

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

May 9, 2001

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

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

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

**No. 00-2929-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**WALTER RIECKHOFF,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Winnebago County: WILLIAM H. CARVER, Judge. *Affirmed.*

¶1 SNYDER, J.<sup>1</sup> Walter Rieckhoff appeals from a judgment of conviction and an order denying his motion to suppress evidence of the results of a

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

blood test. Because the issues Rieckhoff raises in this appeal were decided in the State's favor in *State v. Thorstad*, 2000 WI App 199, 238 Wis. 2d 666, 618 N.W.2d 240, *review denied*, 239 Wis. 2d 310, 619 N.W.2d 93 (Wis. Oct. 17, 2000) (No. 99-1765-CR), we affirm the judgment of conviction and the order.

## FACTS

¶2 On March 1, 1999, Rieckhoff was pulled over by Officer John Matz of the Winnebago County Sheriff's Department for traffic violations. After observing signs of intoxication, Matz had Rieckhoff perform a number of field sobriety tests, all of which he failed. After his arrest, Rieckhoff was taken to Mercy Medical Center in Oshkosh where he was read the Informing the Accused form and asked if he would submit to an evidentiary chemical test of his blood. Rieckhoff consented. He was arrested and eventually charged with operating a motor vehicle while intoxicated (OWI) and having a prohibited blood alcohol concentration (PAC), third offense.

¶3 Prior to trial, Rieckhoff moved to suppress the test results, arguing that the warrantless blood draw was in violation of the Fourth and Fourteenth Amendments to the United States Constitution. The trial court denied this motion. Rieckhoff then entered a plea of no contest to the OWI charge, and the PAC charge was dismissed. Rieckhoff appeals the trial court's order denying his suppression motion and his judgment of conviction.

## DISCUSSION

¶4 This case presents a question of law based upon an undisputed set of facts, which we review de novo. *State v. Edgeberg*, 188 Wis. 2d 339, 344-45, 524 N.W.2d 911 (Ct. App. 1994).

¶5 As Rieckhoff concedes in his brief, we have recently considered and rejected the exact arguments he makes in this appeal. In *Thorstad*, we concluded that so long as the four requirements outlined by the Wisconsin Supreme Court in *State v. Bohling*, 173 Wis. 2d 529, 533-34, 494 N.W.2d 399 (1993), are met, there is no Fourth Amendment violation when the police obtain a blood sample from an OWI arrestee. *Thorstad*, 2000 WI App 199 at ¶17. Not only has the Wisconsin Supreme Court denied review, the United States Supreme Court recently denied certiorari review. See *Thorstad v. Wisconsin*, 121 S. Ct. 1099 (Feb. 20, 2001) (No. 00-1145). *Thorstad* is dispositive. Therefore, we affirm the judgment of conviction and the order denying the motion to suppress evidence.

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

