

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 27, 2003

Cornelia G. Clark
Clerk of Court of Appeals

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.

**Appeal No. 02-2370
STATE OF WISCONSIN**

Cir. Ct. No. 02-TR-3925

**IN COURT OF APPEALS
DISTRICT IV**

**IN THE MATTER OF THE REFUSAL OF CHRISTOPHER T.
GILE:**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

CHRISTOPHER T. GILE,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
DAVID T. FLANAGAN, Judge. *Affirmed.*

¶1 LUNDSTEN, J.¹ Christopher T. Gile appeals an order of the circuit court revoking his driver's license for failure to submit to a test for intoxication.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (2001-02). All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

Gile contends the implied consent law unconstitutionally penalized him for electing his right to refuse consent to a search and seizure of his person. Therefore, according to Gile, the circuit court should have dismissed the refusal hearing in this case. We disagree.

¶2 Gile was arrested for driving while under the influence of an intoxicant. The arresting officer read an “Informing the Accused” form to Gile, pursuant to WIS. STAT. § 343.305(4), Wisconsin’s implied consent statute, and Gile refused to submit to an evidentiary chemical test of his breath. Gile was then served with a notice warning him that his operating privileges would be revoked.

¶3 The State moved for a refusal hearing, and Gile moved to dismiss the refusal hearing on the grounds that the implied consent statute unconstitutionally deprived him of his Fourth Amendment right to be free from unreasonable searches and seizures. The circuit court denied the motion to dismiss. After a refusal hearing, the circuit court ordered that Gile’s driver’s license be revoked for one year.

¶4 Gile argues that the implied consent law, to the extent it punishes him for refusing to submit to a chemical test, is unconstitutional because it violates his right to refuse to consent to searches and seizures. Specifically, he contends the State’s conditioning of the receipt of a driver’s license on the relinquishment of the right to be free from searches and seizures violates his Fourth Amendment rights. In *State v. Wintlend*, 2002 WI App 314, ___ Wis. 2d ___, 655 N.W.2d 745, *review denied* (Wis. Jan. 14, 2003), we rejected that argument, concluding that any coercion imposed by the implied consent statute is not unreasonable and is thus constitutional. *Id.* at ¶¶8-18. Our analysis and holding in *Wintlend* is

binding and disposes of the arguments Gile makes in this appeal. *See Cook v. Cook*, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997).

By the Court.—Order affirmed.

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

