

SUPREME COURT OF VERMONT

State v. Benoir

174 Vt. 632 (2002) (Vt. 2002) · No. No. 02-098 · Decided December 19, 2002

SUMMARY

The Vermont Supreme Court affirmed the denial of Dennis Benoir's motion to dismiss a DUI charge and suppress an evidentiary breath test. The court held that Vermont law did not require the State to pay for an independent blood test when the defendant could not pay, and that the hospital's refusal to draw his blood did not constitute interference by law enforcement. The court also rejected the defendant's statutory and constitutional arguments and concluded that the State had fulfilled its obligations.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Chief Justice Amestoy; Justice Dooley; Justice Morse; Justice Johnson; Justice Skoglund
JURISDICTION	Vermont
DECIDED	December 19, 2002
DOCKET	No. 02-098
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the denial of his motion to dismiss a DUI charge and to suppress an evidentiary breath test, then entered a conditional guilty plea preserving the issue for appellate review.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review; the court reviewed the denial of the motion to dismiss and suppress for legal error based on undisputed facts.
PRECEDENTIAL VALUE	Published Vermont Supreme Court entry order; the source metadata identifies the decision as published.
PARTIES	Dennis C. Benoir v. State of Vermont

TOPICS

- criminal procedure
- suppression of evidence
- due process
- evidence
- statutory interpretation

PRACTICE AREAS

criminal procedure

DUI

evidence

constitutional law

statutory interpretation

QUESTIONS PRESENTED

1. Whether 23 V.S.A. § 1203a required the State to pay for defendant's independent blood test when defendant could not pay.
2. Whether the hospital's refusal to draw defendant's blood constituted prevention or denial of the independent test by a law-enforcement officer, requiring suppression of the State's evidentiary breath test.
3. Whether the Vermont Public Defender Act or the Due Process Clause of the Fourteenth Amendment or Chapter I, Article 10 of the Vermont Constitution required the State to pay for defendant's independent blood test.

HOLDINGS

1. Under 23 V.S.A. § 1203a, the person seeking an independent test bears the ultimate financial responsibility for transportation, drawing the sample, and analysis, although the defender general may become responsible when the facility cannot obtain payment and may seek recoupment.
2. A private hospital's refusal to draw an independent blood sample because the suspect could not pay did not constitute prevention or denial of the test by a law-enforcement officer under 23 V.S.A. § 1203a(a); suppression was therefore unwarranted.
3. Neither the Vermont Public Defender Act nor the Due Process Clause of the Fourteenth Amendment or Chapter I, Article 10 of the Vermont Constitution required the State to pay for defendant's independent blood test under these circumstances.

KEY QUOTATIONS

"We thus conclude that the State here has done all that it is statutorily and constitutionally required to do, and that defendant's motion to dismiss and suppress was correctly denied." (at 703)

FACTUAL BACKGROUND

A state trooper stopped Benoir's vehicle after receiving a report that it was being driven erratically and obtained an evidentiary breath sample. The trooper advised Benoir of his right to obtain an independent blood sample, supplied a test kit, and gave him a list of medical facilities. A hospital required \$50 in cash or a credit card to draw the blood; Benoir could not pay, left without obtaining the sample, and did not try another facility.

PROCEDURAL HISTORY

A Vermont trial court denied defendant's motion to dismiss and suppress. Defendant pleaded guilty to DUI second, conditioned on the outcome of the appeal, and received a sentence of twelve to twenty-four months, all suspended except fifteen days on work crew. The Supreme Court of Vermont affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Wright, 169 Vt. 573, 740 A.2d 347 (1999) (mem.)
- State v. Copeland, 391 A.2d 836 (Me. 1978)
- State v. Pineau, 491 A.2d 1165 (Me. 1985)
- State v. Vandervoort, 215 Ga. App. 72, 449 S.E.2d 617 (1994)
- Gus' Catering, Inc. v. Menusoft Sys., 171 Vt. 556, 762 A.2d 804 (2000) (mem.)
- Stevenson v. Capital Fire Mut. Aid Sys., Inc., 163 Vt. 623, 661 A.2d 86 (1995) (mem.)
- MacLeod v. State, 28 P.3d 943 (Alaska Ct. App. 2001)
- Mack v. Cruikshank, 196 Ariz. 541, 2 P.3d 100 (1999)
- State v. Minkoff, 308 Mont. 248, 42 P.3d 223 (2002)
- Snyder v. State, 930 P.2d 1274 (Alaska 1996)
- In re Martin, 58 Cal. 2d 509, 24 Cal. Rptr. 833, 374 P.2d 801 (1962) (en banc)
- Commonwealth v. O'Brien, 434 Mass. 615, 750 N.E.2d 1000 (2001)
- Chase v. Commonwealth, 37 Va. App. 194, 555 S.E.2d 422 (2001)
- State v. Patton, 280 Mont. 278, 930 P.2d 635 (1996)
- Bilbrey v. State, 531 So. 2d 27 (Ala. Crim. App. 1987)
- State v. Choate, 667 S.W.2d 111 (Tenn. Crim. App. 1983)

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