

McNeely v. State of Missouri

Frequently Asked Questions

The ACLU represents the respondent in a U.S. Supreme Court case to be heard Jan. 9 that centers on whether police have the right to execute a warrantless search—in this instance, a blood test—on a suspected drunk driver. Missouri’s claim that there should be a categorical exception to a warrant, which is required under the Fourth Amendment, was rejected by the state’s highest court.

What happened in this case?

Tyler McNeely was pulled over for speeding by Missouri State Highway Patrol Officer Mark Winder early in the morning of October 3, 2010. According to Winder, McNeely’s eyes were bloodshot and his speech was slurred. Winder then administered four field sobriety tests and asked McNeely if he would consent to a portable breath test. When he refused, McNeely was arrested for driving while intoxicated. He was then taken to a nearby hospital where he was asked if he would consent to a blood test. When he again refused, Winder directed a lab technician to take a blood sample despite McNeely’s objection and without even attempting to obtain a search warrant.

Why didn’t Winder try to get a search warrant?

Winder testified that he based his decision not to get a warrant on an article he read by a prosecutor who stated that it was unnecessary for drawing blood in cases of suspected drunk driving. Winder admitted his decision was not based on any exigency, that he assumed a prosecuting attorney and a judge would have been available had he chosen to seek a warrant, that he had never experienced a problem obtaining warrants in the past under similar circumstances, and that he had no reason to believe he could not have obtained a warrant in this case.

Won’t a warrant requirement make it more difficult to prosecute DWI cases because alcohol naturally disappears from the bloodstream over time?

It is true that alcohol naturally disappears from the bloodstream over time, but it is a gradual process. It is also true that half the states prohibit a warrantless blood draw in routine DWI cases, like this one. There is no evidence that those states have been less successful in prosecuting DWI cases because they do not draw blood without a warrant or consent.

How did this case make its way to the Supreme Court?

McNeely filed a pretrial motion to exclude the results of a blood sample taken after his arrest. On March 3, 2011, the trial court granted this motion, holding that the blood sample was obtained in violation of McNeely’s Fourth Amendment rights against unreasonable search and seizure. The state filed an interlocutory appeal and the Missouri Court of Appeals, Eastern District, reversed the ruling of the trial court on June 21, 2011. The Court of Appeals subsequently transferred the case to the Missouri Supreme Court, citing the general importance of the issue and on Jan. 17, 2012, the Missouri Supreme Court affirmed the trial court’s ruling. The state filed a motion for rehearing, which was denied by the Missouri Supreme Court on March 6, 2012.

The U.S. Supreme Court agreed to hear the case in response to Missouri's petition. Its ruling is expected to clarify when, and under what circumstances, the police can force a driver to submit to a blood test without a warrant.

Has the U.S. Supreme Court ever considered this question before?

In a 1966 case called *Schmerber v. California*, the Supreme Court ruled that the police can force a driver to submit to a warrantless blood test *if* there are "special facts" that make it impractical to obtain a warrant. Thus, in *Schmerber*, the Court pointed out that the police were delayed for two hours before they could even seek a warrant because of the need to investigate an accident and care for the injured. This case does not involve "special facts" or unusual delays. There was no accident, no injuries, and no reason why the police could not have sought a warrant had they chosen to do so.

Why did the ACLU agree to take this case?

The ACLU has made clear that drunk driving is a serious concern and that drunk driving laws should be vigorously enforced. In enforcing those laws, however, the police must follow the Constitution. We do not believe that was done in this case.