

SUPREME COURT OF VERMONT

State v. Kent Eaton

2026 VT 14 · No. 24-AP-121 · Decided May 1, 2026

SUMMARY

The Vermont Supreme Court affirms the denial of Kent Eaton’s motion to suppress an evidentiary breath-test result in a DUI case. The court holds that an inaccurate statement by a processing officer to an on-call attorney did not deprive Eaton of a meaningful opportunity to consult counsel under 23 V.S.A. § 1202(c), and declines to overrule State v. Fredette and State v. Clark. The court also concludes that the asserted coercion and lack of knowing consent did not require suppression under the circumstances presented.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Waples, J.; Reiber, C.J.; Eaton, J.; Cohen, J.; Zonay, Supr. J., specially assigned
JURISDICTION	Vermont Supreme Court
DECIDED	May 1, 2026
DOCKET	24-AP-121
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant entered a conditional guilty plea to driving under the influence and appealed the denial of his motion to suppress an evidentiary breath-test result.
STANDARD OF REVIEW	The Supreme Court reviews legal conclusions on a motion to suppress de novo and factual findings for clear error. When, as here, the defendant challenges only legal conclusions, review is nondeferential and plenary.
PRECEDENTIAL VALUE	Published and binding Vermont Supreme Court precedent; the majority reaffirms the governing interpretation of 23 V.S.A. § 1202(c).
PARTIES	Kent Eaton v. State of Vermont

TOPICS

- suppression of evidence
- right to counsel
- criminal procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

criminal law

DUI

criminal procedure

evidence

appellate law

QUESTIONS PRESENTED

1. Whether an incorrect, unintentional statement by a processing officer to an on-call attorney about a defendant's prior DUI history denied defendant a meaningful opportunity to consult with counsel under 23 V.S.A. § 1202(c).
2. Whether defendant's challenge to the voluntariness of his consent was sufficiently particularized to require the State to prove that he voluntarily submitted to the evidentiary breath test.
3. Whether the State had to prove that defendant knowingly and intelligently waived his right to refuse the evidentiary breath test.

HOLDINGS

1. The statutory right to consult counsel is satisfied when law enforcement makes reasonable efforts to permit the arrestee to consult privately with counsel. The right does not guarantee accurate or flawless advice, and an officer's unintentional provision of inaccurate information to the on-call attorney does not, without more, violate the statute.
2. The State need not prove voluntariness as a threshold matter unless the defendant makes a sufficiently particularized challenge asserting that the consent was coerced, granted only in submission to a claim of lawful authority, or otherwise involuntary. Defendant's allegation that an officer inadvertently misstated his prior conviction history did not sufficiently raise coercion under the circumstances presented.
3. The State was not required to prove that defendant knowingly and intelligently waived a constitutional right before admitting the evidentiary breath-test results; the applicable inquiry was whether defendant voluntarily consented to the test.

KEY QUOTATIONS

“The statutory mandate is fulfilled when reasonable efforts are made to allow an arrestee to consult privately with counsel.” (¶ 11)

“The statute says nothing about the content of the attorney consultation. It does not require the attorney to provide the person with accurate information or advice.” (¶ 18)

“Voluntariness is to be determined from the totality of the circumstances, with the State carrying the burden of demonstrating that the consent was freely given and not coerced by threats or force, or granted only in submission to a claim of lawful authority.” (¶ 25)

“Thus, the State was not required to prove that defendant “knowingly” submitted to the breath test to admit the results at trial.” (¶ 28)

FACTUAL BACKGROUND

Defendant was arrested for suspected DUI after a single-car accident and was read Vermont's implied-consent form, including his statutory right to consult an attorney before deciding whether to submit to an evidentiary breath test. During a private consultation, the processing officer incorrectly told the on-call attorney that defendant had a prior DUI conviction, although defendant had previously been charged with DUI but had pleaded guilty to negligent operation. Based on the incorrect information, the attorney advised defendant to submit to the test, and defendant changed his initial plan to refuse and submitted to the test.

PROCEDURAL HISTORY

After a single-car accident, defendant was arrested for suspected DUI and submitted to an evidentiary breath test after consulting an on-call attorney. The Superior Court, Chittenden Unit, Criminal Division, denied defendant's motion to suppress and motion for reconsideration. Defendant entered a conditional guilty plea and appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Fredette, 167 Vt. 586, 705 A.2d 548 (1997) (mem.)
- State v. Ford, 2007 VT 107, ¶ 4, 182 Vt. 421, 940 A.2d 687
- State v. Bryant, 2008 VT 39, ¶ 9, 183 Vt. 355, 950 A.2d 467
- Pfeil v. Rutland Dist. Ct., 147 Vt. 305, 515 A.2d 1052 (1986)
- State v. West, 151 Vt. 140, 557 A.2d 873 (1988)
- State v. Clark, 164 Vt. 626, 671 A.2d 1276 (1995) (mem.)
- State v. Lynaugh, 158 Vt. 72, 604 A.2d 785 (1992)
- State v. Aiken, 2015 VT 99, 200 Vt. 247, 129 A.3d 87
- State v. Ironside, 167 Vt. 628, 711 A.2d 663 (1998) (mem.)
- State v. Velez, 2003 VT 1, 175 Vt. 23, 819 A.2d 712
- In re Barber, 2018 VT 78, 208 Vt. 77, 195 A.3d 364
- Patterson v. McLean Credit Union, 491 U.S. 164 (1989)
- CBOCS West, Inc. v. Humphries, 553 U.S. 442 (2008)
- State v. Berini, 167 Vt. 565, 701 A.2d 1055 (1997) (mem.)
- Chittenden v. Waterbury Ctr. Cmty. Church, Inc., 168 Vt. 478, 726 A.2d 20 (1998)
- State v. Stenson, 169 Vt. 590, 738 A.2d 567 (1999) (mem.)
- State v. Deyo, 2006 VT 120, 181 Vt. 89, 915 A.2d 249
- State v. Hale, 2021 VT 18, 214 Vt. 296, 256 A.3d 595
- Thayer v. Herdt, 155 Vt. 448, 586 A.2d 1122 (1990)
- State v. Messier, 2005 VT 98, 178 Vt. 412, 885 A.2d 1193
- Trapeni v. Dep't of Emp. Sec., 142 Vt. 317, 455 A.2d 329 (1982)
- State v. Coburn, 2006 VT 31, 179 Vt. 448, 898 A.2d 128

- State v. Edelman, 2018 VT 100, 208 Vt. 372, 198 A.3d 556
- State v. Williams, 2020 VT 91, 213 Vt. 334, 246 A.3d 960
- Schneckloth v. Bustamonte, 412 U.S. 218 (1973)
- State v. Zaccaro, 154 Vt. 83, 574 A.2d 1256 (1990)
- State v. Gurung, 2025 VT 52, ¶ 4, ___ Vt. ___, 346 A.3d 459
- State v. Ettore, 2024 VT 52, 220 Vt. 37, 327 A.3d 773

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