



Michigan Supreme Court sheds light on definition of “generally accessible” in the operating while intoxicated statute of the Michigan Vehicle Code

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The Michigan Vehicle Code, MCL 257.1 et seq., prohibits a person from operating a motor vehicle while intoxicated. Specifically, MCL 257.625(1) provides:

A person, whether licensed or not, shall not operate 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.

Accordingly, MCL 257.625(1) prohibits operating a vehicle while intoxicated in three type of locations: (1) upon a highway; (2) in a place open to the general public; or (3) in a place generally accessible to motor vehicles. The issue before the Court is whether Defendant’s driveway was “generally accessible to motor vehicles.”

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Rea is a Michigan Supreme Court opinion, therefore it is binding authority. The Court’s opinion in *Rea* is important because it defines previously undefined statutory language in MCL 257.625 of the Michigan Vehicle Code. The Court held that an area is under the purview of MCL 257.625, if most motor vehicles can access the property, regardless if the property is private.

In a recent case concerning an Operating While Intoxicated charge under MCL 257.625(1), the Michigan Supreme Court released an opinion in the case of *People v Rea*, ___ NW2d ___; 2017 Mich LEXIS 1393 (July 24, 2017). The ruling reversed the judgment of the Court of Appeals and vacated the trial court's dismissal.

In this case, Defendant Gino Rea's neighbors called the police three times for noise complaints coming from Defendant's house. Officer DeLano parked his patrol vehicle in the street in front of Defendant's driveway. As Officer DeLano walked up Defendant's driveway to investigate the noise complaint, the garage door opened, and Defendant started to back his car down the driveway. However, Defendant stopped his car in the driveway when he noticed Officer DeLano approaching him. Officer DeLano smelled alcohol in Defendant's car. Defendant then suddenly put the car in drive and pulled forward into his garage, bumping into stored items in the back.

Defendant then got out of the car and approached Officer DeLano. Officer DeLano asked Defendant to take field sobriety tests, but Defendant refused. Based on the strong odor of alcohol and Defendant's glassy and bloodshot eyes, Officer DeLano arrested Defendant and charged him with Operating While Intoxicated. A subsequent blood test revealed Defendant's blood alcohol level was a .24, which is three times the legal limit.

After a preliminary examination, the case was bound over to the Oakland Circuit Court and Defendant moved to quash the information. The trial court granted Defendant's motion and dismissed the case, finding that the upper portion of Defendant's driveway did not constitute an area that is "generally accessible to motor vehicles" for purposes of criminal liability under MCL 257.625(1). The Court of Appeals affirmed the trial court's decision, holding that the upper portion of the driveway did not constitute a place generally accessible to motor vehicles. The Supreme Court reversed the judgment of the Court of Appeals and vacated the trial court's dismissal.

To determine whether the driveway where the Defendant was operating a vehicle was a place within the purview of MCL 257.625, the Court had to define the statutory language "generally accessible." The Court asked, is a driveway, "generally accessible to motor vehicles under MCL 257.625? The brief answer: yes. Given that "generally accessible" was not previously defined in the Michigan Vehicle Code, the Court turned to the *Merriam-Webster's Collegiate Dictionary* for assistance.

Here, the Court determined that the meaning of the phrase "generally accessible" means "usually capable of being reached." In this case, Defendant's driveway was designed for motor vehicles and there was nothing on his driveway that would have prevented motor vehicles on the public street from turning into it. Therefore, Defendant's driveway was capable of being reached by any motor vehicle.

In summary, property that is "usually capable of being reached" whether public or private, is within the purview of MCL 257.625. The Court determined if the Legislature intended to prohibit driving

while intoxicated only in areas actually used by motor vehicles, then it would have used different language in the statute. If the Legislature or another Court weighs in on the issue, we will keep you apprised of the outcome.

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