IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CITY OF SEATTLE, Respondent,	)	No. 81992-1
v.	)	En Banc
ROBERT ST. JOHN, Petitioner.	)	Filed September 10, 2009

Owens, J. -- Robert St. John crashed his motorcycle and when the responding police officer asked him to take a voluntary blood alcohol test, he refused. The officer then obtained a warrant for a blood alcohol test. St. John challenges that test, asserting that once a driver has declined a voluntary test, obtaining a test pursuant to a warrant violates (1) Washington's implied consent statute, (2) due process, and (3) equitable estoppel. We disagree. The statute's plain language states that it does not preclude an officer from obtaining a search warrant for a blood alcohol test, and neither due process nor equitable estoppel requires officers to inform drivers of this possibility.

FACTS

St. John was seriously injured in an accident while driving a motorcycle. One of the two emergency workers responding to the scene reported smelling an odor of alcohol, but the other did not. Officer Eric Michl responded to the scene and observed some signs of intoxication, including slurred speech, but did not smell alcohol. A friend of St. John's who arrived at the scene told Michl that St. John had one drink. At the hospital, Michl observed a faint odor of alcohol on St. John's breath. Michl arrested St. John for driving under the influence of intoxicating liquor and gave him the statutory warning regarding implied consent blood alcohol tests. St. John refused the voluntary blood alcohol test. Michl then sought a search warrant for a blood alcohol test. Seattle Municipal Court Judge Michael Hurtado found probable cause and signed a search warrant for a blood alcohol test, which the hospital then conducted.

The municipal court held that RCW 46.20.308(5) did not allow a blood alcohol test pursuant to a warrant after a person had declined a voluntary blood alcohol test and suppressed the results of the blood alcohol test. The superior court reversed and St. John appealed. The Court of Appeals certified the case directly to this court.

ISSUES

1. Does the implied consent statute allow the State to administer a blood alcohol test pursuant to a warrant after a driver has declined a voluntary blood alcohol test?

2. Does an implied consent warning violate due process if it does not inform drivers that an officer may seek a warrant for a blood alcohol test even if the driver declines the voluntary blood alcohol test?

3. Does the doctrine of equitable estoppel bar the State from seeking a warrant for a blood alcohol test after informing drivers that they may refuse the voluntary blood alcohol test?

STANDARD OF REVIEW

We review issues of statutory meaning de novo. *State v. Schultz*, 146 Wn.2d 540, 544, 48 P.3d 301 (2002). We also review the constitutionality of a statute de novo. *State v. Abrams*, 163 Wn.2d 277, 282, 178 P.3d 1021 (2008).

ANALYSIS

I. The Implied Consent Statute

When interpreting a statute, our primary goal is to effectuate legislative intent. *In re Custody of Shields*, 157 Wn.2d 126, 140, 136 P.3d 117 (2006). Where the statute's meaning is plain and unambiguous, we derive legislative intent from the plain

language of the statute. *State ex rel. Royal v. Bd. of Yakima County Comm'rs*, 123 Wn.2d 451, 457-58, 869 P.2d 56 (1994). If a statute's language is ambiguous, we construe the statute "'in the manner that best fulfills the legislative purpose and intent.'" *Id*. at 459 (quoting *In re Marriage of Kovacs*, 121 Wn.2d 795, 804, 854 P.2d 629 (1993)).

Under the implied consent statute, if a law enforcement officer has reasonable grounds to believe that a motor vehicle driver has been driving under the influence of intoxicating liquor or any drug (DUI), the driver may choose to undergo a blood alcohol test[1] or have his or her driver's license suspended for at least one year. RCW 46.20.308(1), 2(b). The statute states that "[n]either consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood." RCW 46.20.308(1). We hold that the legislative intent is plain on the face of the statute that an officer may obtain a blood alcohol test pursuant to a warrant regardless of the implied consent statute.

Despite this plain language allowing officers to obtain a search warrant for blood alcohol tests regardless of the implied consent statute, St. John contends that the implied consent statute prohibits the State from obtaining a blood alcohol test pursuant

[1] The implied consent statute provides for either a breath or blood alcohol test, depending on the circumstances. RCW 46.20.308(3). For simplicity, we use the term "blood alcohol test" throughout this opinion to refer to any test of blood or breath for the purpose of determining the alcohol concentration or presence of any drug in the blood or breath of a driver.

to a warrant once a driver has declined to undergo a blood alcohol test under the implied consent statute. He bases this argument on subsection (5), which states that if a person refuses the blood alcohol test requested by the officer, "no test shall be given except as authorized under subsection (3) or (4)." RCW 46.20.308(5). However, subsection (5) applies to blood alcohol tests given pursuant to the implied consent statute. RCW 46.30.308(5) ("If, following . . . receipt of warnings under subsection (2) of this section, the person arrested refuses *upon the request of a law enforcement officer to submit to a test* . . . , no test shall be given except as authorized under subsection (3) or (4) of this section" (emphasis added)). We hold that the plain language of subsection (5) prohibits only tests given pursuant to the implied consent statute after a driver has declined, and not blood alcohol tests given pursuant to a warrant. The legislature made its intention regarding blood alcohol tests pursuant to a warrant quite clear: "*Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood*." RCW 46.20.308(1) (emphasis added).

