NO. CAAP-14-0000525, CAAP-14-0000527, CAAP-14-00000554

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

CAAP-14-0000525

STATE OF HAWAIʻI, Plaintiff-Appellant,
v.
BRUCE TAKAHASHI, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. 2DTA-13-00002)

and

CAAP-14-0000527

STATE OF HAWAIʻI, Plaintiff-Appellant,
v.
DANIEL TAKASHIMA, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. 2DTA-13-00331)

and

CAAP-14-0000554

STATE OF HAWAIʻI, Plaintiff-Appellant,
v.
SEAN McDANIEL, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. 2DTA-13-00469)

SUMMARY DISPOSITION ORDER
(By: Nakamura, Chief Judge, and Foley and Ginoza, JJ.)

In these consolidated appeals, Plaintiff-Appellant State of Hawai'i (State) appeals from orders granting motions filed by Defendants-Appellees Bruce Takahashi (Takahashi), Daniel Takashima (Takashima), and Sean McDaniel (McDaniel) (collectively, Defendants) to suppress the results of blood tests used to determine their blood alcohol concentration.

In the cases underlying the consolidated appeals, the Defendants were each arrested in separate incidents for driving under the influence of an intoxicant (OVUII). They were taken to the Wailuku Police Station, and they elected to take a blood test to determine their blood alcohol concentration.[1/] In each case, the blood sample was taken by a registered nurse who followed a blood draw procedure that included sterilization of the puncture area and use of a sterile needle. During the blood draw, each Defendant was seated in a chair in the processing room of the Wailuku Police Station and was handcuffed to the wall. Takahashi's arm and Takashima's arm were placed on a cardboard lid covering a waste basket during their respective blood draws.

In each case, the District Court of the Second Circuit (District Court)[2/] suppressed the results of the Defendant's blood test based on its conclusions that: (1) the blood draw in each case "did not satisfy the 'reasonableness' requirement in [State v.] Entrekin[, 98 Hawai'i 221, 233, 47 P.3d 336, 348 (2002)] that the blood draw be done in a hospital-like environment"; and (2) the State failed to comply with the requirements imposed by Hawai'i's implied consent law for the collection of the blood sample from the Defendant. The District Court filed its "Findings of Fact and Conclusions of Law [and] Order Granting Motion to Suppress Evidence" (Suppression Order) in Takahashi's case (2DTA-13-00002) on February 12, 2014, in Takashima's case

[1/] The Defendants elected to take a blood test after receiving information regarding Hawai'i's implied consent statutory scheme set forth in Hawaii Revised Statutes (HRS) Chapter 291E.

[2/] The Honorable Kelsey T. Kawano presided.

(2DTA-13-00331) on February 12, 2014, and in McDaniel's case (2DTA-13-00469) on February 18, 2014.

I.

On appeal, the State argues that the District Court erred in granting the Defendants' motions to suppress evidence and challenges the "conclusions of law" entered by the District Court in each case that: (1) the blood draw "did not satisfy the 'reasonableness' requirement in Entrekin that the blood draw be done in a hospital-like environment"; and (2) the State failed to comply with the requirements imposed by Hawai'i's implied consent law for the collection of the blood sample from the Defendant.

In State v. Barton, No. CAAP-14-0000553, 2015 WL 6457126 (Hawai'i App. Oct. 26, 2015), we addressed the State's challenge to the same conclusions of law entered by the District Court under very similar factual circumstances. We adopt and apply our analysis in Barton in resolving the State's challenge to the District Court's conclusions of law in the instant consolidated appeals.

II.

As in Barton, the District Court appears to have relied on an erroneous interpretation of Entrekin to rule, as a matter of law, that a blood draw is unreasonable if it is not "done in hospital-like environment." In Barton, we explained that "while the blood draw in Entrekin occurred in a hospital, the Entrekin court did not make a hospital-like environment a prerequisite to a finding of reasonableness and specifically declined to decide the issue." Barton, 2015 WL 6457126, at *1.[3/] We agree with other courts that have rejected a *per se* rule that would render a blood draw automatically unreasonable if it does not take place in a hospital-like environment. State v. Daggett, 640 N.W.2d 546, 550 (Wis. Ct. App. 2001) ("Although Schmerber [v. California, 384 U.S. 757 (1966)] urged caution, it did not

[3/] The Entrekin court simply noted that as in Schmerber v. California, 384 U.S. 757 (1966), it was not presented with the situation where a blood draw was "'made by other than medical personnel or in other than a medical environment.'" Entrekin, 98 Hawai'i at 233 n.15, 47 P.3d at 348 n.15 (brackets omitted) (quoting Schmerber, 384 U.S. at 772).

categorically reject the possibility that a blood draw could take place in a non-medical setting."); State v. Johnston, 336 S.W.3d 649, 662 (Tex. Ct. Crim. App. 2011) ("Though a medical environment may be ideal, it does not mean that other settings are unreasonable under the Fourth Amendment.").

Similar to Barton, the District Court's findings were insufficient in that they failed to adequately identify or explain in what respects the environment in which the Defendants' blood was drawn would support the District Court's conclusion that the blood draws were unreasonable. In other words, the District Court's findings did not explain how the environment of the blood draw affected the blood draw's reasonableness. See Schmerber, 384 U.S. at 771-72 (indicating that a blood draw in a non-medical environment may be unreasonable if it "invite[s] an unjustified element of personal risk of infection and pain"). Such additional findings are necessary for this court to conduct a meaningful review of the District Court's decisions. We therefore remand the cases to the District Court to permit it to make additional findings that explain how the environment of the blood draw affected the blood draw's reasonableness and to take additional evidence, as necessary, to determine in each case whether, based on all the facts of the case, the blood draw met the constitutional reasonableness standard. See Barton, 2015 WL 6457126, at *1.

In each of the underlying cases, the District Court entered a conclusion of law that the State failed to comply with the requirements imposed by Hawai'i's implied consent law for the collection of the blood sample from the Defendant. For the reasons set forth in Barton, we conclude that this conclusion of law was wrong. See id. at *2.[4/]

[4/] In Barton, we noted that the District Court had concluded that the person conducting the blood draw was qualified to draw blood pursuant to HRS § 291E-12, HRS § 321-161, and Hawai'i Administrative Rules § 11-114-23. Barton, 2015 WL 6457126, at *2. Although the District Court did not specifically enter this same conclusion in the instant cases, the Defendants do not dispute that the registered nurses who conducted their blood draws were qualified to draw blood pursuant to these provisions. The circumstances that Barton relied upon in its analysis are also present in the instant cases.

III.

Based on the foregoing, we vacate the Suppression Order entered in each of the underlying cases, and we remand the cases for further proceedings consistent with this Summary Disposition Order.

DATED: Honolulu, Hawai'i, June 16, 2016.

On the briefs:

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Chief Judge

Associate Judge

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