicle on a highway with the ignition key in the on position and the engine running, even if the person was not observed putting the vehicle in motion.
2. The convictions for operating a motor vehicle while intoxicated and refusing to submit to a blood or breath test were properly affirmed.

KEY QUOTATIONS

"operating" a motor vehicle includes "manipulating the mechanical or electrical equipment of the vehicle without actually putting the car in motion. It means engaging the machinery of the vehicle which alone, or in sequence, will activate the motive power of the vehicle." (282 Va. at 2)

"While the officer watched, she took actual physical control of a fully operational motor vehicle on a highway, with its ignition key in the "on" position and its engine running." (282 Va. at 2)

FACTUAL BACKGROUND

A police officer observed a vehicle weaving on Interstate 264 and stopped it. While approaching, he saw the driver and front-seat passenger exchange seats; Rix was then sitting in the driver's seat, with the keys in the ignition and the engine running. Rix exhibited signs of intoxication, refused field sobriety and breathalyzer testing, and was convicted of driving or operating a motor vehicle while intoxicated and refusing a blood or breath test.

PROCEDURAL HISTORY

Rix was convicted in general district court and appealed to the Circuit Court of the City of Virginia Beach, where she was convicted after a bench trial. The Court of Appeals of Virginia affirmed in a published opinion. The Supreme Court of Virginia awarded an appeal and affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- Nelson v. Commonwealth, 281 Va. 212, 707 S.E.2d 815 (2011)
- Stevenson v. City of Falls Church, 243 Va. 434, 416 S.E.2d 435 (1992)

- Rix v. Commonwealth, 56 Va. App. 749, 697 S.E.2d 33 (2010)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/virginia-supreme-court-of-virginia/2011/rix-v-commonwealth-282-va-1-hptq3gk0>