LONNIE E. PATTERSON V. STATE

APPELLATE CASE NO. 2019-000890

FEB. 11, 2020

The Fourth Amendment provies, in pertient part, that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause. The United States Supreme Court has recognized that the Fourth Amendment demonstrates a strong preference for searches conducted pursuant to a warrant, and, except in certain carefully defined classes of cases, a search of a person without proper consent is unreasonable unless it has been authorized by a valid search warrant. Ornelas V. United States, 517 U.S. 690,699 (1996). Evidence seized in violation of the Fourth Amendment must be excluded at trail. State V. Weaver, 374 S.C. 313,319 (2007).

The Fourth Amendment generally mandates that a search warrant be obtained prior to administering a blood test of a person suspected of driving under the influence, and, to the extent that S.C Code Ann. 56-5-2946 "per se" authorizes such a warrantless search, it is violative of the Fourth Amendment. S.C. Code Ann. 56-5-2950, a person driving a motor vehicle in South Carolina is deemed to have consented to a warrantless chemical test of his breath, blood, or urine if arrested for an offense arising out of acts alleged to have been committed while under the influence of alcohol, drugs, or a combination of the two. See 56-5-2950(a). The statute further provides that the arresting officer must first assure the individual is offered a breath test, unless "licensed medical personnel" deems such a test unacceptable. In such a case, the officer may request a blood test. A refusal to submit to the test warrants suspension of the person's drivers license regardless of the outcome of the criminal prosecution for the underlying offense. See S.C. Code Ann. 56-5-2951.

Section 56-5-2946 of the South Carolina Code of Laws provides for the following: notwithstanding any other provision of law, a person must submit to either one or a combination of test of his breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol or drugs if there is probable cause to believe that the person violated or is under arrest for a violation of section 56-5-2945.

S.C. Code Ann. 56-5-2945 (codifying the offense of felony driving under the influence and prescribing the fines and penalties associated with a conviction thereof). Pursuant to section 56-5-2946, the officer administering the test need no longer offer a breath test as the first option, nor must he obtain that such a test is not feasible before ordering a test or sample. See also State V. Long, 363 S.C. 360,363 (2005) (holding that the officer was not required to offer a breath test or receive a medical opinion before ordering the blood test).

However, although section 56-5-2946 requires a driver suspected of having committed felony driving under the influence to submit to either a breath, blood, or urine test "notwithstanding any other provision of law," the aforementioned statute must still comport with the requirements of the Fourth

Amendment. In essence, the "notwithstanding any other provision of law" language in section 56-5-2946 cannot operate to provide less protection than that provided for by the Fourth Amendment. See, State V. Forrester, 343 S.C. 637,643 (2001) (The Federal Constitution sets the floor for individual rights while the State Constitution establishes the ceiling). Therefore, it must be determined whether administering a warrantless blood test in this case complied with the requirement of the Fourth Amendment.

The BAC specific effects of a .200-.249% states; needs assistance in walking, total mental confusion, Dysphoria with nausea and vomiting, possible blackouts. Schneckloth V. Bustamonte, 412 U.S. 218, 93 S.Ct. 2041, 36 L.Ed 854, states, to pass the reasonableness test, warrantless consent searches must be voluntary; that is, the consent must not be a result of coercion or duress. While a warning to the suspect that he has the right to refuse to consent is not required, the nature of the suspect must be examined to determine voluntariness. The courts looks at the suspect's education, intelligence, and the lack of any effective warnings to decide whether his cosent was voluntary. The government must establish that consent was voluntary, by at least a perponderance of evidence, according to United States V. Matlock (1974). Consent may be limited by the person granting it. The state must look at the totality of the circumstances. In the Black Law Dictionary, Consent is: an agreement, approval, or permission as to some act or purpose, esp. given voluntarily by a competent person. If the officer say's he spoke with me and I had slurred speech and red glossy eye's, how could I consent voluntarily and knowingly with a BAC of a .223. The implied consent statute is designed to ensure procedural due process in a criminal trial. (14th Amendment)

In the Merriam-Webster's Dictionary of Law, Due process is: 1. a course of formal proceedings (as judicial proceedigs) carried out regularly, fairly, and in accordance with established rules and principles - called also procedural due process. 2. a requirement that laws and regulations must be related to a legitimate government interest (as crime prevention) and may not contain provisions that result in the unfair or arbitrary treatment of an individual - called also substantive due process.

