

SYNOPSIS OF THE CASE

2011 MT 274, DA 10-0375, 10-0521, 10-0522, 10-0523, 10-0525, 10-0526: STATE OF MONTANA, Plaintiff and Appellee, v. DAMON FRANKLIN PETERS, Defendant and Appellant; CITY OF HELENA, Plaintiff and Appellee, v. MATTHEW BOYD BANKS, KIRK BULS, CONNIE CHRISTOFFERSON, VICKI BRANDT FITZGERALD, JARRETT LEE SUPER, Defendants and Appellants.¹

Peters, Banks, Buls, Christofferson, Fitzgerald, and Super (“Appellants”) were each charged with DUI. All took breath tests on the Intoxilyzer 8000. All sought the source code and other information related to the Intoxilyzer 8000 during the prosecution of their cases. The District Court limited the requests of each defendant. After these rulings, each defendant pled guilty. Their cases were consolidated on appeal to decide two common issues. Peters also appealed the denial of his motion to suppress.

The Montana Supreme Court affirmed the District Court on all issues. First, the Court gave full faith and credit to the Kentucky court’s determination that the source code was a trade secret of CMI, Inc. The Court held the District Court did not abuse its discretion when it determined that Appellants did not show undue hardship under § 46-15-322(5), MCA, because the Protective Order and Non-disclosure Agreement required by CMI, Inc. were reasonable, and because CMI offered to produce the source code. The Court declined to address Appellants’ constitutional claims in light of CMI, Inc.’s offer to produce the source code.

Second, the Court held the District Court did not abuse its discretion when it found Appellants’ subpoena duces tecum was unreasonable and oppressive under both § 46-15-322(5), MCA, (governing discovery) and § 46-15-106, MCA, (governing subpoenas). The Court declined to address Appellants’ argument that the documents requested in the subpoena duces tecum were public record because the issue was not fully and fairly presented to the District Court.

Finally, the Court affirmed the District Court’s denial of Peters’ motion to suppress. The Court held the officer had particularized suspicion to conduct a valid investigatory stop outside Peters’ home, and because Peters was not in custody during the valid investigatory stop, no *Miranda* warning was required.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.