

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Appellant,	)	No. ED96402
	)	
vs.	)	Appeal from the Circuit Court
	)	of Cape Girardeau County
TYLER G. MCNEELY, Respondent.	)	Filed: June 21, 2011

The State of Missouri appeals from the trial court's grant of Tyler G. McNeely's ("Defendant") motion to suppress evidence. Defendant was charged with driving while intoxicated, Section 577.010, RSMo 2000.<sup>1</sup> In its sole point, the State argues the trial court erred in granting Defendant's motion to suppress the blood sample seized from Defendant's person after he was arrested for driving while intoxicated because the sample was taken without Defendant's consent and without a search warrant.

TRANSFERRED.

Division Four holds: We would reverse the trial court's grant of Defendant's motion to suppress the blood sample seized from Defendant without his consent and without a warrant after he was arrested for driving while intoxicated. However, in light of the general interest and importance of the issues regarding warrantless, nonconsensual blood draws, we transfer the case to the Missouri Supreme Court, pursuant to Supreme Court Rule 83.02.

Opinion by: Robert G. Dowd, Jr., J.  
Kurt S. Odenwald, P.J. and Gary P. Kramer, Sp.J., concur.

Attorney for Appellant: John N. Koester

Attorney for Respondent: Stephen C. Wilson

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.  
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND  
SHOULD NOT BE QUOTED OR CITED.**

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<sup>1</sup> All further statutory references are to RSMo 2000, unless otherwise indicated.