

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES RICHARD WEBER,

Defendant-Appellant.

UNPUBLISHED

December 19, 1997

No. 196551

Mecosta Circuit Court

LC No. 95-003714 FH

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of third offense OUIL/UBAL in violation of MCL 257.625; MSA 9.2325. In this appeal as of right, he contends that the introduction into evidence of the results of a blood alcohol analysis, performed on a sample of his blood taken from him pursuant to search warrant, violated his Fourth Amendment rights because the warrant, due to asserted technical defects, was invalid.

Specifically, defendant notes that the warrant was dated for the day before the offense, and the time entered was an hour or more before the offense. These discrepancies were explained, however, at a suppression hearing when the magistrate who issued the warrant testified that he had been awakened in the wee hours of the morning by police requesting the warrant, and in a less than fully alert condition had entered an incorrect date and time on the warrant. The warrant was actually issued on the proper day and at a time subsequent to defendant's arrest, and, therefore, subsequent to the commission of the offense. Such typographical errors do not invalidate the warrant or render the resulting search unconstitutional. *United States v McKenzie*, 446 F2d 949, 953-954 (CA 6, 1971); *United States v Averell*, 296 F Supp 1004 (ED NY, 1969); *United States v Matellian*, 31 FRD 233 (Mass, 1962); *State v Steffes*, 269 Mont 214; 887 P2d 1196, 1210 (1994).

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra