

179 Conn. App. 734

FEBRUARY, 2018

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State v. Smith

The jury reasonably could have found the following facts. At approximately 1:50 a.m. on March 7, 2014, James Grimes, a state police trooper, was patrolling near the intersection of Route 44 and Route 195 in Mansfield when he observed a stationary motor vehicle in the eastbound travel lane of Route 320, which intersects with Route 195 a short distance from the intersection of Route 44 and Route 195. The motor vehicle, a tan colored Volvo, was impeding travel. Grimes observed the vehicle for a few minutes and saw that the vehicle's brake lights were on and that the vehicle remained stationary.

Grimes positioned his police cruiser behind the stationary vehicle and activated his vehicle's emergency lights. At that time, he observed that "the brake lights [on the stationary vehicle] went off because you could see the parking lights go on as the vehicle was shifted into park." Grimes exited his cruiser and knocked on the passenger window. The sole occupant and operator of the vehicle, the defendant, rolled down the passenger window. Immediately, Grimes smelled burnt marijuana. Grimes asked the defendant "what was going on," to which the defendant replied, "I'm just stopped," and that he was trying to use his cell phone. Grimes, after concluding that the defendant was not experiencing a medical issue and that there were not any mechanical issues with the vehicle, told him that he could have chosen a more suitable location. Grimes then asked the defendant for his driver's license and his vehicle's registration. The defendant, however, did not have his driver's license with him.

While the defendant was searching for his license and registration, Grimes asked him several questions to gauge whether he was impaired. Grimes observed

Bank National Trust Co. v. Bertrand, 140 Conn. App. 646, 648 n.2, 59 A.3d 864, cert. dismissed, 309 Conn. 905, 68 A.3d 661 (2013).

NOTE: These pages (179 Conn. App. 739 and 740) are in replacement of the same numbered pages that appear in the Connecticut Law Journal of 20 February 2018.

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that the defendant's speech was slurred and that his eyes were bloodshot and "glazed over" The defendant's responses were "kind of slow and kind of spacy," and the defendant was "struggling" to understand or was not fully engaged in the conversation. For example, the defendant first told Grimes that he was traveling from Willimantic, but then told Grimes that he was coming from his place of employment at a restaurant in Waterford.

Grimes walked to the driver's side of the defendant's vehicle and the defendant complied with his request to roll down the window. Grimes smelled not just burnt marijuana, but also alcohol. Grimes asked the defendant if he had been drinking or smoking marijuana, and the defendant denied that he had used either substance.

Grimes then asked the defendant, who was still in the vehicle, to complete two tests to gauge his sobriety and coordination. The defendant was asked to recite specified portions of the alphabet and to complete a "finger dexterity test" that required him to count aloud while touching each of his fingertips with his thumb. The defendant failed these tests.

Grimes returned to his cruiser to inform his dispatcher that he was going to administer standardized field sobriety tests to the defendant. When he walked in the direction of the defendant's vehicle, he observed the defendant quickly "shoving" candy into his mouth. In Grimes' experience, "this was a way for people that are driving under the influence to try and mask their breath or try to get something in their system that's going to dilute the alcohol concentration in their system." Grimes instructed him to stop.

At Grimes' direction, the defendant exited the vehicle. He moved slowly and kept his right hand closed. Grimes ordered him to open his hands and to keep them raised, but the defendant did not comply fully as he continued