

STATE v. CHRISTOPHER DOYLE, AC 32411

Judicial District of Windham at Danielson

Criminal; Search and Seizure; Operating Under the Influence; Whether the Defendant Voluntarily Consented to a Blood Test; Whether the Results of the Blood Test were the Fruit of an Unconstitutional Seizure. On the morning of August 17, 2007, a van operated by the defendant struck a pedestrian on Route 203 in Windham, seriously injuring him. Police officers responding to the accident detected the odor of alcohol on the defendant's breath and, after taking his written statement, they asked that he perform three field sobriety tests—the horizontal gaze nystagmus, the walk-and-turn and the one-legged stand. The defendant's performance of those tests did not give the police probable cause to arrest him for driving under the influence of alcohol. The police then asked the defendant if he would consent to having his blood drawn and presented him with a form that could indicate consent to a urine, blood or breath test. Before presenting the form to the defendant, an officer filled out the top of the form with the defendant's name, address and date of birth and checked the line next to "blood test." After the defendant read and signed the form, the police drove the defendant to the hospital to have his blood drawn. At the hospital, the defendant signed another form indicating his consent to a blood test. The defendant was subsequently charged with assault and operating under the influence. He moved to suppress the results of his blood test, claiming that he did not voluntarily consent to having his blood drawn and that the blood samples obtained were the product of an unconstitutional search and seizure. The trial court denied the motion to suppress, finding that the totality of the circumstances demonstrated that the defendant freely consented to the blood test and voluntarily agreed to accompany the police to the hospital to have his blood drawn. The court also noted that the defendant had never been "seized" because he was never handcuffed, restrained or confined to a police cruiser. The defendant was ultimately convicted of operating under the influence but acquitted of the other charges. On appeal, he claims the trial court wrongly denied his motion to suppress because the results of his blood test were the product of an unconstitutional seizure. He argues that, while his initial detention and the administration of the field sobriety tests were lawful pursuant to an initial investigatory stop under *Terry v. Ohio*, 392 U.S. 1 (1968), there was no justification for his continued detention once the results of the sobriety tests did not yield probable cause to arrest him. He claims that, in light of the police officers' continuing show of authority, his freedom of movement was restrained such that he reasonably did not believe that he was free to leave after he completed the sobriety tests. The defendant contends that, as the police had no legitimate need to detain him following the sobriety tests, his continued detention leading up to the blood test constituted an illegal seizure. The defendant also challenges the trial court's finding that he freely and voluntarily consented to the blood test. He claims, among other things, that he did not know that he had a right to refuse consent and that he was distraught when he signed the consent forms.