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NM Supreme Court rules arrest by volunteer reserve deputy was constitutionally unreasonable

SANTA FE – A volunteer reserve deputy's arrest of a suspected drunken driver violated New Mexico constitutional protections against unreasonable searches and seizures, the state Supreme Court ruled today. The arrest also violated a state law authorizing only commissioned, salaried peace officers to make arrests for misdemeanor motor vehicle-related offenses.

The Court unanimously reversed a divided decision of the state Court of Appeals that would have allowed prosecutors to use evidence obtained from the unauthorized arrest of Somer D. Wright by the noncommissioned deputy with the Torrance County Sheriff's Office.

The Court concluded that Reserve Deputy Roy Thompson's actions were constitutionally unreasonable when "balancing the degree to which the arrest intruded upon Defendant's privacy with the degree to which the arrest was needed to promote legitimate government interests."

Thompson was in uniform and a marked patrol vehicle in 2014 when he followed Wright's truck to her home after she had passed him. He claimed the truck nearly struck his vehicle. The deputy blocked Wright's truck after she parked in her driveway. He shined a spotlight on her truck, approached on foot and instructed her to remain in the vehicle until a commissioned sheriff's deputy arrived, which occurred about four or five minutes later. The commissioned deputy arrested Wright after she failed a field sobriety test and refused to take a breath alcohol test.

The district court determined, after a pretrial hearing, that Wright was initially arrested by Thompson when he ordered her "to stay put" in the truck and that her illegal detention was unconstitutional. Prosecutors appealed the decision.

The Supreme Court concluded that the district judge properly suppressed all evidence from the unauthorized arrest. The Court of Appeal's majority "erred in determining that Defendant's arrest was needed for the promotion of the State's interest in deterring drunk driving and maintaining highway safety," the justices held.

'We agree that the State has an interest in deterring drunk driving and maintaining highway safety," the Court wrote, "but that interest was not promoted by the arrest of Defendant, who was off of the road, parked at her home, and blocked in."

The Court concluded, "In balancing the State's interests with Defendant's privacy interests, on the one hand we have an unauthorized arrest that promoted neither the State's interest in deterring drunk driving nor the State's interest in maintaining highway safety. On the other hand, we have an unauthorized arrest that intruded upon Defendant's privacy by Thompson shining a spotlight on her property, lighting up her parked truck, ordering Defendant to remain in her truck, and preventing her from entering her home."

New Mexico law – NMSA 1978, § 66-8-124(A) – states: “No person shall be arrested for violating the Motor Vehicle Code or other law relating to motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer who, at the time of arrest, is wearing a uniform clearly indicating the peace officer’s official status.”

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To read the decision in *State v. Wright*, No. S-1-SC-37589, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/518900/index.do>