Although we hold that the implied consent statute's plain language allows the State to pursue a blood alcohol test pursuant to a warrant, we note that even if we were to find the statute ambiguous, an analysis of legislative intent would lead us to the same result. The three goals of the implied consent statute are (1) discouraging DUI,

(2) removing driving privileges from those individuals disposed to DUI, and (3) providing an efficient means of gathering reliable evidence of intoxication. *Dep't of Licensing v. Lax*, 125 Wn.2d 818, 824, 888 P.2d 1190 (1995) (citing *Nowell v. Dep't of Motor Vehicles*, 83 Wn.2d 121, 124, 516 P.2d 205 (1973)). Interpreting the statute to prohibit the State from obtaining a search warrant for a blood alcohol test if the driver had previously refused a blood alcohol test would inhibit, not advance, legislative intent by making it more difficult for officers to gather evidence of intoxication.

Further, we construe statutes to avoid absurd results. *State v. Neher*, 112 Wn.2d 347, 351, 771 P.2d 330 (1989). St. John proposes to interpret the implied consent law—which the legislature explicitly passed to address the problem of drunk driving and assure the efficient gathering of evidence against those who would drive under the influence—to somehow give drivers the right to refuse both voluntary blood alcohol tests and blood alcohol tests compelled by a warrant. Such a right would allow drivers suspected of drunk driving to hinder police investigations and the collection of evidence, an absurd result for a law intended to assist in the investigation and prosecution of drunk drivers.

II. Due Process

St. John contends that the State violated his right to due process by not warning

him that it could seek a warrant for a blood alcohol test if he declined the voluntary blood alcohol test. His claim rests on the premise that due process required the State to warn him of all of the consequences of his refusal.[2] This argument fails because the search warrant was not a consequence of his refusal to take the voluntary test; to the contrary, the warrant and subsequent blood alcohol test were consequences of the evidence that St. John was driving under the influence. This evidence—which included St. John's slurring his speech, a statement by St. John's friend that St. John had a drink that evening, a statement by a paramedic that she detected the odor of alcohol on St. John's breath, and the officer himself smelling alcohol on St. John's breath—was found by Judge Hurtado to constitute sufficient probable cause to justify a search warrant for a blood alcohol test of St. John. Contrary to St. John's assertion, the officer did inform St. John of the consequences of refusing the blood alcohol test—a one-year suspension of his driver's license. We find no due process violation.

III. Equitable Estoppel

Under the principle of equitable estoppel, "'a party should be held to a representation made or position assumed where inequitable consequences would

[2] Because we find that the search warrant was not a consequence of St. John's refusal to take the voluntary test, we do not address his contention that the State is required to warn him of all conceivable consequences of refusal to take the test. We note, however, that the United States Supreme Court has held that the State is not required to inform drivers that their refusal to take a voluntary blood alcohol test may be used as evidence of their guilt at trial. *South Dakota v. Neville*, 459 U.S. 553, 564-66, 103 S. Ct. 916, 74 L. Ed. 2d 748 (1983).

otherwise result to another party who has justifiably and in good faith relied thereon.'" *Kramarevcky v. Dep't of Soc. & Health Servs.*, 122 Wn.2d 738, 743, 863 P.2d 535 (1993) (quoting *Wilson v. Westinghouse Elec. Corp.*, 85 Wn.2d 78, 81, 530 P.2d 298 (1975)). "The elements of equitable estoppel are: (1) a party's admission, statement or act inconsistent with its later claim; (2) action by another party in reliance on the first party's act, statement or admission; and (3) injury that would result to the relying party from allowing the first party to contradict or repudiate the prior act, statement or admission." *Id*. Assertions of equitable estoppel against the government are not favored, and parties must demonstrate that equitable estoppel is necessary to prevent a manifest injustice and that the exercise of governmental functions will not be impaired as a result of the estoppel. *Id*.

St. John contends that the State should be estopped from performing a blood alcohol test pursuant to a warrant because the officer told St. John that he had the "right" to decline the voluntary blood alcohol test without disclosing that the officer could attempt to obtain a test pursuant to a warrant. Here, the officer's statement that St. John could decline the blood alcohol test does not conflict with his obtaining a warrant for a blood alcohol test. Obtaining a blood alcohol test through the implied consent statute is a separate process from obtaining a blood alcohol test pursuant to a warrant, and the officer made no representation to St. John that the State could not

obtain a blood alcohol test pursuant to a lawful search warrant.

CONCLUSION

The implied consent statute explicitly allows a police officer to obtain a blood alcohol test pursuant to a warrant, even after a driver refuses a voluntary blood alcohol test. Neither due process nor equitable estoppel requires police officers to inform DUI suspects of the possibility of obtaining a warrant to collect evidence. We uphold the superior court's ruling to allow the blood alcohol test into evidence.

AUTHOR:
Justice Susan Owens

WE CONCUR:
Chief Justice Gerry L. Alexander

Justice Charles W. Johnson
Justice Mary E. Fairhurst
Justice Barbara A. Madsen
Justice Debra L. Stephens
Justice Tom Chambers