

What is a DUI in Arizona, No. 1, State v. Duffy

The cases discussed in this series are primarily based on memorandum decisions issued by the Arizona Court of Appeals. Memorandum decisions are only binding on that individual case and are not legal precedent for other cases. However, their discussion of the facts, legal issues presented and sentences imposed are a good guide for what it takes to be found guilty of a DUI in Arizona, and what the sentences could be. Keep in mind almost all of these cases arose from the defendant's appeal after a felony DUI trial. Sentences for felony DUIs which are resolved by plea agreement are often less than those imposed after a jury trial.

State v. Duffy, No. 1 CA-CR 13-0896 (1/13/15).

FACTS:

Police observed the defendant carrying a box of beer across a convenience store's parking lot and then drink a beer from the box. The defendant appeared to sway back and forth. He then sat in the driver's seat of his car, put the key in the ignition, and started the car. Police told him Sgt. Livingston knocked on the passenger window and told the defendant he couldn't let him drive away because he had seen the defendant drink a beer. The defendant exhibited signs of possible alcohol impairment, including slurred speech and the odor of alcohol on his breath. The police told the defendant to wait on the curb until he could determine whether the defendant was impaired and shortly thereafter the defendant fled on foot. At the direction of the first police officer another officer arrested him for criminal trespass and processed him for DUI but never arrested him for DUI prior to administering the breath tests. The defendant consented to the breath test which was .187%.

LEGAL ISSUE:

Before trial the defendant moved to suppress the breath test results. He alleged that the breath tests were administered pursuant to A.R.S. § 28-1321, the Implied Consent Law which requires the defendant be arrested for DUI before the tests can be administered. Trial court denied the motion; the defendant went to trial, lost, and appealed the denial of the motion suppress. The court of appeals said that when he was ordered out of the vehicle he was being detained for a possible DUI and the subsequent arrest arose from that detention so the arrest was a possible violation of the DUI laws and administration of the breath tests were authorized under A.R.S. § 28-1321.

SENTENCE:

The decision did not include the sentence.

The memorandum decision is available by link, along with the transcript/podcast of this recording.

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