

IN THE COURT OF APPEALS OF IOWA

No. 7-066 / 06-0423
Filed February 28, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LONDON ERAN GAAR,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Carol Egly, District Associate Judge.

London Gaar appeals from a district court order that denied his motion to suppress. **AFFIRMED.**

Patricia Reynolds, Acting Appellate Defender, and Dennis D. Hendrickson and David Arthur Adams, Assistant Appellate Defenders, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney General, John P. Sarcone, County Attorney, and Linda Zanders and Romonda Belcher Ford, Assistant County Attorneys, for appellee.

Considered by Zimmer, P.J., and Miller and Baker, JJ.

ZIMMER, P.J.

London Gaar appeals from his conviction of operating while intoxicated. He contends the district court erred in denying his motion to suppress because there were not reasonable grounds to invoke implied consent. We affirm.

During the early morning hours of June 30, 2005, Gaar drove his van off a roadway in Des Moines and struck a tree. Officer Amanda Cowman was dispatched to the scene of the one-vehicle accident. Both Gaar and his passenger smelled strongly of alcohol. Officer Cowman believed Gaar was under the influence of alcohol. Gaar was transported to a local hospital for treatment of his injuries.

Officer Colin Boone met Officer Cowman at the hospital. Cowman informed Boone about the circumstances of the accident. Boone went to the emergency room to see Gaar. He smelled a moderate odor of alcohol as he entered the room. Based on the information he received from Officer Cowman and his own observations, Boone believed Gaar was under the influence of alcohol. Officer Boone invoked implied consent. Gaar refused to provide a body specimen for chemical analysis.

The State charged Gaar with operating while intoxicated in violation of Iowa Code section 321J.2 (2005).¹ Gaar filed a motion to suppress. Among other things, his motion alleged the officers did not have reasonable grounds to

¹ Section 321J.2 provides, in relevant part:

1. A person commits the offense of operating while intoxicated if the person operates a motor vehicle in this state in any of the following conditions:
 - a. While under the influence of an alcoholic beverage or other drug or a combination of such substances.

invoke implied consent. The district court denied the motion. Gaar waived a jury and was found guilty of operating while intoxicated following a bench trial. This appeal followed.

In his brief on appeal, Gaar reasserts his claim that the district court should have sustained his motion to suppress because reasonable grounds to invoke implied consent did not exist in this case.

Iowa Code section 321J.6, our implied consent statute, authorizes an officer to request a sample of a person's blood, breath, or urine for testing if the officer has reasonable grounds to believe the driver was operating while intoxicated. The reasonable grounds test is met when the facts and circumstances known to the officer at the time implied consent was invoked would have warranted a prudent person's belief that an offense has been committed. *State v. Owens*, 418 N.W.2d 340, 342 (Iowa 1988).

Applying these standards, it is apparent that reasonable grounds existed for invoking implied consent in this case. Gaar lost control of his vehicle on a city street and crashed into a tree. There is no indication in the record that any factor other than his impairment played a role in his accident. Officer Cowman noticed a strong odor of alcohol on Gaar, and Officer Boone noticed a moderate odor of alcohol on Gaar at the hospital.² Both officers believed the defendant was under the influence of alcohol. These facts are sufficient to warrant a reasonable belief

² Gaar argues Officer Cowman's failure to include her observations about the odor of alcohol in her written report undermines her credibility. The district court addressed this issue and found Cowman's testimony describing a strong odor of alcohol to be "very credible." We find no reason to second-guess the trial court's assessments of witness credibility.

that Gaar was operating his vehicle while under the influence of alcohol. Accordingly, the district court did not err in denying Gaar's motion to suppress.

AFFIRMED.