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TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2012-CA-000112-MR

ELIZABETH GRIMES

APPELLANT

v. APPEAL FROM MADISON CIRCUIT COURT
HONORABLE JEAN CHENAULT LOGUE, JUDGE
ACTION NO. 11-CR-00143

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, CHIEF JUDGE; STUMBO AND VANMETER, JUDGES.

STUMBO, JUDGE: Elizabeth Grimes appeals from the Madison Circuit Court's denial of her motion to suppress statements made after her arrest on April 4, 2011, pursuant to Kentucky Revised Statutes (KRS) 222.202(1), for alcohol intoxication in a public place. After her arrest, Grimes provided her sister's name, social security number, and birth date. As a result, she was charged with identity theft

and sentenced to three years' imprisonment. Grimes entered a conditional guilty plea, pursuant to Kentucky Rules of Criminal Procedure (RCr) 8.09, to the charge of identity theft and therein reserved the right to appeal the denial of her motion to suppress. Because the arresting officer had probable cause to arrest, the decision of the circuit court is affirmed.

Shortly after midnight on April 24, 2011, Kentucky State Trooper Talbot Coyle pulled over a vehicle for driving with no headlights. Grimes and two other individuals, one of whom was a minor, were passengers in the vehicle. While the officer attempted to question the driver, Grimes and the other backseat passenger engaged in an argument. The officer repeatedly asked them to quiet down, but to no avail. Upon learning that the driver was operating on a suspended license, Officer Coyle removed him from the vehicle and placed the driver under arrest. The minor was released and sent home. The officer testified at the hearing that he did not intend to arrest Grimes and the other passenger for alcohol intoxication, but that they continued to be argumentative. He further testified that Grimes smelled of alcohol, had bloodshot eyes, and slurred speech. Fearing for their safety, he placed them both under arrest. When Grimes arrived at the jail, she provided her sister's name, address, and social security number instead of her own. Upon further research, and as indicated in the uniform citation completed by him, Officer Coyle discovered that Grimes was arrested the year prior in Clark County and provided her sister's information. Grimes also provided her sister's name when arrested in May of 2011 in Lincoln County. Officer Coyle also discovered

that a warrant existed for Grimes's arrest, but was mistakenly entered in her sister's name.

On August 31, 2011, Grimes filed a motion to suppress the statements made to Officer Coyle after her arrest, i.e., the misidentification. In her conditional guilty plea, Grimes preserved the right to challenge the legality of the arrest and to seek suppression of her subsequent statements. On appeal, Grimes contends that the circuit court erred in denying her motion to suppress because she was riding in a private vehicle and, therefore, was not in "public" as required by KRS 222.202(1). Grimes also argued that she was not a danger to herself or others, as required by the statute.

Our review of the circuit court's decision in this case requires a bifurcated standard of review. The circuit court's findings of fact made after the suppression hearing are deemed conclusive if supported by substantial evidence. *Drake v. Commonwealth*, 222 S.W.3d 254, 256 (Ky. App. 2007). We review the circuit court's application of the law *de novo*. *Bagby v. Commonwealth*, 376 S.W.3d 620, 622 (Ky. App. 2012). With this in mind, we turn to the statute.

"A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity." KRS 222.202(1). KRS 222.201 instructs that "public place" is defined by KRS 525.010(3). A "public place" is

a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

KRS 525.010(3).

The question of whether or not a private vehicle constitutes a public place is an issue of first impression in Kentucky. We must construe the language liberally in order to promote the object of the statute and carry out the legislature's intent. KRS 446.080.

Looking at the language of the statute, it is immediately apparent that the legislature did not specifically identify a private vehicle as a public place. However, KRS 525.010(3) indicates that "[a]n act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place." The circumstances of this case fall within the purview of this definition. Grimes was not merely a passenger who sat quietly while Officer Coyle questioned the driver. Instead, her actions inside the vehicle had public consequences. Specifically, they interfered with a valid traffic stop on a highway, which is defined as a public place by KRS 525.010(3).

The circuit court determined that Grimes's actions established probable cause for Officer Coyle to believe that she was intoxicated and the court's findings of fact are supported by substantial evidence. Officer Coyle's testimony

revealed that Grimes had bloodshot eyes, slurred speech, and was arguing with the other backseat passenger while he was attempting to question the driver. Officer Coyle, based on his eleven years of experience, determined that it would be unsafe to leave Grimes on the side of the road in an intoxicated condition. Given the circumstances, there was probable cause to arrest Grimes for alcohol intoxication in a public place.

Furthermore, it is important to note that a valid arrest warrant existed, albeit improperly issued in her sister's name. Thus, even if the arrest was invalid, the taint of the illegal arrest was likely attenuated.

For the foregoing reasons, the decision of the circuit court is affirmed.

ALL CONCUR.

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