

EX PARTE CHAPMAN, 14TH COURT OF APPEALS OF TEXAS, NO. 14-10-00910-CR, 1/06/11.

John Chapman was arrested on a charge of driving while intoxicated. Since he had two previous convictions for the same charge, the offense was elevated to a felony. At his bail hearing, the court ordered as a condition of pretrial release that Chapman not drive at all. Chapman filed an application for a writ of habeas corpus with the trial court challenging the court's authority to impose a "no driving" condition. At the hearing on the application, there was testimony that Chapman is a vice president of a company owned by his father, that his job duties require extensive travel by car, and that the pretrial release condition prevented him from doing his job. After the hearing, the trial court denied relief. Chapman appealed.

On appeal, Chapman argued that the trial court exceeded its authority and abused its discretion in imposing the "no driving" condition. He argued that the Texas legislature has provided an appropriate safeguard through the use of ignition interlock devices as a condition of pretrial release for defendants facing repeat driving while intoxicated offenses. (Tex. Code Crim. Proc. Art. 17.441.) In response, the court pointed to the finding of the trial court that since Chapman had access to a fleet of his company's vehicles, putting an ignition interlock device on his personal vehicle would provide little safeguard. In conclusion, the court noted that while conditions of pretrial release may not impinge upon constitutional rights, driving is a privilege, not a right, and thus, "Chapman's rights have not been violated by the "no driving" condition. The court ruled that Chapman did not meet his burden of establishing that the trial court abused its discretion or exceeded its authority in setting the condition.