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Justices Affirm Need for Warrant to Draw Blood

When investigating an alleged drunk-driving case, is the body's ability to quickly process alcohol grounds to forgo a warrant for a blood test in order to secure a timely blood sample?

The Supreme Court doesn't think so, as addressed in its April, 2013 decision.

The investigation, outlined in *Missouri v. McNeely*, started as a routine drunk-driving stop when a Missouri State Highway Patrol officer pulled over Tyler G. McNeely for swerving and crossing the centerline in the roadway. The officer reported McNeely's speech was slurred, his eyes were bloodshot, and his breath smelled strongly of alcohol. McNeely stumbled when asked to exit the vehicle and subsequently failed several field sobriety tests. When asked to submit to a breathalyzer test, McNeely, having had two previous convictions for drunk driving, refused and was placed under arrest.

During transport to the station, McNeely again indicated that he would refuse to provide a breath sample; the officer changed course and drove McNeely to a nearby hospital. The officer then asked the suspect if he would submit to a blood test. When McNeely refused, without attempting to obtain a warrant, directed a phlebotomist to draw blood from McNeely, who was handcuffed. The test sample revealed a blood alcohol concentration (BAC) of 0.154, nearly double the legal limit, and McNeely was charged with driving while intoxicated (DWI). McNeely later moved to suppress the results of the blood test, arguing that taking his blood for testing without first securing a warrant was a violation of his Fourth Amendment rights. A trial court agreed, and the Missouri Supreme Court affirmed.

The State of Missouri held that the officer had not violated the plaintiff's constitutional rights, in that because the human body metabolized alcohol at a very rapid rate, obtaining a blood sample from McNeely as quickly as possible was imperative to the outcome of the investigation and therefore constituted an "emergency", legally nullifying the requirement of a warrant.

The Supreme Court Justices disagreed with Missouri in an 8-1 decision for McNeely. Writing for the majority, Justice Sonia Sotomayor explained that the natural dissipation of alcohol in a person's bloodstream does not justify an exception to the requirement of a warrant under the Constitution.

"The Court has never retracted from its recognition that any compelled intrusion into the human body implicates significant, constitutionally protected privacy interests," she wrote. "In those drunk-driving investigations where police officers can reasonably obtain a warrant before a blood sample is drawn without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so."

Sotomayor acknowledged that inevitably, “cases will arise when anticipated delays in obtaining a warrant will justify a blood test without judicial authorization,” but also disputed that evidence would always be lost if officers had to pause to obtain a warrant before the majority of blood tests. Citing that officers must transport suspects to a medical facility, she suggested travel time be used to secure the necessary warrant. “Well over a majority of states allow police officers or prosecutors to apply for search warrants remotely through various means, including telephonic or radio communication, electronic communication such as e-mail, and video conferencing,” she offered.

Only Justice Clarence Thomas agreed with Missouri and the U.S. Government that the body’s natural processing of alcohol created the kind of emergency that negated the requirement of a warrant.

For questions on this or other law enforcement issues, contact AMRRP’s Eric Duthie or Mike Branham at (602) 996-8810.