Also my son's autopsy was never challenged or never produced until a month after I was sentenced. My ex-wife recieved my son's autopsy in Nov.of 2017, and in the manner of my son's death the autopsy states accidental. Question is why wasn't my son's autopsy released so my attorney could review it, before I was sentenced. My accident happened on Aug.13,2015 my son past away on Aug.14,2015 over 30hrs later so shouldn't that have put me in a different statute, (reckless vehicular homicide or involuntary manslaughter).

Evidence of the manner of driving a substantial time before the accident may be admitted or to prove one of the parties was drunk, or was under the influence of intoxicating liquor at the time an accident occurred, the court may admit testimony as to the manner in which such party was driving his vehicle

a substantial distance from the place of the accident, for the purpose of substantiating the charge. State V. Jenkins, 249 S.C. 570, 155 SE 2d 624 (1967).

I don't remember the exact time my accident happened, but I was told around 11:30am to 12:00pm that afternoon, on Aug.13,2015. I left Lancaster around 9:00am to 9:30am and drove to Camden, which is about a 45 to 50 min. drive. After maybe an hour of being in camden I had to drive back to Lancaster to get the kids clothes, but I never made it cause I fell asleep driving and thats when the accident happened.

Also See:

-Willams V. State, 771 S.E.2d 373
-State V. King, (S.C. 1986) 346 S.E.2d 323
-Birchfield V. North Dakota, 136 S.Ct. 2160,2173 (2016)

I was basically sentenced in two different courts Family Court and General Session Court. Family Court has me on a central registry for child abuse/ neglect for the rest of my life, for the child endangerment. General Session Court has me serving a 10yr. 85% sentence and my license will be suspended for 5yrs. after I serve my sentence. I understand you all have to review all evidence in this case before a decision is made, but I am a first time offender with no prior record. All I'm asking for is a little leniency at least the opportunity to be able to go up for parole so that I can have the opportunity to be their for my 6 other children like I always have been and to show them that I am a better father.

In addition I send a copy of a letter my ex-wife wrote to my sentencing Judge, she also wrote a letter to the PCR Judge as well.

January 2, 2018
Tammonique L. Jones
4621 Amberwyck ct.
Buford GA, 30518

101 S. Congress Street
Winnsboro, SC 29180
State v. Lonnie Patterson

Your Honor,

The purpose of this letter is to help Lonnie E. Patterson appeal his sentence or conviction if possible as the victim, and the mother of Ja'Marei I. Patterson (deceased) and Ja'Shawn K.Patterson (living). Lonnie and I have known each other for 20 years or more, we dated at a young age so I have known Lonnie for a very long time we both grew up in church and song on the choir.

November 2015, Lonnie and I got married as 10 years went by Lonnie and I grew apart and went our separate ways. While we were separated I often let the kids stay the weekends and summers with him because I have always trusted Lonnie with our children. Lonnie is a great father and his kids love him. On August 2015, When I received the phone call that there had been an accident I was in shock, then once I found out the cause of the accident I was devastated. As time went pass Lonnie has stayed in contact with his children also he has called several times apologizing to the family and I.

Lonnie has made mistakes as we all have, but being locked up or put in prison for years want change the fact that he made a mistake that I know hurt him more than life itself. Lonnie will have to live with the fact that the mistake he made cost the death of his son, and he will have to live with that pain for the rest of his life even when he is release the pain will still be there. Your Honor if you could just take my letter in to consideration and please for the sake of his other children and his family that you grant his appeal.

Sincerely yours,

Tammonique L. Jones

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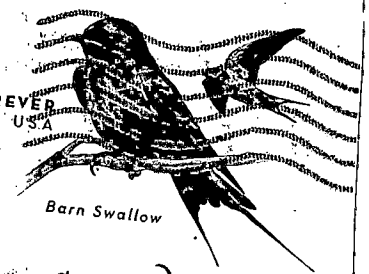

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