Michigan Supreme Court
Lansing, Michigan

Syllabus

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PEOPLE v REA

Docket No. 153908. Argued on application for leave to appeal April 25, 2017. Decided July 24, 2017.

Gino R. Rea was charged in the Oakland Circuit Court with operating a motor vehicle while intoxicated (OWI), MCL 257.625(1). A police officer parked his patrol vehicle in the street in front of defendant's driveway while responding to noise complaints from defendant's neighbor. As the officer walked up the straight driveway, defendant backed out of his detached garage and down the driveway. When the officer shined his flashlight to alert defendant that he was in the driveway, defendant stopped his car in the driveway, next to the house. Defendant then put his car in drive and pulled forward into the garage, bumping into stored items in the back of the garage. Defendant, who smelled of alcohol and whose speech was slurred, was arrested for operating a motor vehicle while intoxicated after he refused to take field sobriety tests; defendant's blood alcohol level was later determined to be three times the legal limit set forth in MCL 257.625(1)(b). After his arraignment, defendant moved to quash the information. The court, Colleen A. O'Brien, J., granted the motion and dismissed the charge, finding that the upper portion of defendant's driveway, closest to the garage, was not a place generally accessible to motor vehicles for purposes of criminal liability under MCL 257.625(1). On appeal, the Court of Appeals, GLEICHER, P.J., and SHAPIRO, J., (JANSEN, J., dissenting), affirmed the trial court's order, concluding that because the general public is not widely permitted to access the upper portion of a private driveway, defendant's operation of his vehicle while intoxicated did not fit within the purview of behavior prohibited under MCL 257.625(1). 315 Mich App 151 (2016). The Supreme Court ordered and heard oral argument on whether to grant the prosecution's application for leave to appeal or take other peremptory action. 500 Mich 871 (2016).

In an opinion by Justice BERNSTEIN, joined by Chief Justice MARKMAN and Justices ZAHRA, and WILDER, the Supreme Court, in lieu of granting leave to appeal, *held*:

MCL 257.625(1) of the Michigan Vehicle Code, MCL 257.1 *et seq.*, prohibits a person, whether licensed or not, from operating a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this state if the person is operating while intoxicated. The phrase "generally accessible" in MCL 257.625(1) is not defined by the Michigan Vehicle Code. In light of the dictionary definitions of these words, "generally accessible" means usually or ordinarily capable of being reached. In contrast to the phrase "open to the general public," which concerns

who may access the location, the phrase "generally accessible to motor vehicles" concerns *what* can access the location. Accordingly, when determining whether a place is generally accessible to motor vehicles, the focus is not on whether most people can access the area or have permission to use it but on whether most motor vehicles can access the area. In context, MCL 257.625(1) prohibits an intoxicated person from operating a motor vehicle in a place that is usually capable of being reached by self-propelled vehicles. Had the Legislature intended to prohibit driving while intoxicated only in areas actually used by motor vehicles, it would have used different language in the statute. In this case, defendant's driveway was designed for vehicular travel and there was nothing on his driveway that would have prevented motor vehicles on the public street from turning into it. Accordingly, defendant's driveway was generally accessible to motor vehicles for purposes of MCL 257.625(1). The Court of Appeals erred by affirming the trial court's dismissal of the OWI charge against defendant.

Court of Appeals judgment reversed, circuit court order of dismissal vacated, and the case remanded.

Justice LARSEN, concurring in the result only, concluded that the case at issue fit easily within the statutory language and therefore would have waited for a case that pushed the boundaries of MCL 257.625 to explore the edges of the statutory language. The whole point of a driveway is to provide access to motor vehicles. Where the place is *designed* to be capable of being reached by motor vehicles, the answer to whether it is "generally accessible to motor vehicles" is simple: of course. Nonetheless, the majority's definition of accessibility, which focused on whether a place is physically capable of being reached, might be too broad. And the dissent's understanding, which focused on legal or customary accessibility, failed to consider that if "accessible" means "legally accessible," there is nothing in the statute to suggest that one's trips up and down their own driveway should not count. Driveways, in general, are legally accessible by, at least, *some* motor vehicles. And if "generally" means "usually," or "in general," then driveways are "generally accessible to motor vehicles," whether "accessible" means "physically capable of being reached," "physically easy to reach," or "legally capable of being reached." Only if "generally" includes some idea of volume ("popularly") *and* "accessible" means "legally so," could driveways possibly be out of bounds. But that reading would come at the cost of the most natural reading of the statutory text. Instead, because driveways are clearly included within the statute's prohibition against operating a vehicle while intoxicated upon places generally accessible to motor vehicles, Justice LARSEN would have concluded that it was not necessary to establish the precise boundaries of MCL 257.625(1) in this case.

Justice MCCORMACK, joined by Justice VIVIANO, dissenting, agreed with the majority that the Legislature's 1991 amendment of MCL 257.625(1) prohibited the operation of motor vehicles while intoxicated in other places in that the language "generally accessible" evidenced an intent to expand the scope of the statute to cover additional places not covered by the original language. But Justice MCCORMACK disagreed with the majority's conclusion that MCL 257.625(1) prohibits an individual from driving a vehicle while intoxicated on a private driveway. The majority's broad interpretation of the language—whether a place is usually capable of being physically reached by a motor vehicle—threatened to swallow the original "open to the general public" language in the statute in that the majority's interpretation

effectively bans in all places the operation of a vehicle in Michigan while intoxicated. The majority's broad interpretation ignores that when the Legislature has wanted to prohibit driving specific types of motor vehicles in all places while intoxicated, it has clearly done so. Examining the three related clauses in MCL 257.625(1), it is clear that the Legislature did not intend for the "generally accessible" clause to extend the reach of the statute to every place in this state, but rather to cover places that are open to an appreciable number of motor vehicles, even when access is restricted by physical or other barriers to entry; a place is "generally accessible" if it is a place where vehicles are routinely permitted to enter. While many private roads are generally accessible to motor vehicles—and would therefore come within the purview of prohibited conduct in MCL 257.625(1)—private driveways are not. It should not be assumed that the Legislature intended to extend the scope of the statute to include the private property of individual homeowners because the statute has historically focused on areas open to the general public without restriction. Justice MCCORMACK would have affirmed the result reached by the Court of Appeals.