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DISTRICT IV

October 2, 2025

To:

Hon. Michael D. Zell
Circuit Court Judge
Electronic Notice

John W. Kellis
Electronic Notice

Lisa M. Roth
Clerk of Circuit Court
Portage County Courthouse
Electronic Notice

Dennis M. Melowski
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2024AP1517-CR

State of Wisconsin v. Jamie L. Thomas (L.C. # 2022CF383)

Before Graham, P.J., Nashold, and Taylor, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Jamie L. Thomas appeals a judgment of conviction for operating a motor vehicle with a prohibited alcohol concentration as a sixth offense. Thomas pled no contest to this charge after the circuit court denied his motion to suppress evidence. He argues that his blood test results, obtained pursuant to a warrant after he refused to consent to a blood draw, should be suppressed because the investigating officer did not take appropriate steps to determine if he was capable of consenting to a blood draw and “the entire premise of obtaining a warrant was tainted by the unconstitutionally obtained ‘refusal.’” Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21

(2023-24).¹ Because Thomas's blood was drawn pursuant to a valid search warrant, and not based on Thomas's consent, we summarily affirm.

The facts of the case are undisputed. Thomas suffered injuries when the motorcycle he was driving ran off the road and crashed into a ditch. The officer who arrived at the scene observed Thomas being treated by medical personnel, smelled the strong odor of intoxicants coming from Thomas, and noticed that Thomas seemed to be evasive in responding to the officer's questions but coherent when responding to the questions of the medical personnel. Thomas agreed to submit to a preliminary breath test, the result of which supported the officer's probable cause determination that Thomas was under the influence of an intoxicant. Thomas was arrested and taken to a hospital for further medical treatment. At the hospital, the officer asked Thomas to submit to a chemical test of his blood. Thomas responded that he would not. The officer then obtained a search warrant, and medical personnel performed a blood draw. The results of the blood test showed that Thomas had a blood alcohol concentration above the legal limit.

The State charged Thomas with operating a motor vehicle with a prohibited alcohol concentration as a sixth offense. Thomas filed a motion to suppress the evidence from his blood test, arguing that he "did not possess sufficient faculties to make an informed choice about submitting to a blood test" and that "the warrant was based upon [his] alleged 'refusal' to submit to a test." After determining that Thomas was "orientated to time and place, and that he was coherent and giving rational responses" at the time he was asked to consent to the blood draw, the circuit court denied the motion. Thomas appeals.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

We review a circuit court’s decision on a motion to suppress evidence as a question of constitutional fact. *State v. Johnson*, 2013 WI App 140, ¶6, 352 Wis. 2d 98, 841 N.W.2d 302. We will uphold a court’s findings of fact unless they are clearly erroneous, and we review de novo the application of constitutional principles to those facts. *Id.*

The Fourth Amendment protects against “unreasonable” governmental searches and seizures. U.S. CONST. amend. IV; *see also* WIS. CONST. art. I, § 11 (providing similar protections). Searches made pursuant to a warrant are constitutional so long as the warrant is authorized by a neutral, detached magistrate, supported by probable cause, and particular in its description of the place to be searched and item to be seized. *State v. Tate*, 2014 WI 89, ¶28, 357 Wis. 2d 172, 849 N.W.2d 798. On the other hand, warrantless searches are presumptively unreasonable and are constitutional only if an exception to the warrant requirement—such as a search pursuant to voluntary consent—applies. *State v. Artic*, 2010 WI 83, ¶29, 327 Wis. 2d 392, 786 N.W.2d 430. Evidence obtained in violation of the Fourth Amendment may be suppressed as a consequence. *State v. Dearborn*, 2010 WI 84, ¶15, 327 Wis. 2d 252, 786 N.W.2d 97.

Thomas argues that his “consent to submit to a chemical test of his blood was not freely and voluntarily given.” This point would be relevant if his blood draw were premised on his consent—an exception to the Fourth Amendment’s warrant requirement—but it was not. The blood draw was conducted pursuant to a warrant, “the well-established preference under the Fourth Amendment,” after Thomas refused to consent to the blood draw. *See State v. Ward*, 2000 WI 3, ¶22, 231 Wis. 2d 723, 604 N.W.2d 517.

Thomas does not challenge the constitutionality of the warrant. Instead, he attempts to make an argument that the blood test results are the fruit of a poisonous tree and sufficiently “link[ed]” to “the acknowledged illegality” such that they must be suppressed. *See Murray v.*

U.S., 487 U.S. 533, 536-37 (1988) (The exclusionary rule prohibits introduction of evidence acquired as an indirect result of an unlawful search “up to the point at which the connection with the unlawful search becomes ‘so attenuated as to dissipate the taint.’” (citation omitted)). But there is no “acknowledged illegality” here. Thomas has not developed any coherent argument or cited to any legal authority supporting his apparent theory that an officer simply requesting consent to search somehow violates the Fourth Amendment. Obtaining a valid warrant is the protection against unreasonable searches and seizures prescribed by the Fourth Amendment.

The circuit court denied Thomas’s motion to consent on other grounds, but it is well established that this court will affirm a “proper result,” even if the court stated “the wrong reason” for reaching that proper result. *State ex rel. West v. Bartow*, 2002 WI App 42, ¶7, 250 Wis. 2d 740, 642 N.W.2d 233.

IT IS ORDERED that the judgment of the circuit court is summarily affirmed.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals