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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1337**

Joan Elizabeth Toll, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed May 11, 2020
Remanded
Slieter, Judge**

Aitkin County District Court
File No. 01-CV-19-225

Andrew Wipper, Brainerd, Minnesota (for appellant)

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Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Slieter, Judge; and
Kalitowski, Judge.*

UNPUBLISHED OPINION

SLIETER, Judge

Appellant Joan Elizabeth Toll challenges the district court's order sustaining the
revocation of her driver's license. Toll argues that the order should be reversed because

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

(1) the police wrongfully obtained a search warrant instead of an arrest warrant, (2) the search warrant affidavit did not establish probable cause that she was driving while intoxicated, and (3) the search warrant affidavit contained false and misleading statements. Because we conclude that the district court did not make sufficient findings of fact and conclusions of law consistent with the implied-consent statute to allow for appellate review, we remand.

FACTS

On February 9, 2019, at approximately 6:06 p.m., two Aitkin County sheriff's deputies and a state patrol responded to a 911 call. One deputy testified during the implied-consent hearing that "what we had been told [by dispatch] was that the vehicle was in the ditch, that Joan Toll was the driver of the vehicle, and she was intoxicated." When the deputies arrived, they saw the abandoned vehicle and observed footprints in the snow from the driver's-side door. The vehicle was registered to Toll and the deputies went to her listed address located approximately ten miles away from the scene. The lights were off in Toll's home and no one answered the front door. Eventually, the deputies saw Toll through a sliding glass door. One deputy shined his flashlight into the house to draw Toll's attention, but Toll did not respond and had a blank look on her face. Toll finally approached them but would not open the door because she was afraid the deputies would arrest her.

Toll admitted to the deputies that she drove her vehicle into the ditch and drank "about a six-pack." Both deputies testified at the implied-consent hearing that Toll showed signs of impairment and seemed intoxicated. Realizing that they arrived at a standstill in

their questioning, a deputy applied for a search warrant. The search-warrant affidavit identified “Joan Elizabeth [Toll]” as the property or things to be seized. One deputy testified that he applied for the search warrant because, “I didn’t think that I had enough to force the door open and place her under arrest.”

The deputies received the signed search warrant and told Toll that they had a warrant to allow them to come in. Toll did not unlock the door, but she responded by walking back to her chair and turning up the radio. The deputies then forced their way into her home and immediately placed Toll in handcuffs. One deputy testified that, simultaneous to arresting her for driving while impaired, he smelled alcohol on Toll. Toll, once placed in the jail, provided a breath test that revealed an alcohol concentration (BAC) of 0.20. The commissioner of public safety revoked Toll’s driver’s license. Toll petitioned for the reinstatement of her driver’s license.

Following the implied-consent hearing, the district court issued an order sustaining the revocation of Toll’s driver’s license. This appeal follows.

D E C I S I O N

Toll claims that, if not for the invalid and improperly executed search warrant, the officers would not have tested her BAC and her license would not have been revoked. Minnesota’s implied-consent law is governed by statute. Appellate courts review findings of fact for clear error and questions of law *de novo*. *See Schultz v. Comm’r of Pub. Safety*, 760 N.W.2d 331, 333 (Minn. App 2009).

The scope of an implied-consent proceeding is limited to the 12 issues identified pursuant to Minn. Stat. § 169A.53, subd. 3(b) (2018). *Axelberg v. Comm’r of Pub. Safety*,

848 N.W.2d 206, 208 (Minn. 2014) (holding that appellant could not raise necessity in an implied-consent petition because, at that time, necessity was not included in the statute). A party's petition must "state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial." Minn. Stat. § 169A.53, subd. 2(b)(3) (2018). This allows for the commissioner and the district court to know what is being challenged. Toll filed an expansive petition which identified 38 challenges to her driver's license revocation. During the implied-consent hearing, the commissioner and the district court asked Toll to narrow the issues. Toll responded by listing "a number of issues," all "relat[ing] to the search warrant and the search that took place resulting in the test results here." Although Toll did not mention the implied-consent statute, the commissioner was satisfied with her narrowing of the issues. Though not clear from Toll's petition or the district court record, we conclude from the district court's order that the sole issue properly raised by Toll and considered by the district court pursuant to the implied-consent statute is whether she was "lawfully placed under arrest for violation of section 169A.20." Minn. Stat. § 169A.53, subd. 3(b)(2).

However, the district court sustained Toll's license revocation, not based upon whether law enforcement properly arrested her pursuant to Minn. Stat. § 169A.20 (2018), but by finding that the deputies lawfully arrested Toll for obstruction of legal process pursuant to Minn. Stat. §609.50, subd. 1(2) (2018). The district court based its decision on the fact that Toll was arrested for obstruction of legal process. Because this is not a basis provided within the scope of the implied consent statute to review license revocation, we cannot complete a meaningful review of the court's order.

Two cases guide our analysis: *Rosenfeld v. Rosenfeld*, 249 N.W.2d 168, 170-72 (Minn. 1976) and *In re Civil Commitment of Spicer*, 853 N.W.2d 803, 810 (Minn. App. 2014). In *Rosenfeld*, the supreme court affirmed a district court’s reversal of a referee’s custody determination. 249 N.W.2d at 169. One of the issues on appeal was whether the court made sufficient findings pursuant to the statute in determining the child’s best interest. *Id.* at 169-170. The supreme court held that the district court needed to make sufficient findings to show that it considered the statutory factors in its analysis. *Id.* at 171. The supreme court noted that these “findings would (1) assure consideration of the statutory factors by the family court; (2) facilitate appellate review of the family court’s custody decision; and (3) satisfy the parties that this important decision was carefully and fairly considered by the family court.” *Id.* at 82.

In *Spicer*, this court utilized the *Rosenfeld* analysis in determining that the district court’s order lacked particular findings to civilly commit the appellant. *Spicer*, 853 N.W.2d at 810. Even though the district court issued a 76-page order, it failed to “make sufficiently particular findings of fact on the key issues.” *Id.* Because the findings were insufficient, we could not analyze the district court’s order against the applicable statute. *Id.* at 811-12.

The district court’s order included factual findings and a legal conclusion that Toll’s arrest was proper for the offense of obstructing legal process. Whereas, the issue raised in the petition and as limited by the scope of the implied-consent statute is whether she was “lawfully placed under arrest for violation of section 169A.20.” Minn. Stat. § 169A.53, subd. 3(b)(2). Because the court did not address in its order the basis alleged by Toll

pursuant to Minn. Stat. § 169A.53, subd. 3(b)(2), upon which her driver's license revocation should be rescinded, we cannot meaningfully review its order.¹

Therefore, we remand for proceedings consistent with this opinion.

Remanded.

¹ We acknowledge that the lack of clarity for the district court was compounded by the overbreadth of the implied-consent petition and the unsuccessful oral attempt to narrow the scope of the issue consistent with the implied-consent statute.