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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-0432**

State of Minnesota,  
Respondent,

vs.

Thomas A. Isberg,  
Appellant.

**Filed May 6, 2008  
Affirmed  
Toussaint, Chief Judge**

Steele County District Court  
File No. 74-T0-05-1007

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul,  
MN 55101; and

Dawn E. Johnson, Steele County Attorney, 303 South Cedar, Owatonna, MN 55060 (for  
respondent)

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MN 55401 (for appellant)

Considered and decided by Shumaker, Presiding Judge; Toussaint, Chief Judge;  
and Willis, Judge.

## UNPUBLISHED OPINION

**TOUSSAINT**, Chief Judge

Thomas A. Isberg appeals his conviction of fourth-degree driving while impaired. He disputes the existence of probable cause to support the request that he submit to chemical testing. Because we agree with the district court that probable cause existed, we affirm.

## DECISION

An individual may be asked to submit to chemical testing for alcohol if there is probable cause to believe that the individual was driving a motor vehicle while impaired. Minn. Stat. § 169A.51, subd. 1(b) (2006). “Probable cause exists where all the facts and circumstances would warrant a cautious person to believe that the suspect was driving or operating a vehicle while under the influence.” *Johnson v. Comm’r of Pub. Safety*, 366 N.W.2d 347, 350 (Minn. App. 1985). Probable cause is “evaluated from the point of view of a prudent and cautious police officer on the scene at the time of the arrest.” *Id.* (quotation omitted).

It is not required that an officer personally observe the driving or operating of the vehicle. *Delong v. Comm’r of Pub. Safety*, 386 N.W.2d 296, 298 (Minn. App. 1986), *review denied* (Minn. June 13, 1986). Nor is an officer “required to know the *exact* time an accident occurred to make a valid arrest for driving while under the influence.” *Id.* But there must be a time frame established showing a connection between drinking and driving. *Id.* The time frame may be established by circumstantial evidence. *See*

*Eggersgluss v. Comm’r of Pub. Safety*, 393 N.W.2d 183, 185 (Minn. 1986) (holding that circumstances surrounding arrest supported finding of probable cause); *Graham v. Comm’r of Pub. Safety*, 374 N.W.2d 809, 811 (Minn. App. 1985) (holding that probable cause existed where “officer could infer under the circumstances that the [suspect] had only recently left the car”).

Applying this standard here, we conclude that there was probable cause to support the request for chemical testing. The officer was responding to a call about a car off the road. When the officer arrived, appellant was still with the car. Appellant admitted to both driving the car and drinking before driving it. Appellant did not assert that he was drinking after the car went off the road, nor did he claim that a significant amount of time passed between the car going off the road and the officer arriving. Under these circumstances, the officer could reasonably have concluded that the car had recently been driven into the ditch.

Together with the officer’s observation of alcohol on appellant’s breath, these facts are sufficient to support a finding of probable cause. *See Graham*, 374 N.W.2d at 811 (time frame established based on passing motorist telling officer that he had just transported vehicle’s occupants to service station); *Delong*, 386 N.W.2d at 298-99 (time frame established based on driver’s telling officer of his ride to truck stop and return to vehicle with tow truck); *Holland v. Comm’r of Pub. Safety*, 385 N.W.2d 413, 415-16 (Minn. App. 1986) (time frame established based on driver being picked up one-half mile from vehicle, wearing shorts in 38-degree weather), *review denied* (Minn. June 19, 1986); *Hasbrook v. Comm’r of Pub. Safety*, 374 N.W.2d 592, 594 (Minn. App. 1985) (time

frame established based on officer being called to scene of car off road and locating driver at nearby gas station).

**Affirmed.**