

SUPREME COURT OF THE STATE OF MONTANA

State v. Ellis-Peterson

2016 MT 159N (Mont. 2016) · No. DA 15-0444 · Decided June 28, 2016

SUMMARY

The Montana Supreme Court affirmed the denial of Dawnalee Ellis-Peterson’s motion to suppress evidence following her arrest for driving under the influence. The court held that the arresting officer had probable cause based on his observations of her intoxication, her admission that she was drunk, her driving, and related circumstances, and that field sobriety testing was not required. The court issued the decision as a noncitable memorandum opinion under its Internal Operating Rules.

CASE DETAILS

|                       |                                                                                                                                                                                                                   |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                                                             |
| WRITING FOR THE COURT | Patricia Cotter; Mike McGrath; James Jeremiah Shea; Michael E. Wheat; Laurie McKinnon                                                                                                                             |
| JURISDICTION          | Montana                                                                                                                                                                                                           |
| DECIDED               | June 28, 2016                                                                                                                                                                                                     |
| DOCKET                | DA 15-0444                                                                                                                                                                                                        |
| DISPOSITION           | affirmed                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Direct appeal from the denial of a motion to suppress evidence, following the defendant's guilty plea to driving under the influence under a plea agreement reserving her right to appeal the suppression ruling. |
| STANDARD OF REVIEW    | The Supreme Court reviews a district court's denial of a motion to suppress to determine whether the findings of fact are clearly erroneous and whether the conclusions of law are correct.                       |
| PRECEDENTIAL VALUE    | Nonprecedential; memorandum opinion expressly designated noncitable under the Montana Supreme Court Internal Operating Rules.                                                                                     |
| PARTIES               | Dawnalee Ellis-Peterson v. State of Montana                                                                                                                                                                       |

TOPICS

- suppression of evidence
- probable cause
- criminal procedure
- appellate procedure
- standard of review

## PRACTICE AREAS

criminal procedure

DUI

evidence suppression

appellate procedure

## QUESTIONS PRESENTED

1. Whether Officer Beck had probable cause to arrest Ellis-Peterson for driving under the influence without a warrant.
2. Whether the absence of field sobriety testing invalidated the probable-cause determination.
3. Whether the circumstances justified an immediate warrantless arrest under Montana Code Annotated § 46-6-311(1).

## HOLDINGS

1. Officer Beck had probable cause to arrest Ellis-Peterson for driving under the influence without a warrant because the facts personally observed by him, considered in light of his law-enforcement training, were sufficient to warrant a reasonable belief that she was driving while intoxicated.
2. Field sobriety testing is not a prerequisite to a finding of probable cause to arrest for DUI, and the absence of such testing does not by itself invalidate the probable-cause determination.
3. The public-safety threat posed by an intoxicated driver with a suspended license constituted an existing circumstance justifying immediate warrantless arrest.

## KEY QUOTATIONS

*“Probable cause to arrest is established if the facts and circumstances within an officer’s personal knowledge, or related to the officer by a reliable source, are sufficient to warrant a reasonable person to believe that someone is committing or has committed an offense.” (¶ 8)*

*“Sobriety testing is not a prerequisite to finding probable cause,” (¶ 10)*

*“the absence of such tests do not fatally flaw the probable cause determination,” (¶ 10)*

## FACTUAL BACKGROUND

Police officers encountered Ellis-Peterson twice after receiving reports concerning her apparent intoxication. They personally observed that she was stumbling, had difficulty maintaining her balance, slurred her speech, smelled of alcohol, and stated that she was drunk. After a neighbor reported that Ellis-Peterson had driven away, an officer stopped her after she continued driving past safe places to pull over and parked improperly; the officer smelled a strong odor of alcohol and knew that her license was suspended. The officer arrested her for DUI without administering field sobriety tests.

## PROCEDURAL HISTORY

Ellis-Peterson was charged with felony DUI, driving while her license was suspended or revoked, and driving without liability protection. The District Court denied her motion to suppress evidence obtained after her arrest. She then pleaded guilty to DUI under an agreement requiring dismissal of the two misdemeanor charges,

received a sentence of 13 months with the Department of Corrections followed by a four-year suspended sentence, and appealed the suppression ruling.

#### DISPOSITION

affirmed

#### CASES CITED

- State v. Braulick, 2015 MT 147, ¶ 13, 379 Mont. 302, 349 P.3d 508
- Muller v. State, 2012 MT 66, ¶ 14, 364 Mont. 328, 274 P.3d 737
- State v. Ditton, 2009 MT 57, ¶ 21, 349 Mont. 306, 203 P.3d 806
- State v. Williamson, 1998 MT 199, ¶ 12, 290 Mont. 321, 965 P.2d 231
- City of Missoula v. Iosefo, 2014 MT 209, ¶ 10, 376 Mont. 161, 330 P.3d 1180
- In re License Suspension of Cybulski, 2008 MT 128, ¶ 29, 343 Mont. 56, 183 P.3d 39
- State v. Hafner, 2010 MT 233, ¶ 16, 358 Mont. 137, 243 P.3d 435