

STATE OF MINNESOTA

FOURTH JUDICIAL DISTRICT COURT

COUNTY OF HENNEPIN

CRIMINAL DIVISION

State of Minnesota,  
Plaintiff,

District Court File: [REDACTED]

**COURT TRIAL: FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND ORDER**

vs.

[REDACTED],  
Defendant.

The above-entitled matter came before Judge [REDACTED] on November 19, 2018. Defendant waived his right to a jury trial, and the parties agreed to submit this matter as a stipulated facts trial.

**APPEARANCES:**

[REDACTED] appeared for and on behalf of the City of [REDACTED], Plaintiff.

Charles Ramsey appeared with and on behalf of [REDACTED], Defendant.

Based upon the stipulations of the parties, evidence presented, the arguments of counsel, and all of the files, records, and proceedings herein, the Court makes the following:

**FINDINGS OF FACT**

**Stipulations of the Parties**

1. On April 27, 2018 Officer [REDACTED] of the [REDACTED] Police Department lawfully stopped a vehicle being operated by [REDACTED] in [REDACTED], Minnesota, which is in Hennepin County.
2. Officer [REDACTED] noticed indicia of impairment and administered Standardized Field Sobriety Tests on [REDACTED].
3. Officer [REDACTED] concluded that Mr. [REDACTED] was indeed impaired by, and under the influence of, alcohol at the time of driving.
4. Based on [REDACTED]'s impairment, Officer [REDACTED] arrested and transported [REDACTED] to the [REDACTED] Police Department, where Officer [REDACTED] read the Minnesota Motor Vehicle Implied Consent Advisory and [REDACTED] agreed to submit to a breath test on the DataMaster DMT.

5. Officer [REDACTED] a duly trained and certified operator, administered a proper breath alcohol test on the DataMaster DMT. This test meets all the criteria for prima facie admission of the test.
6. The Minnesota Bureau of Criminal Apprehension (“BCA”)’s “FAQ Sheet for MN BCA DMT Breath Tests,” “Confidence Interval Chart,” and “Probability Chart” provide the following information as it relates to the test in Mr. [REDACTED] case:
  - a. That no measurement is ever perfect, but that it is possible to scientifically determine how uncertain a final results is versus the actual value of the thing being measured;
  - b. The mean (average) of the measured alcohol concentration for Mr. [REDACTED] breath test is 0.171;
  - c. Based upon information known to the BCA, and as applied to the mean test result in this case, there is only a 92.53% chance that [REDACTED] actual breath alcohol concentration was 0.16 or greater as measure by this instrument;
  - d. In other words, there is a 7.47% chance that the result erroneously indicated that Mr. [REDACTED] alcohol was 0.16 or more;
  - e. Based upon information known to the BCA, and as applied to the mean rest result in this case, there is a 99% likelihood that [REDACTED] true breath alcohol concentration is somewhere between 0.1513 and a 0.1907.

### **Findings of Fact**

7. Mr. [REDACTED] was under the influence of alcohol when driving on April 27, 2018.
8. The near certainty that Mr. [REDACTED] blood alcohol concentration was between 0.1513 and 0.1907 establishes that his blood alcohol concentration was undoubtedly over 0.08 within two hours of driving on April 27, 2018.
9. There is a reasonable probability that Mr. [REDACTED] blood alcohol concentration was under 0.16.
10. Mr. [REDACTED] has a prior driving while impaired conviction from October 7, [REDACTED], which is within the ten years immediately preceding his arrest in this case on April 27, 2018.

### **CONCLUSIONS OF LAW**

1. Mr. [REDACTED] has been charged with two counts of driving while impaired under Minn. Stat. § 169A.20, Subd. 1(1) and (5), § 169A.25, subd. 2, and § 169A.26, Subd. 2.
2. Count one of the complaint charges Mr. [REDACTED] with 2<sup>nd</sup> Driving While Impaired – Operate Motor Vehicle - Alcohol Concentration 0.08 Within 2 Hours of Driving. As charged, this

- requires (1) that his blood alcohol was over 0.08 within two hours of driving; and (2) that two or more aggravating factors are present at the time. *Id.* with reference to Minn. Stat. § 169A.25, subs. 1 and 2.
3. The two aggravating factors alleged in this complaint for count one are (1) that Mr. [REDACTED] blood alcohol concentration was 0.16 or over; and (2) that he had a “qualified prior impaired driving incident within the ten years immediately preceding the current offense.” *See* Minn. Stat. § 169A.03, Subd. 3 (1), (3).
  4. Count two of the complaint charges Mr. [REDACTED] with 3<sup>rd</sup> Degree Driving While Impaired – Operate Motor Vehicle Under the Influence of Alcohol. As charged, this requires (1) that he was under the influence of alcohol while driving, operating, or in physical control of a motor vehicle; and (2) that one aggravating factor was present at the time. Minn. Stat. § 169A.20, Subd. 1 (1), with reference to Minn. Stat. § 169A.26, Subd. 2.
  5. The aggravating factor alleged in this complaint for count two is that Mr. [REDACTED] had one “qualified prior impaired driving incident within the ten years immediately preceding the current offense.” *See* Minn. Stat. § 169A.03, Subd. 3 (3).
  6. The court finds that the burden of proof beyond a reasonable doubt has been met to prove (1) that Mr. [REDACTED] was under the influence of alcohol while driving a motor vehicle; (2) that he has a prior driving while impaired conviction from October of [REDACTED], which is in the ten years immediately preceding this offense; and (3) that this offense took place on April 27, 2018 in [REDACTED], Minnesota, which is in Hennepin County.
  7. The court finds that the State has not met its burden of proof beyond a reasonable doubt that Mr. [REDACTED] blood alcohol concentration was 0.16 or above within two hours of driving.

**ORDER**

1. The court finds Defendant [REDACTED] NOT GUILTY of 2<sup>nd</sup> Degree Driving While Impaired – Alcohol Concentration of 0.08 - an Alcohol Concentration of 0.16 or more.
2. The court finds Defendant [REDACTED] GUILTY of 3<sup>rd</sup> Degree Driving While Impaired – Operate Motor Vehicle Under Influence of Alcohol in violation of Minn. Stat. § 169A.20, Subd. 1 (1), 169A.26, Subd. 2.

LET JUDGMENT BE ENTERED ACCORDINGLY

Dated: December 4, 2018

