

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED96754
)	
Appellant,)	Appeal from the Circuit Court
)	of Ste. Genevieve County
vs.)	
)	Honorable Robin E. Fulton
KERRI K. DRURY,)	
)	
Respondent,)	
)	Filed: November 29, 2011

Appellant State of Missouri (State) appeals from the trial court's orders suppressing evidence related to the arrest of Kerri Drury (Drury) and dismissing charges against her for driving while intoxicated. The trial court held that Drury was seized in violation of the Fourth Amendment, ordered the evidence obtained as a result of her seizure suppressed, and dismissed all charges.

REVERSED and REMANDED

The Southern Division holds: The trial court clearly erred in ordering the suppression of evidence obtained at the time of Drury's arrest, and thereafter dismissing all charges. Drury's detention consisted of two separate seizures, neither of which was unreasonable under the Fourth Amendment. The first seizure occurred when a lone officer detained Drury at the scene of an investigation and arrest of a nearby suspect. Drury was in close proximity to the suspect, and her detention lasted only a few minutes until another officer arrived at the scene. Given the need for the lone officer to safely secure the scene of the arrest and investigation, Drury's original detention was a reasonable non-investigatory seizure. The second seizure occurred when, before Drury was released from the original detention, the officers observed evidence that Drury had committed the crime of driving while intoxicated. The second seizure was reasonable under the Fourth Amendment because it occurred after officers obtained evidence which gave them the reasonable suspicion that Drury had committed a crime. Upon reasonable suspicion, the officers were permitted to detain Drury for the purpose of investigating the possible commission of that crime, without violating the Fourth Amendment. Because both seizures were reasonable under the Fourth Amendment, the trial court's orders suppressing evidence and dismissing all charges was clearly erroneous.

Opinion by: Kurt S. Odenwald, C.J., Sherri B. Sullivan, J. and Glenn A. Norton, J., Concur.

Attorney for Appellant: Carl D. Kinsky

Attorney for Respondent: Robert D. D. Huelskamp

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