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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of June – 2023

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE WEEK

Month of June - 2023

People v. Oliver J. Hutt, 2023 IL 128170, May 18, 2023

Hutt was arrested for DUI. When asked to submit to a breath test, he refused. A search warrant was obtained for his blood and urine. Hutt failed to comply with the warrant. Obstructing Justice?

FACTS: Shortly after arresting Hutt for DUI, the arresting officer obtained a search warrant for Hutt's blood and urine. (Hutt had refused a breath test.) In the laboratory of a hospital, the Officer presented Hutt with a copy of the search warrant, which commanded the Officer to "search *** the body of [Hutt]" and to "seize *** [b]lood and urine for the presence of alcohol and/or drugs." Three times the Officer asked if Hutt would submit to the test. Once Hutt may have refused and twice he avoided answering the question. Based upon this conduct, Hutt was charged with Obstruction of Justice by concealment of physical evidence.

During Hutt's trial, the court enquired into the procedure used by the police in cases such as this. In response, an Officer explained, "We explain to the arrestee that a search warrant has been signed for their blood and for their urine and they need to provide that. We do that with the medical staff there. If they agree to that, then the medical staff will do the blood draw and provide the cup for the urinalysis. And if they refuse to do that, we don't force them. We don't hold them down or anything like that. We just basically leave the scene and go back to headquarters." When asked by the trial court asked whether the police could have held Hutt down and forcibly taken some of his blood, the Officer acknowledged that they legally could have but explained that the police typically do not do so because of the risk of injury to all parties.

At the conclusion of the bench trial—with some uncertainty about whether the proved conduct fit the charged crime—the trial court found that defendant's recalcitrance at the hospital qualified as obstructing justice by concealment of physical evidence (720 ILCS 5/31-4(a)(1)). Hutt appealed his conviction.

APPELLATE COURT FINDINGS: In this case the appellate court determined that Hutt refused a lawful order contained in a search warrant that required him to allow the police to take his blood or urine for testing. The Court concluded that Hutt's conduct in this case constituted the offense of Obstructing Justice. First, the Court concluded that the evidence at issue met the requirement of "physical evidence" contained in the Obstructing Justice statute. Accordingly, it concluded that Hutt's blood was "physical evidence" under the obstructing justice statute.

Second, according to the Court, Hutt's actions meet the definition of "conceal" contemplated by the Obstructing Justice statute. The Court held that in the context of this case, "conceal" does not mean " 'to place out of sight.' " Instead, defendant's conduct met the other definition for "conceal," i.e., "to prevent disclosure or recognition of; avoid revelation of; refrain from revealing." This definition, according to the majority of this Court, was entirely consistent with the Illinois Supreme Court's holding in People v. Baskerville, 2012 IL 111056, that a defendant can obstruct the legal process by failing to act as well as taking obstructive actions. Accordingly, the Court concluded that the circumstances present in this case—refusal to submit to a blood draw with knowledge of a valid search warrant for the same—can constitute obstructing justice by concealing physical evidence.

Third, the Court concluded that Hutt's actions were knowing. The People presented evidence that the police informed Hutt of the warrant for his blood and then asked three separate times for him to submit to a blood draw. Hutt first responded by saying he had to think about it. This statement, according to the Court, showed that Hutt's subsequent attempts to change the subject or ignore the question constituted a knowing refusal to submit to the warrant under the circumstances.

Finally, the Court noted that the People also presented evidence that Hutt explicitly refused the officers' request on one of the occasions he was asked to submit. Although the Court acknowledged that the testimony on this point was not as clear as it could have been, the trial court was entitled to resolve the discrepancies in favor of the People and to conclude that, whatever the specific form of communication, Hutt clearly refused to submit to the blood draw when asked. For the same reasons, the Court concluded that the trial court was entitled to infer that Hutt engaged in these actions with the intent to prevent his own prosecution.

INTERESTING MAJORITY COMMENT: "We note that the issue in this case is somewhat novel. A conviction would have been unquestionable had the police (1) informed defendant that his refusal to submit to the warrant could lead to a

felony charge of obstructing justice and (2) directly asked defendant if he was refusing to submit and tried to get an explicit response from him. Nonetheless, we commend the police in this case for obtaining a search warrant, a practice that we encourage, particularly in this context.

The public interest is not well served if police officers, or hospital staff are required to attempt to forcibly restrain or subdue a DUI suspect to obtain a blood sample. Accordingly, it is all the more important for police to explain clearly to DUI suspects that (1) a search warrant for their blood requires their compliance and (2) their noncompliance constitutes a separate felony offense. Given the privacy interests at stake and the invasive nature of the search, the coercive force of a potential felony conviction is almost certainly preferable to the coercive force of physical restraint."

DISSENTING OPINION: One Justice concluded that: "It may be that defendant's passive recalcitrance qualified as obstructing a peace officer (a Class A Misdemeanor) (720 ILCS 5/31-1(a)). But he was not charged with obstructing a peace officer. The charged offense of obstruction of justice through the concealment of physical evidence was unproven."

SUPREME COURT APPEAL: Hutt's petition to appeal his conviction before the Illinois Supreme Court was granted.

ISSUE BEFORE THE SUPREME COURT: Was Hutt properly convicted of Obstructing Justice by concealing evidence?

ARGUMENT BEFORE THE SUPREME COURT: On appeal, Hutt argued that, as a matter of law, he could not have obstructed justice because he took no action to conceal or destroy evidence.

THE LAW: Subsection (a)(1) of section 31-4 provides as follows: "(a) A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she knowingly commits any of the following acts: (1) Destroys, alters, conceals or disguises physical evidence, plants false evidence, [or] furnishes false information[.]" 720 ILCS 5/31-4(a)(1).

SUPREME COURT FINDINGS: The Supreme Court agreed with the partial dissent that the first definition of "conceal" did not pertain to physical evidence, so the defendant's refusal or recalcitrance to comply with the police officers and the search warrant to obtain his blood or urine did not meet the definition of "conceal." It also agreed that the second definition of "conceal" did not apply under the facts of this case. Hutt was accused of concealing evidence when he refused to submit to blood and urine testing. However, the Court concluded that while Hutt took no action to affirmatively comply with the search warrant, he also took no action to place his blood or urine out of sight or hide either from view. Rather, he remained seated in the hospital laboratory with the police officers.

CONCLUSION: Because Hutt's actions did not amount to concealment within the meaning of the obstructing justice statute, it reversed his conviction of Obstructing Justice.

[EDITOR'S NOTE: *It is interesting to note that in this case both the Appellate Court and the Supreme Court noted that Illinois Law Enforcement Officers are authorized to use reasonable force when executing a search warrant. Therefore, the Officers in this case could legally have used force to execute their warrant and obtain a blood sample. The Officers in this case declined to use such force. For this, the appellate court "commended" the Officers and declared that "The public interest is not well served if police officers, or hospital staff are required to attempt to forcibly restrain or subdue a DUI suspect to obtain a blood sample." However, if such a defendant no longer is faced with a felony offense, has the situation changed?*

The Court also declared: "A conviction would have been unquestionable had the police (1) informed defendant that his refusal to submit to the warrant could lead to a felony charge of obstructing justice and (2) directly asked defendant if he was refusing to submit and tried to get an explicit response from him." Following this Supreme Court's decision, this does not now seem to be the case. As the Court concluded in this case, Hutt would not have committed Obstructing Justice by failing to comply even if he were specifically informed that his conduct could result in such a charge.

Finally, the appellate court declared: "Given the privacy interests at stake and the invasive nature of the search, the coercive force of a potential felony conviction is almost certainly preferable to the coercive force of physical restraint." However, following this decision it would seem that the "coercive force of a potential felony conviction" no longer exists. At most, as the dissenting appellate justice noted, a charge of Obstructing a Peace Officer might be available. However, a conviction of that offense only constitutes an A Misdemeanor. The "coercive force" of a mere misdemeanor remains to be seen when a defendant is facing a felony DUI charge.]

QUIZ QUESTIONS FOR THE MONTH OF JUNE – 2023

People v. Oliver J. Hutt, 2023 IL 128170, May 18, 2023

1. Pursuant to Illinois law, "A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she knowingly commits any of the following acts: (1) Destroys, alters, conceals or disguises physical evidence, plants false evidence, [or] furnishes false information[.]" Is this a complete and accurate definition of the offense of Obstructing Justice in Illinois.

   a. Yes.

   b. No.

2. Pursuant to Illinois Law, a person commits Obstructing Justice when that person alters, conceals, disguises, or destroys physical evidence. Which of the following was Hutt accused of doing in this case?

   a. Destroying Evidence.

   b. Altering Evidence.

   c. Concealing Evidence.

   d. Disguising Evidence.

3. The Dissenting Appellate Justice declared that Hutt's conduct did not constitute the offense of Obstructing Justice, but it may have constituted the Offense of Obstructing a Peace Officer. What is the Criminal Classification of the Offense of Obstructing a Peace Officer?

   a. a Petty Offense.

   b. a Class 4 Felony.

   c. a Class A Misdemeanor.

   d. Illinois has no such offense.

4. In this case, Hutt maintained that he could not have committed Obstructing Justice by merely declining to respond when the Officer asked if he would comply with their Search Warrant. Did the Supreme Court agree with this argument?

   a. Yes.

   b. No.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF JUNE – 2023

People v. Oliver J. Hutt, 2023 IL 128170, May 18, 2023

1. Pursuant to Illinois law, "A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she knowingly commits any of the following acts: (1) Destroys, alters, conceals or disguises physical evidence, plants false evidence, [or] furnishes false information[.]" Is this a complete and accurate definition of the offense of Obstructing Justice in Illinois.

   a. Yes. This is the language of the Obstructing Justice statute.

2. Pursuant to Illinois Law, a person commits Obstructing Justice when that person alters, conceals, disguises, or destroys physical evidence. Which of the following was Hutt accused of doing in this case?

   c. Concealing Evidence. The People accused Hutt of concealing evidence.

3. The Dissenting Appellate Justice declared that Hutt's conduct did not constitute the offense of Obstructing Justice, but it may have constituted the Offense of Obstructing a Peace Officer. What is the Criminal Classification of the Offense of Obstructing a Peace Officer?

   c. a Class A Misdemeanor.

4. In this case, Hutt maintained that he could not have committed Obstructing Justice by merely declining to respond when the Officer asked if he would comply with their Search Warrant. Did the Supreme Court agree with this argument?

   a. Yes. The Court concluded that Hutt's refusal to cooperate did not constitute an act of concealing evidence. Therefore, Hutt did not commit the Offense of Obstructing Justice.