



ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY



JASON S. BROWN V. HONORABLE MCCLENNEN/STATE
CV-15-0042-PR

PARTIES:

Petitioner: Jason S. Brown

Real Party in Interest: State of Arizona

FACTS:

In June of 2013, Deputy Maricopa County Sheriff James Cesolini lawfully stopped a boat that Jason Brown was using to pull a water-skier after sundown. When Brown boarded the lake-patrol deputy's boat, and as the deputy explained the reason for the stop, the deputy smelled alcohol on Brown's breath and body. Brown confirmed that he had been drinking earlier in the day but that "it had been a little bit of time."

After conducting a field sobriety test, the deputy sheriff read Brown the following warning regarding testing to determine Brown's blood-alcohol concentration:

Arizona law requires you to submit and successfully complete a test of breath, blood or other bodily substance as chosen by a law enforcement officer to determine alcohol concentration or drug content. A law enforcement officer may require you to submit to one or more tests. You are required to successfully complete each of the tests. Will you submit to the specified tests?

Brown answered, "Yes," and Deputy Cesolini drew Brown's blood. Later testing showed a blood-alcohol concentration of 0.199 percent.

After the State charged Brown with operating his boat under the influence of alcohol ("OUI"), Brown filed a motion to suppress the evidence derived from the blood-draw on the ground that the search violated the Fourth Amendment of the United States Constitution. Brown contended that the deputy's repeated instructions that the law *required* submission to the blood-alcohol test constituted a claim of lawful authority by the deputy that realistically prevented a finding that Brown had truly consented to the blood-draw.

The State opposed the motion and the justice court held an evidentiary hearing, at which Brown and Deputy Cesolini testified. The justice court denied the motion to suppress, reasoning that the warning accurately set forth the law and noting that the deputy asked (as opposed to directly ordered) submission to the blood-draw. A jury later convicted Brown of OUI.

On appeal to the superior court, the court affirmed the lower court's finding that Brown

had voluntarily submitted to the blood draw, and further held that the boating-based implied-consent statute, A.R.S. § 5-395(L), is constitutional.

Brown sought special action review in the Arizona Court of Appeals, but that court denied review.

ISSUE:

Did the State's drawing and searching of Brown's blood comply with the Fourth Amendment of the United States Constitution?

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