COURT OF APPEALS
DECISION
DATED AND RELEASED

September 6, 1995

No. 95-1063-FT

STATE OF WISCONSIN IN COURT OF APPEALS

DISTRICT II

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

DENNIS R. MUELLER,

Defendant-Appellant.

APPEAL from an order of the circuit court for Winnebago County: ROBERT A. HAASE, Judge. *Affirmed.*

BROWN, J. Dennis R. Mueller's motor vehicle operating privileges were revoked for one year after he refused to submit to chemical testing. He appeals an order finding his refusal unreasonable. Mueller argues that the Informing the Accused form that was read to him on the night of his arrest is ambiguous. We disagree and affirm.

Mueller was stopped and arrested in the city of Oshkosh under suspicion that he was driving while intoxicated. The officer took him to the station house and read him the Informing the Accused form. Mueller refused to

take the chemical test. The trial court subsequently found that this refusal was unreasonable and suspended Mueller's operating privileges.

Before the trial court, Mueller argued that paragraph five of the form is ambiguous and therefore interfered with his ability to exercise the choice of whether to submit to chemical testing.[1] He now renews this argument on appeal. This is a question of law which we review de novo. *See* ***Pulsfus Poultry Farms, Inc. v. Town of Leeds,*** 149 Wis.2d 797, 803-04, 440 N.W.2d 329, 332 (1989).

In his briefs to this court, Mueller sets out a detailed discussion of how the language within paragraph five, when read together with the statutory sections to which it refers, "creates a serious ambiguity that cannot easily be resolved by this Court, let alone by an accused individual on the night he is arrested." He further cites ***State v. Piskula,*** 168 Wis.2d 135, 483 N.W.2d 250 (Ct. App. 1992), and cautions that we should not view Mueller's claims simply to determine if there was substantial compliance with the objectives of the implied consent law. *See* ***id.*** at 140-41, 483 N.W.2d at 252.

Nevertheless, we need not address Mueller's specific theory because we find that the supreme court's decision in ***Village of Oregon v.***

[1] Paragraph five of the form provides:

> If you have a prohibited alcohol concentration **or** you refuse to submit to chemical testing **and** you have two or more prior suspensions, revocations or convictions within a 10 year period and after January 1, 1988, which would be counted under s. 343.307(1) Wis. Stats., a motor vehicle owned by you may be equipped with an ignition interlock device, immobilized, or seized and forfeited.

Bryant, 188 Wis.2d 680, 524 N.W.2d 635 (1994), forecloses any claim that this form is ambiguous. There, ruling on three consolidated cases, the court found that Wisconsin's current Informing the Accused form is not contradictory or confusing on its face. ***Id***. at 692, 524 N.W.2d at 640. Although the court was specifically addressing a claim involving paragraph four of the form, *see* ***id.*** at 685, 524 N.W.2d at 637, its analysis touched on all five paragraphs and covered all the rights afforded drivers under the implied consent law. *See* ***id.*** at 691-94, 524 N.W.2d at 639-40. We therefore hold that Mueller's specific concerns about paragraph five have no merit.

By the Court. – Order affirmed.

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