

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NOS. 2005-074 & 2005-109

SEPTEMBER TERM, 2005

State of Vermont	}	APPEALED FROM:
	}	
v.	}	District Court of Vermont,
	}	Unit No. 2, Chittenden District
Donald Hurst	}	
	}	DOCKET NOS. 461-10-04 Cncs and
	}	5345-10-04 Cncr

Trial Judge: Edward J. Cashman

In the above-entitled cause, the Clerk will enter:

Defendant Donald Hurst appeals from his conditional guilty plea to driving under the influence in violation of 23 V.S.A. ' 1201(a)(2). Defendant was charged with the crime after a police officer detected alcohol on his breath while investigating a domestic dispute; defendant admitted to the officer that he had been drinking and that he had driven himself to the residence where the domestic dispute occurred. Defendant argues that the trial court erred in denying his motion to suppress because his admission alone, without other independent corroboration, did not establish that he had recently operated a vehicle prior to the officer=s arrival at the residence. We affirm.

The record reveals the following. In September 2004, a police officer responded to a dispatch call to investigate a domestic dispute at a home in Milton, Vermont. The officer arrived at the home at approximately 5:17 p.m. The officer found defendant, defendant=s wife, and another man, Mr. North, at Mr. North=s home. The officer separated the parties and spoke to defendant in front of the residence. The officer was aware that defendant had been looking for his wife earlier that day. Defendant informed the officer that he suspected that his wife was having a sexual relationship with Mr. North, and went to the residence to confront her. He told the officer that, after arriving, he had exposed himself to his wife. Defendant had apparently slapped his wife as well. During this conversation with defendant, the officer detected an odor of alcohol on defendant=s breath. He also noticed that defendant appeared unsteady on his feet. The officer asked defendant if he had been drinking, and how he had gotten to the residence. Defendant pointed to a car in the driveway, and stated that he had driven there and had arrived between 5:00 p.m. and 5:10 p.m. After defendant performed dexterity exercises at the officer=s request and provided a breath sample, the officer took defendant into custody for driving under the influence and domestic assault.

Defendant filed a motion to suppress, asserting that his admission to driving to the home provided an inadequate factual basis to infer that he had actually driven to the residence. The court rejected this argument and concluded that there was adequate circumstantial evidence to support defendant=s admission. The court explained that the officer had arrived at the home in response to a domestic assault complaint and found defendant as an unwanted guest at the North home. The officer had an adequate reasonable basis to conclude that defendant had just committed two crimes against his wife. The court stated that the evidence of intoxication, the presence of the automobile registered in defendant=s name, and the admissions provided adequate reason for pursuing an investigation of operating under the influence. The court concluded that the preponderance of the evidence showed that defendant had driven his car from his own home to the North residence shortly before the domestic assault incident. It therefore denied defendant=s motion to suppress and entered a finding for the State in the civil suspension proceeding. Defendant appealed from both the court=s finding in the civil proceeding and its denial of his motion to suppress in the criminal case, and the cases were consolidated.

On appeal, defendant reiterates his assertion that his admission alone, without witness corroboration or other independent corroboration, was insufficient to sustain the State=s burden of proving that he had recently operated the

vehicle before the officer arrived on the scene. Defendant maintains that if his admission is excluded, there is no evidence whatsoever that the car had been operated.

On review of the trial court=s resolution of a motion to suppress, we accept the trial court=s findings of fact unless clearly erroneous, and we review de novo the question of whether the facts as found meet the relevant legal standard. State v. Simoneau, 2003 VT 83, & 14, 176 Vt. 15. In support of his claim of error, defendant relies on the corpus delicti rule, which, at common law, means the body of the crime.@ State v. Fitzgerald, 165 Vt. 343, 350 (1996). As we explained in Fitzgerald,

The purpose of the corpus delicti rule is to foreclose the possibility of conviction based on false confession where, in fact, no crime has been committed. The rule mandates that where the State=s case is based on a confession, the corpus delicti must be corroborated by independent evidence. The corroborating evidence need not independently prove commission of the crime beyond a reasonable doubt, however; even slight corroboration may be sufficient. Determination of whether corroboration is adequate is the province of the court.

Id. (citations omitted).

In this case, the State presented sufficient corroborating evidence to support the driving under the influence charge. The corpus delicti here was the operation of a vehicle on a highway while the driver was intoxicated. See 23 V.S.A. ' 1201(a)(2). The record shows that police responded to a call about a domestic dispute at a third-party=s residence, defendant was at the residence, his car was in the driveway, and he appeared intoxicated. These facts corroborated defendant=s admission to the officer that he had been drinking and he had driven himself to the residence. We find no error.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice