

SUPREME COURT OF MINNESOTA

State v. Larivee

656 N.W.2d 226 (Minn. 2003) · No. C2-01-1942 · Decided January 30, 2003

SUMMARY

The Minnesota Supreme Court held that Minn. Stat. § 169.123, subd. 3(a) (1998) required a person to submit to the state-administered chemical test as a condition precedent to obtaining an independent blood-alcohol test while in custody. The court further held that denying an independent test after the defendant refused the police-administered test did not violate due process or the right to a fair trial. The court affirmed the court of appeals and did not reach the collateral-estoppel issue.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Justice Gilbert; Chief Justice Blatz; Justice Meyer
JURISDICTION	Minnesota
DECIDED	January 30, 2003
DOCKET	C2-01-1942
DISPOSITION	affirmed
PROCEDURAL POSTURE	Larivee sought review of a court of appeals decision concerning his statutory and constitutional right to obtain an independent blood-alcohol test after refusing the police-administered test. The Minnesota Supreme Court granted cross-review concerning whether collateral estoppel barred relitigation in the criminal DUI case of an issue decided in a civil implied-consent proceeding.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo. The court addressed the constitutional due-process issue under the standards articulated in Brady v. Maryland and California v. Trombetta.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Minnesota; decided en banc.
PARTIES	Michael Larivee v. State of Minnesota

TOPICS

- statutory interpretation
- due process
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

DUI and implied consent

appellate procedure

QUESTIONS PRESENTED

1. Whether Minn. Stat. § 169.123, subd. 3(a) (1998), required a person to submit to the police-administered chemical test as a condition precedent to the statutory right to obtain an independent test.
2. Whether denying an independent blood-alcohol-concentration test to a person who refused the police-administered test violated the constitutional rights to due process and a fair trial.
3. Whether collateral estoppel barred Larivee from litigating in his criminal DUI trial an issue previously decided in a civil implied-consent proceeding.

HOLDINGS

1. Minn. Stat. § 169.123, subd. 3(a) (1998), grants a statutory right to an independent chemical test only after the person has submitted to the chemical test administered at the direction of a peace officer; submission to the state's test is therefore a condition precedent to the independent-test right.
2. The denial of an independent blood-alcohol-concentration test did not violate Larivee's constitutional rights to due process and a fair trial because he refused the police-administered test, the independent test was not shown to possess apparent exculpatory value significant to his defense, comparable evidence was reasonably available through the police-administered test, and the record showed no bad-faith denial.
3. The supreme court did not decide the collateral-estoppel issue because its resolution of the statutory and constitutional issues in the state's favor made it unnecessary to reach that argument.

KEY QUOTATIONS

“Therefore, we hold that when a person charged with a Minn.Stat. § 169.123, subd. 3(a) related driving charge is in custody, the person must submit to the state's test as a condition precedent to the right to an independent test.” (656 N.W.2d at 229-30)

“We affirm the court of appeals and hold that the appellant's constitutional right to due process and a fair trial was not violated when, while in custody, he was denied the right to obtain an independent blood-alcohol-concentration test after having refused to submit to the police-administered test.” (656 N.W.2d at 232)

FACTUAL BACKGROUND

A police officer stopped Michael Larivee after observing an excessively wide turn and failure to stop at a stop sign. The officer observed signs of intoxication, Larivee failed field sobriety and portable breath tests, and he admitted drinking approximately half a bottle of wine. After consulting an attorney, Larivee refused the police-administered chemical test but requested an independent test. A booking sergeant denied the request because he believed only a person who had completed the police-administered test could obtain an independent test.

PROCEDURAL HISTORY

Larivee was charged with driving under the influence with child endangerment, refusal to submit to testing, and failure to stop at a stop sign. The district court ruled that denial of an independent test violated due process as to the DUI charge, but also ruled that collateral estoppel barred relitigation of the refusal issue. The district court certified the case to the court of appeals under Minn. R. Crim. P. 28.03 without precisely framing the legal question. The court of appeals construed the question, held that submission to the police-administered test was a statutory condition precedent to obtaining an independent test, rejected the constitutional claim, and held that collateral estoppel did not apply. The supreme court affirmed the court of appeals on the statutory and constitutional issues and declined to reach collateral estoppel.

DISPOSITION

affirmed

CASES CITED

- State v. Larivee, 644 N.W.2d 100, 104-06 (Minn. App. 2002)
- Thompson v. State, 284 Minn. 274, 277, 170 N.W.2d 101, 103 (1969)
- State v. Wicks, 258 N.W.2d 598, 599-600 (Minn. 1977)
- Scott v. Minneapolis Police Relief Ass'n, Inc., 615 N.W.2d 66, 70 (Minn. 2000)
- Kulinski v. Medtronic Bio-Medicus, Inc., 577 N.W.2d 499, 502 (Minn. 1998)
- Baker v. Ploetz, 616 N.W.2d 263, 268-69 (Minn. 2000)
- Amaral v. Saint Cloud Hosp., 598 N.W.2d 379, 384 (Minn. 1999)
- State v. Swanson, 222 Mont. 357, 722 P.2d 1155, 1156-57 (1986)
- Brady v. Maryland, 373 U.S. 83 (1963)
- Woodruff v. State, 608 N.W.2d 881, 888 (Minn. 2000)
- Strickler v. Greene, 527 U.S. 263, 281-82 (1999)
- California v. Trombetta, 467 U.S. 479, 485-89 (1984)
- Arizona v. Youngblood, 488 U.S. 51, 56, 58 (1988)
- Killian v. United States, 368 U.S. 231, 242 (1961)
- State v. Zoss, 360 N.W.2d 523, 524-25 (S.D. 1985)
- Smith v. Cada, 114 Ariz. 510, 562 P.2d 390 (Ct. App. 1977)
- State v. Choate, 667 S.W.2d 111 (Tenn. Crim. App. 1983)
- Hill v. Otte, 258 Ind. 421, 281 N.E.2d 811 (1972)
- McEntire v. State, 305 Ark. 470, 808 S.W.2d 762 (1991)
- People v. Dewey, 172 Mich. App. 367, 431 N.W.2d 517 (1988)
- Allen v. State, 229 Ga. App. 435, 494 S.E.2d 229 (1997)
- State v. Lewis, 266 S.C. 45, 221 S.E.2d 524, 526 (1976)
- State v. Dressler, 433 N.W.2d 549, 550 (N.D. Ct. App. 1988)
- In re Koehne, 54 Cal. 2d 757, 8 Cal. Rptr. 435, 356 P.2d 179, 180-81 (1960)
- Commonwealth v. Alano, 388 Mass. 871, 448 N.E.2d 1122, 1126 (1983)

- State v. Snipes, 478 S.W.2d 299, 303 (Mo. 1972)
- State v. Dake, 247 Neb. 579, 529 N.W.2d 46, 49 (1995)
- Schroeder v. State, 105 Nev. 179, 772 P.2d 1278, 1281 (1989)
- United States v. Valenzuela-Bernal, 458 U.S. 858, 868-70 (1982)
- United States v. Marion, 404 U.S. 307, 324 (1971)
- South Dakota v. Neville, 459 U.S. 553, 566 (1983)
- Schmerber v. California, 384 U.S. 757, 770-72 (1966)
- McDonnell v. Comm'r of Pub. Safety, 473 N.W.2d 848, 855 (Minn. 1991)
- State v. Krosch, 642 N.W.2d 713, 716-17 (Minn. 2002)

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