Summary of SC90738, *State of Missouri v. William R. Schroeder*
Appeal from the Franklin County circuit court, Judge Gael D. Wood
Argued and submitted Oct. 20, 2010; opinion issued Jan. 11, 2011

Attorneys: Schroeder was represented by Sara K. Tupper and Frank K. Carlson of The Carlson Law Firm in Union, (636) 583-8300, and the state was represented by James B. Farnsworth of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals his convictions for driving while intoxicated and failing to dim his headlights. In a unanimous decision written by Chief Justice William Ray Price Jr., the Supreme Court of Missouri affirms the convictions. A reasonable fact-finder could conclude that the man's headlights glared into the trooper's eyes in violation of the statute. The trial court did not err in denying the man's motion to suppress statements the trooper attributed to him. The trooper did not violate the state or federal constitution or United States Supreme Court precedent in approaching the man on the roadside and using limited questions and dexterity tests to confirm his suspicions that the man was driving while intoxicated. Further, Missouri's statutes prohibiting driving while intoxicated are not unconstitutionally void for vagueness on their face or as applied to the man's case.

Facts: In the wee hours of one morning in October 2006, William Schroeder pulled his vehicle to the shoulder in Franklin County to check for a low tire. A highway patrol trooper who passed him saw the vehicle's bright headlights come on and stay on. The trooper turned around and drove back to the vehicle to see if the driver needed assistance and to take enforcement action for the driver's failure to dim the headlights. The trooper asked Schroeder what was wrong. During his reply, Schroeder used slurred speech, had glassy and bloodshot eyes, and had problems maintaining his balance. At the trooper's request, Schroeder sat in the trooper's patrol car while the trooper ran a computer background check that showed Schroeder's license had been revoked. The trooper smelled alcohol on Schroeder's breath and asked him if he had been drinking. Schroeder said he had consumed six beers. A preliminary breath test showed the presence of alcohol, and Schroeder failed two field-dexterity tests. The trooper arrested Schroeder and, at the local police station, advised Schroeder of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966). The trial court found Schroeder guilty of driving while intoxicated, driving while revoked and failure to dim headlights. It found he was a chronic offender under section 577.023, RSMo Supp. 2006; sentenced him to five years in prison for driving while intoxicated and a concurrent one-year term in prison for driving while revoked; and fined him $25 for failing to dim his headlights. Schroeder appeals.

AFFIRMED.

Court en banc holds: (1) The trial court did not err in finding Schroeder guilty of failing to dim his headlights. Section 307.070, RSMo Supp. 2006, requires drivers to adjust their headlights so glaring rays are not projected into the eyes of drivers who are traveling the same direction and

within 300 feet in front of their vehicles. A reasonable fact-finder here could conclude from the trooper's statements in the alcohol influence report that Schroeder's headlights glared into the trooper's eyes when the trooper was within 300 feet of Schroeder's vehicle.

(2) The trial court did not err in denying Schroeder's motion to suppress statements the trooper attributed to him.

> (a) Because the trooper had sufficient reasons for approaching Schroeder on the roadside, his encounter with Schroeder was lawful under the state and federal constitutions as well as *Terry v. Ohio*, 392 U.S. 1 (1968). Although he approached Schroeder to take enforcement action for failure to dim headlights, the trooper also initiated the encounter to determine whether Schroeder needed roadside assistance. The trooper's belief that Schroeder needed assistance was reasonable. Schroeder was parked on a roadside at 2 a.m. with his bright headlights activated, which is a dangerous situation, and motorists typically require assistance while stranded on the roadside at night.
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> (b) The trooper did not violate *Miranda*. No such warnings are required during routine traffic stops, when a law enforcement officer may conduct a reasonable investigation, which may include asking for a driver's license, asking the driver to sit in the patrol car, and asking the driver about his destination and purpose. Here, during his initial lawful encounter with Schroeder, the trooper formed a reasonable suspicion that Schroeder was driving while intoxicated. The trooper then properly asked Schroeder limited questions to confirm his suspicion, and then Schroeder voluntarily performed – and failed – field-dexterity tests, further confirming the trooper's suspicion. The results of such tests are not testimonial or communicative but rather show the degree of a person's physical coordination.

(3) Missouri's statutes prohibiting driving while intoxicated – sections 577.001.3 and 577.010.1, RSMo Supp. 2006 – are not unconstitutionally void for vagueness. State courts previously have held that ordinary persons understand what is meant by the statutory terms "intoxicated condition" and "under the influence," and no other jurisdiction has held that a DWI statute similar to Missouri's is unconstitutionally vague. Further, Schroeder cannot claim reasonably that Missouri's law did not notify him adequately that he was too drunk to drive. He fails to point to any evidence that he was confused by the meaning of the statute, and the facts show he was intoxicated by any definition.