

SUPREME COURT OF IOWA

State of Iowa v. Brian De Arrie McGee

No. 19-1219 (Iowa May 14, 2021) · No. 19-1219 · Decided May 14, 2021

SUMMARY

The Iowa Supreme Court considered whether a warrantless blood draw from an unconscious or incapacitated driver complied with Iowa Code section 321J.7 and the Fourth Amendment and article I, section 8 of the Iowa Constitution. The court held that the statutory requirements were satisfied and that the rule from *Mitchell v. Wisconsin* applies to suspected operating while intoxicated cases involving controlled substances as well as alcohol. Because the parties had not developed a record under the *Mitchell* standard, the court reversed and remanded for further suppression proceedings.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Mansfield, Justice; Christensen, Chief Justice; Waterman, Justice; McDonald, Justice; McDermott, Justice; Appel, Justice; Oxley, Justice
JURISDICTION	Iowa
DECIDED	May 14, 2021
DOCKET	19-1219
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McGee appealed his conviction for first-offense operating while intoxicated after the Iowa District Court for Polk County denied his motion to suppress evidence from a warrantless blood draw.
STANDARD OF REVIEW	Statutory issues were reviewed for correction of errors at law, with factual findings binding if supported by substantial evidence. Constitutional claims were reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Brian De Arrie McGee v. State of Iowa

TOPICS

[search and seizure](#)[suppression of evidence](#)[fourth amendment](#)[criminal procedure](#)[equal protection](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the warrantless blood draw complied with Iowa Code section 321J.7 despite McGee briefly awakening before the draw.
2. Whether *Mitchell v. Wisconsin*'s exigent-circumstances standard for warrantless blood draws from unconscious drivers suspected of alcohol-impaired driving applies to suspected drug-impaired driving.
3. Whether article I, section 8 of the Iowa Constitution provides greater protection than *Mitchell* against warrantless blood draws from incapacitated drivers.
4. Whether Iowa Code section 321J.7 violates the Equal Protection Clause of the Fourteenth Amendment or article I, section 6 of the Iowa Constitution by treating unconscious and conscious drivers differently.

HOLDINGS

1. A blood draw performed eleven minutes after the required certification complied with Iowa Code section 321J.7 because the brief period during which McGee awoke did not materially establish that he had become capable of consenting to or refusing testing.
2. *Mitchell v. Wisconsin* applies to cases in which police have probable cause to believe an incapacitated driver committed OWI involving controlled substances, including marijuana, as well as alcohol-related OWI.
3. Article I, section 8 does not require a more protective standard than *Mitchell* for warrantless blood draws from incapacitated drivers suspected of OWI.
4. Section 321J.7 does not violate the Fourteenth Amendment or article I, section 6 because treating unconscious drivers differently from conscious drivers is rationally related to legitimate governmental interests.

KEY QUOTATIONS

“When police have probable cause to believe a person has committed a drunk-driving offense and the driver’s unconsciousness or stupor requires him to be taken to the hospital or similar facility before police have a reasonable opportunity to administer a standard evidentiary breath test, they may almost always order a warrantless blood test to measure the driver’s BAC without offending the Fourth Amendment.” (11)

*“For all these reasons, we conclude that the Fourth Amendment standards in *Mitchell* apply when law enforcement has probable cause to believe that an incapacitated person committed OWI with respect to marijuana instead of alcohol.” (16)*

“Warrant exceptions need to be grounded in an underlying purpose or principle.” (23)

“Accordingly, we hold that section 321J.7 does not violate the Fourteenth Amendment or article I, section 6.” (25)

FACTUAL BACKGROUND

McGee caused a two-vehicle collision after driving recklessly and was taken to a hospital unconscious with a head injury. Police and medical personnel detected a strong odor of marijuana, and an advanced registered nurse practitioner certified that McGee was unable to consent to or refuse blood testing. A warrantless blood draw later revealed THC, THC metabolites, and lorazepam. McGee was convicted of first-offense OWI under Iowa Code section 321J.2(1)(c), based on the presence of a controlled substance in his blood.

PROCEDURAL HISTORY

After a vehicle collision, police obtained a medical certification that McGee was incapable of consenting to or refusing blood testing under Iowa Code section 321J.7 and obtained a blood sample without a warrant. The district court denied McGee's motion to suppress, and the parties stipulated to a trial on the minutes. The court convicted McGee under the provision criminalizing operation of a motor vehicle while any amount of a controlled substance is present in the person's blood, and the Supreme Court of Iowa reversed and remanded for further proceedings under *Mitchell v. Wisconsin*.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must conduct a suppression hearing under the *Mitchell* standard, determining whether Officer Fricke could reasonably have judged that applying for a warrant would interfere with other pressing needs or duties. The remand also resolves the corresponding article I, section 8 issue.

CASES CITED

- *Mitchell v. Wisconsin*, 588 U.S. ___, 139 S. Ct. 2525 (2019)
- *Missouri v. McNeely*, 569 U.S. 141, 133 S. Ct. 1552 (2013)
- *Birchfield v. North Dakota*, 579 U.S. ___, 136 S. Ct. 2160 (2016)
- *Schmerber v. California*, 384 U.S. 757, 86 S. Ct. 1826 (1966)
- *State v. Findlay*, 259 Iowa 733, 145 N.W.2d 650 (1966)
- *State v. Pettijohn*, 899 N.W.2d 1 (Iowa 2017)
- *State v. Strong*, 493 N.W.2d 834 (Iowa 1992)
- *State v. Watts*, 801 N.W.2d 845 (Iowa 2011)
- *State v. Childs*, 898 N.W.2d 177 (Iowa 2017)
- *State v. Newton*, 929 N.W.2d 250 (Iowa 2019)
- *State v. McCall*, 839 S.E.2d 91 (S.C. 2020)
- *McGraw v. State*, 289 So. 3d 836 (Fla. 2019)
- *State v. Chavez-Majors*, 454 P.3d 600 (Kan. 2019)
- *State v. Key*, 848 S.E.2d 315 (S.C. 2020)
- *State v. Smith*, 926 N.W.2d 760 (Iowa 2019)

- State v. Fogg, 936 N.W.2d 664 (Iowa 2019)
- State v. Shears, 920 N.W.2d 527 (Iowa 2018)
- People v. Hyde, 393 P.3d 962 (Colo. 2017) (en banc)
- People v. Kates, 428 N.E.2d 852 (N.Y. 1981)
- Baker v. City of Iowa City, 867 N.W.2d 44 (Iowa 2015)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/iowa-supreme-court-of-iowa/2021/state-of-iowa-v-brian-de-arrie-mcgee-1757ufg0>