

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)
)
CITY OF EASLEY,)
)
Plaintiff,)
)
vs.)
)
TINA HUBBARD,)
)
Defendant.)
_____)

IN THE MAGISTRATE'S COURT
TICKET NO. 71089-ES-DUI

ORDER

This matter came before me for a jury trial on March 23, 2010. The City was represented by Solicitor David Allison and Officer Bishop. The Defendant, Tina Hubbard, was represented by Gordon A. Senerius, of the Anderson County Bar.

Prior to the call of the case the Defendant's attorney made a motion to suppress the "Standard Field Sobriety Tests" based of the failure of the officer administering the tests to administer the tests in accordance with the requirements of the Nation Highway Safety Administration and the South Carolina Criminal Justice Academy's procedures for the administration of the "Standard Field Sobriety Tests".

Upon viewing the "incident site" video and hearing the testimony the following was noted concerning the administration of the Horizontal Gaze Nystagmus Test:

- 1) the officer fails to check the pupils for equal size, and fails to check for resting nystagmus;
- 2) the officer fails to check for smooth pursuit is both eyes twice;
- 3) the officer checks for the onset of nystagmus prior to 45 degrees prior to checking for distinct and sustained nystagmus in both eyes at maximum deviation, and fails to check both eyes

twice; and,

4) the officer checks for distinct and sustained nystagmus at maximum deviation out of the proscribed order of testing; fails to hold the stimulus at maximum deviation for the required minimum of 4 seconds; and, fails to check both eyes twice.

The officer testified that he had received training in the administration of the "Standardized Field Sobriety Tests" at the South Carolina Criminal Justice Academy in accordance with the requirements of the National Highway Traffic Safety Administration procedures for said testing. The officer testified that he had been trained that the procedures had to administered in strict compliance with these procedures. He further acknowledged that the **DWI DETECTION AND STANDARDIZED SOBRIETY TESTING Student Manual** states:

IT IS NECESSARY TO EMPHASIZE THIS VALIDATION APPLIES ONLY WHEN :

THE TESTS ARE ADMINISTERED IN THE PRESCRIBED, STANDARDIZED MANNER

THE STANDARDIZED CLUES ARE USED TO ASSESS THE SUSPECT'S PERFORMANCE

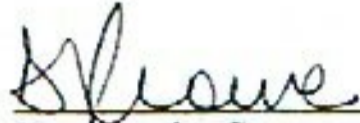
THE STANDARDIZED CRITERIA ARE EMPLOYED TO INTERPRET THAT PERFORMANCE

IF ANY ONE OF THE STANDARDIZED FIELD SOBRIETY TEST ELEMENTS IS CHANGED, THE VALIDITY IS COMPROMISED.

Based on the evidence presented, the Motion of the Defendant to Suppress the Standardized Field Sobriety Tests for failure to conduct said in strict compliance with requirements of the National Highway Traffic Safety Administration and South Carolina

Criminal Justice procedures for the administration of said test is hereby granted . Furthermore, whereas the "standardized field sobriety tests" were the basis for the probable cause for arrest on the Defendant and requiring the Defendant to submit to a breath test, the evidence of the breath test is also suppressed.

IT IS SO ORDERED.



Hon. Donita Crowe
Easley Municipal Court
Easley, South Carolina

Dated this 21st day of May, 2010