



Implied consent challenged as U.S. Supreme Court hearing case of blood draw from unconscious driver

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A Wisconsin DUI case in which police officers ordered the blood of an unconscious man be drawn for evidence without first getting a warrant was heard by the U.S. Supreme Court on Tuesday. Will implied consent laws be upheld?

Prosecutors argued that drawing the blood of unconscious drivers helps convict those who kill thousands of people a year in alcohol-related collisions, the [Milwaukee Journal Sentinel](#) reported.

Moreover, they argue the process of getting a warrant is too inconvenient and that Wisconsin's implied consent law does not require officers to get a warrant before drawing the blood of those suspected of driving while intoxicated, including individuals who are unconscious at the time.

Furthermore, the practice of implied consent has been exercised against motorists who object to having their blood drawn as the evidence can be diminished or lost over the course of time it may take to obtain a warrant. The practice of forced blood draw varies from one agency to another depending upon department policy. For instance, some allow it within restrictive parameters while others do not.

Implied consent laws, which exist in different forms in all 50 states, mandate that drivers who are arrested on suspicion of impaired driving agree to a blood test or have their licenses revoked. If a driver denies a blood test, that fact can be used against them in court.

Nevertheless, civil rights advocates, libertarian groups and defense lawyers said the law in this case violates the defendant's right to protection against unreasonable searches and seizures guaranteed by the Fourth Amendment.

Mothers Against Drunk Driving and the libertarian think-tank, the Cato Institute, filed on both sides regarding the case of Wisconsin v. Gerald P. Mitchell. The driver was arrested in 2013 after he blew .24 blood alcohol concentration on a preliminary breath test, the [Sentinel reported](#).

Gerald P. Mitchell was convicted of a seventh DUI offense in 2013 after police drew his blood while he was unconscious to prove an illegal BAC level. (Wisconsin Department of Corrections)

Even though the blood test showed Mitchell had a .22 BAC, he demanded the suppression of evidence before the court because officers never sought a warrant. His request was denied and he was convicted of a seventh DUI offense and served three years. Mitchell appealed to state Supreme Court, which upheld the conviction.

But state justices could not agree on the rationale behind officers being allowed to take blood of an unconscious suspect without a warrant.

Since the U.S. Supreme Court will rule on this case, it will impact the entire country. Therefore, it bears watching.