

18-6210 MITCHELL V. WISCONSIN

DECISION BELOW: 914 N.W.2d 151

LOWER COURT CASE NUMBER: 2015AP304

QUESTION PRESENTED:

In both *Missouri v. McNeely* and *Birchfield v. North Dakota*, this Court referred approvingly to "implied-consent laws that impose civil penalties and evidentiary consequences on motorists who refuse to comply" with tests for alcohol or drugs when they have been arrested on suspicion of driving while intoxicated. 569 U.S. at 141, 161 (2013); 136 S. Ct. 2160, 2185 (2016). But a majority of states, including Wisconsin, have implied-consent laws that do something else entirely: they authorize blood draws without a warrant, without exigency, and without the assent of the motorist, under a variety of circumstances-most commonly when the motorist is unconscious. State appellate courts have sharply divided on whether such laws comport with the Fourth Amendment.

The question presented is:

Whether a statute authorizing a blood draw from an unconscious motorist provides an exception to the Fourth Amendment warrant requirement.

CERT. GRANTED 1/11/2019