

National College for DUI Defense Amicus Brief Figures Prominently in Supreme Court Oral Argument

Last week the Supreme Court heard oral argument in the cases of [Birchfield v. North Dakota](#), 136 S.Ct. 614 (2015); [Bernard v. Minnesota](#), 136 S.Ct. 615 (2015); and [Beylund v. Levi](#), 136 S.Ct. 614 (2015).

Montgomery, AL ([PRWEB](#)) April 25, 2016 -- Dean [Leonard R. Stamm](#), along with Regent [Donald Ramsell](#) and [Jeff Green](#), filed an [amicus brief](#) on behalf of the [National College for DUI Defense](#) and the National Association of Criminal Defense Lawyers, in these three cases on February 11, 2016.

The issue in the case is whether a state may make it a crime to refuse a warrantless breath test, or put differently to exercise one's constitutional right to require the state to comply with the Fourth Amendment. The case will turn on whether an officer is required to get a warrant before compelling someone to submit to a breath test. The argument seemed to be going against the drivers until Justice Breyer pointed out that with modern technology it is possible for an officer to get a warrant on the way to the police station.

He cited to the NCDD and NACDL brief and asked: "How long? What it says in the NACDL brief is that in Wyoming it takes five minutes and in Montana it takes 15 minutes. How long in North Dakota?" He also asked: "Because I see I see the breath part is the part that sort of now gets me. If you're taking them to the police station anyway to do the breath test, and it just requires a phone call to get the warrant, what's the problem?"

Justice Kagan asked: "The Chief Justice's opinion, even that said and this was with respect to a blood test. But the Chief Justice's opinion said, look, if there's 20 minutes between the time that you're stopped and the time that we can get you to a hospital to get a blood draw, and you can get a warrant in that 20 minutes, then yes, you have to go get a warrant in that 20 minutes. So at the very least, why wouldn't that be the case? You know, if if you're if all of these things I mean, I have to say when I originally thought about this case, I had in my mind roadside stops. But in all of these cases you're actually driving these people to a station house. So why can't you get a at least what the Chief Justice said in [McNeely](#), which is, okay, if you can get a warrant within that time, you have to get a warrant within that time."

Justice Sotomayor asked: "Why? You change the law. I mean, you know, it's as if you want us to create an exception to the Fourth Amendment, and a very drastic one, to give someone the right to say yea or nay without a warrant, but we don't permit people to say yea or nay when a warrant is present. If they don't comply they're charged with obstruction, and there will be consequences to obstruction."

Justice Kennedy asked: "You're asking for an extraordinary exception here. You're asking for us to make it a crime to exercise what many people think of as a constitutional right. There is some circularity there. And you could point to no case which allows that. So we have to show that there is exceptions there is a necessity for the exception, and you're just not answering the question about whether or not, in the wake of our recent decisions over the last three or four years, warrants have been expedited in many cases and why; and if they have been, why that isn't an answer to your argument."

A decision is likely by the end of June.

ABOUT THE NATIONAL COLLEGE FOR DUI DEFENSE:

With over 2300 members, the National College for DUI Defense is the largest organization of DUI defense attorneys in the world. Through its educational programs the College trains lawyers to represent persons accused of drunk driving. NCDD's members have extensive experience litigating issues regarding breath blood and urine tests for alcohol and other drugs. NCDD has appeared as amicus curiae in several drunk driving cases before the Supreme Court of the United States.

UPCOMING EVENTS:

- May 9-14, 2016 [Serious Science for Serious Lawyers: The Second Annual NCDD Advanced Course on Blood Analysis and Trial Advocacy, Denver Colorado](#)
- July 20-23 2016 [NCDD Summer Session](#) held on the property of the Harvard Law School

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