

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff- Appellee,

v

DONALD RAUSCHENBERGER,

Defendant- Appellant.

UNPUBLISHED

April 30, 1999

No. 205304

Wayne Circuit Court - Criminal
Division

LC No. 96-501347

Before: Kelly, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his plea based convictions for operating under the influence of intoxicating liquor causing death, MCL 257.625(4); MSA 9.2325(4) and operating under the influence of intoxicating liquor causing serious injury, MCL 257.625(5); MSA 9.2325(5). We affirm.

On appeal, defendant asserts that the trial court erred in denying his motion to suppress blood alcohol test results. Defendant entered a conditional no contest plea, allowing him to preserve this issue for appeal. MCR 6.301(C)(2); *People v Reid*, 420 Mich 326; 362 NW2d 655 (1984).

The blood alcohol test was taken for the purposes of medical treatment, and did not implicate defendant's Fourth Amendment rights. *People v Perlos*, 436 Mich 305, 316; 462 NW2d 310 (1990). Where a blood test offered into evidence was withdrawn for medical treatment, a different standard is required for admissibility than if the sample was drawn at police request. *People v England*, 176 Mich App 334; 438 NW2d 908 (1989). If professionals knowledgeable in the field consider the test results sufficiently reliable for treatment decisions, there is a compelling inference that the Legislature considers the test results sufficiently reliable for evidentiary purposes. *Id.*, 349. It is unnecessary to meet additional foundational requirements to establish the reliability of the evidence. *Id.* The criteria set forth in *Gard v Michigan Produce Haulers*, 20 Mich App 402; 174 NW2d 73 (1969), are inapplicable where the blood sample was

drawn by medical personnel for the purpose of medical treatment. Defendant has failed to show that the trial court abused its discretion in denying the motion to suppress.

Affirmed.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski