



1

DISCLAIMER

The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of others

2

Copyright Notice

This presentation contains the property of others. This property is being used by permission or under claim of "fair use" (17 U.S.C. § 107). This presentation was created under the fair use guidelines and further use, or distribution, is prohibited

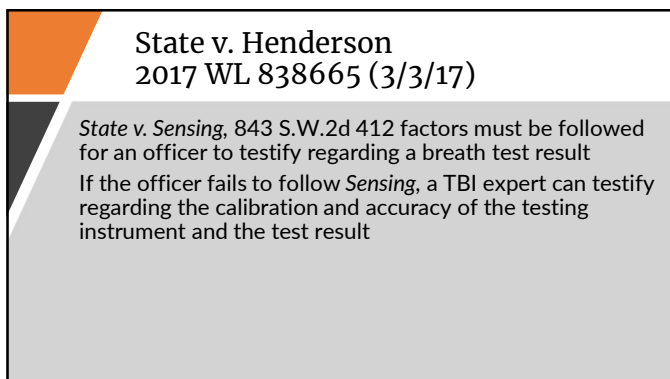
3



4



5



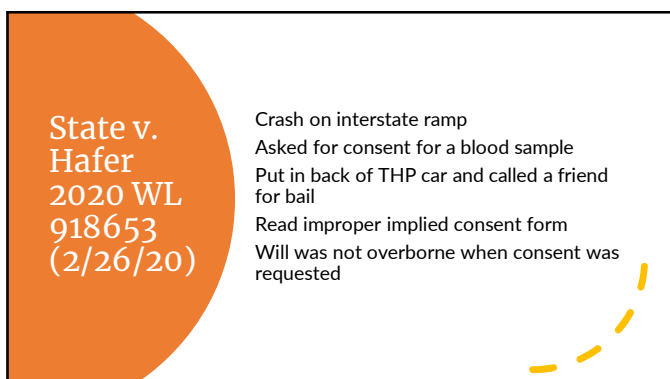
6



7



8



9

State v. Andrews 2023 WL 8924722 (12/27/23)

Head-on crash and Defendant was initially unconscious
 Defendant evaluated by EMS (GCS 14 then 15), transported to Vanderbilt
 At Vanderbilt, Trooper administered HGN ("slight nystagmus" in both eyes)
 Asked for consent for blood sample
 Nurse obtained blood after she got verbal consent
 Jail phone call to mom said consent given
 Motion to Suppress denied. Court found voluntary consent

10

Search Warrants



11

Public Chapter 892 (Effective 5/1/2024)

Law enforcement may execute a search warrant for medical records or a test to determine the alcohol or drug content, or both, of a person's blood anywhere in the state

Adds to TCA 40-1-106

All magistrates have statewide jurisdiction to issue SW in any jurisdiction, if at least one (1) element of the alleged crime on which the SW is based is committed within the jurisdiction of the magistrate

12

Public Chapter 892 (Effective 5/1/2024)

Amends TCA 55-10-408(a)

A Blood Sample procured pursuant to 55-10-406, all limited testing for alcohol and/or drugs is considered a reasonable search and allowed into evidence without additional need for a SW or court order

13



14

Exigency

Missouri v. McNeely (2013)

State v. Martin (2017)

State v. Oaks (2019)

Mitchell v. Wisconsin (2019)

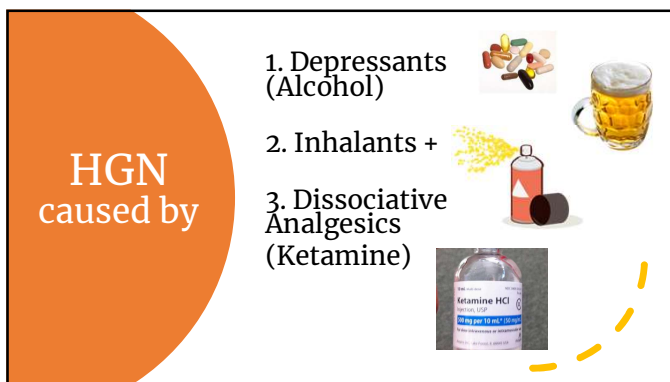
State v. Randy Reynolds 2023 WL 3835846

State v. Davis, 2023 WL 7297937

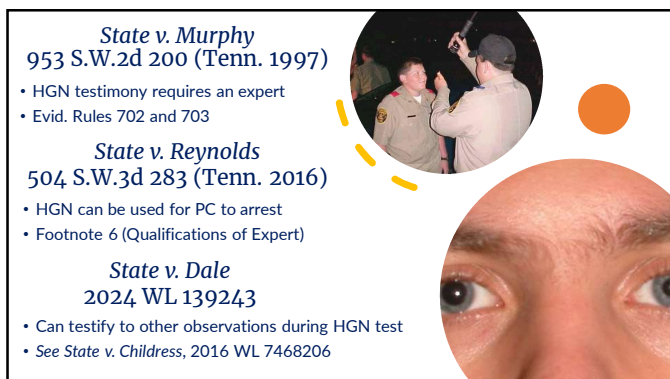
15



16



17



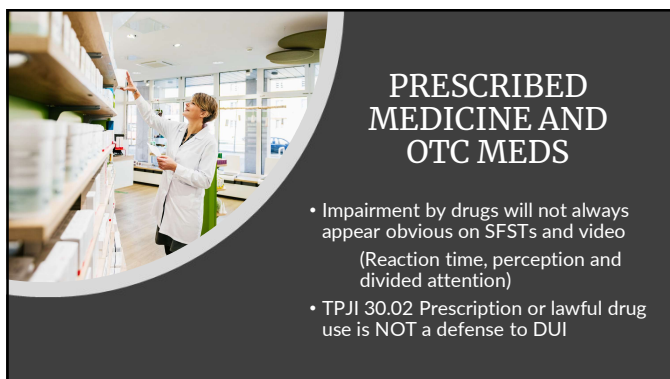
18



19



20



21

Drug Evaluation Classification (DREs)

State v. Brewer

2020 WL 1672958 (Apr. 6, 2020, Tenn. Cri. App.)

The evidence (DRE testimony as an expert) can substantially assist the trier of fact as required by Rules 702 and 703 and should be admitted, subject to vigorous cross-examination, with the weight accorded to the proof to be decided by the trier of fact

22



23
