

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

SEPTEMBER 4, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0736-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

BERNARD B. KRIER,

Defendant-Appellant.

APPEAL from an order of the circuit court for Ozaukee County:
THOMAS R. WOLFGRAM, Judge. *Affirmed.*

ANDERSON, P.J. On September 18, 1995, the defendant, Bernard B. Krier, was arrested two separate times by the same officer for operating a motor vehicle while under the influence of an intoxicant, contrary to § 346.63(1)(a), STATS. Both times the officer read the Informing the Accused Form to Krier. Both times Krier refused to submit to testing. Consequently, Krier was provided with two separate notices of intent to revoke operating

privileges. Krier requested refusal hearings, which were consolidated and held on February 26, 1996.

At the hearing, the trial court revoked Krier's driving privileges, two years for the first refusal and three years for the second refusal, after it found that his refusals to submit to a breathalyzer test were unreasonable. *See* § 343.305 (9), (10), STATS. Krier now renews his argument that the Informing the Accused Form that was read to him was defective.

Krier focuses on how the form did not reveal that any possible sanction would require proof that he had been "driving or operating a motor vehicle." *See* § 343.305(4)(c), STATS. Nonetheless, we need not address Krier's specific theory because we find that the supreme court's decision in *Village of Oregon v. Bryant*, 188 Wis.2d 680, 524 N.W.2d 635 (1994), forecloses any claim that the form is defective. There the court held that the form provides "sufficient information" to the accused driver. *Id.* at 694, 524 N.W.2d at 640.

Prior to the *Bryant* decision, this court has consistently held that the Informing the Accused Form must be assessed against its substantial compliance with the reasonable objectives of the statute. *See State v. Sutton*, 177 Wis.2d 709, 715, 503 N.W.2d 326, 328 (Ct. App. 1993); *State v. Riley*, 172 Wis.2d 452, 457-58, 493 N.W.2d 401, 403 (Ct. App. 1992); *State v. Piskula*, 168 Wis.2d 135, 140-41, 483 N.W.2d 250, 252 (Ct. App. 1992); *State v. Muenta*, 159 Wis.2d 279, 280-81, 464 N.W.2d 230, 231 (Ct. App. 1990). The form used by the arresting officer fully advised Krier of his rights and the potential consequences of his refusal to submit to a requested chemical test. Krier does not dispute that.

The omission of the words “driving or operating a motor vehicle” does not affect Krier being properly advised of his rights and penalties as recited in the form.

The trial court's order finding that Krier's refusal to submit to the requested chemical test was unreasonable is therefore affirmed.

By the Court. – Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.