

SUPREME COURT OF THE STATE OF MONTANA

John William Anderson v. State of Montana

339 Mont. 113 (2007) · No. DA 06-0277 · Decided September 11, 2007

SUMMARY

The Montana Supreme Court affirmed the denial of John William Anderson’s petition to reinstate his driver’s license after he refused a breath test following a DUI arrest. The court held that reading Anderson the implied-consent consequences applicable to nonresident drivers, rather than Montana residents, sufficiently informed him of the potentially serious consequences of refusal and did not invalidate the license seizure. Justice Gray dissented.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Jim Rice; Chief Justice Karla M. Gray; Justice James C. Nelson; Justice John Warner; Justice Brian Morris
JURISDICTION	Montana
DECIDED	September 11, 2007
DOCKET	DA 06-0277
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anderson appealed the Ninth Judicial District Court's denial of his petition to reinstate his driver's license following his refusal to submit to a breath test after a DUI arrest.
STANDARD OF REVIEW	The Court reviewed the denial of the petition to determine whether the District Court's findings of fact were clearly erroneous and whether its conclusions of law were correct.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	John William Anderson v. State of Montana

TOPICS

- criminal procedure
- administrative law
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a Montana driver's refusal to submit to a breath test is invalid when the officer reads the consequences applicable to a nonresident motorist rather than the consequences specifically applicable to a Montana resident.
2. Whether the District Court properly denied Anderson's petition for reinstatement of his driver's license.

HOLDINGS

1. Montana law does not require an officer to advise an arrested motorist of every specific ramification of refusing a blood or breath test. An advisory is sufficient when it places the motorist on notice of the potentially serious consequences of refusal and informs the motorist of relevant due-process protections.
2. Anderson's refusal was not invalidated by the advisory's reference to nonresident drivers because he was not misled and was sufficiently advised of the serious consequences of refusal and his procedural protections.

KEY QUOTATIONS

“The purpose of the Implied Consent Advisory is to inform an apparently intoxicated driver of the potentially serious consequences of refusing to submit to a blood alcohol test and of his due process protections such as rights to independent testing and post-testing hearings.” (¶ 10)

“We agree with the District Court that the information provided to Anderson met the requirements of Simmons: Anderson was informed that a refusal to submit to a breath test would have serious consequences, and he was informed of the due process protections available to him.” (¶ 14)

FACTUAL BACKGROUND

On April 28, 2005, Anderson was arrested for DUI and taken to the Toole County Safety Facility. Before requesting a breath test, Deputy Mark Pattison read Anderson the implied-consent advisory, including the consequences applicable to a nonresident driver, but did not read the portion specifically directed to Montana residents. Anderson refused the breath test, his driver's license was seized, and he later sought reinstatement, asserting that the inaccurate advisory invalidated his refusal.

PROCEDURAL HISTORY

Anderson was convicted of DUI in the Ninth Judicial District Court, Toole County. He then filed a petition under § 61-8-403(1), MCA, seeking reinstatement of his driver's license, arguing that his refusal was invalid because he received the nonresident rather than the Montana-resident implied-consent advisory. The District Court denied the petition, and Anderson appealed.

DISPOSITION

affirmed

CASES CITED

- *Ellenburg v. Mont. Dept. of Justice*, 280 Mont. 268, 929 P.2d 861 (1996)
- *State v. Simmons*, 2000 MT 329, 303 Mont. 60, 15 P.3d 408
- *City of Missoula v. Fergunson*, 2001 MT 69, 305 Mont. 36, 22 P.3d 198

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