

IN THE SUPREME COURT FOR THE STATE OF FLORIDA

WILLIAM WILLIAMS,

Petitioner,

CASE NO.: SC15-1417

vs.

L.T. Case Nos.:

5D14-3543;

STATE OF FLORIDA,

13-314873-MMDB

Respondent.

**MOTION OF THE NATIONAL COLLEGE FOR DUI
DEFENSE FOR LEAVE TO FILE AN AMICUS CURIAE
BRIEF SUPPORTING THE POSITION OF PETITIONER**

The National College for DUI Defense (NCDD), by undersigned counsel, moves this Court, pursuant to Florida Rule Appellate Procedure 9.370, for leave to file and serve an amicus curiae brief in support of the position of the petitioner, William Williams.

IDENTITY AND INTEREST OF AMICUS CURIAE

The National College for DUI Defense (NCDD) is a non-profit professional organization of attorneys dedicated to the education and training of attorneys engaged in the practice of defending citizens accused of driving while under the influence. There are more than one thousand members of NCDD. Through its extensive educational programs, its website, and its

RECEIVED, 01/11/2016 09:18:29 AM, Clerk, Supreme Court

e-mail list, the NCDD trains lawyers to more effectively represent persons accused of driving under the influence.

NCDD seeks to augment the issues presented by the petitioner by addressing constitutional questions raised in this case that are of national importance. The United States Supreme Court has already granted certiorari as to the issue of whether a motorist may be criminally punished for refusing a breath, blood, or urine test in three cases. Those cases are docketed in the United States Supreme Court as follows: 14-1468 BIRCHFIELD, DANNY V. NORTH DAKOTA; 14-1470 BERNARD, WILLIAM R. V. MINNESOTA; 14-1506 BEYLUND, STEVE M. V. NORTH DAKOTA.

There are 13 states which currently have laws permitting such prosecutions, with Florida being one of them. Because this issue is of such importance nationally, this Court could benefit from a review of caselaw and arguments surrounding the issue from other states. The NCDD amicus curiae brief would address those cases and arguments.

Clarification of the law relating to whether a state can criminalize the refusal to submit to evidential tests in citizens

suspected of drunk driving is of exceptional importance in the wake of *Missouri v. McNeely*, 133 S.Ct. 1552 (2013), where the United States Supreme Court ruled that police must obtain warrants before withdrawing blood without consent of the arrestee unless another exception to the warrant requirement is present. Previously, rulings have recognized situations where exigent circumstances exist as one such exception to the warrant requirement. In the instant case, however, the Fifth District Court of Appeals expanded a very narrow exception to the warrant requirement, that of “general reasonableness”, to drunken driving cases.

Thus, the opinion being reviewed by this Court raised the issue of whether a general reasonableness finding can ever justify a warrantless evidential test. The lower court found the requested test was reasonable under the Fourth Amendment to the United States Constitution and further found that because the search would have been reasonable, the State of Florida was justified in enacting a statute criminalizing the refusal to submit to such a search. The amicus curiae brief being requested would address national arguments and cases addressing those

issues, as well as those relating to the criminalization of refusals being specifically raised in the United States Supreme Court.

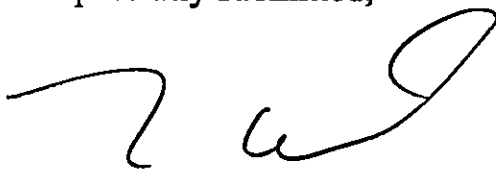
POSITION OF THE PARTIES

Counsel for NCDD has, pursuant to Rule 9.370(a) Florida Rules of Appellate Procedure, contacted counsel for both the petitioner, Aaron Delgado, Esq., and respondent, Wesley Heidt, Esq., in this matter. Mr. Delgado consents to this amicus brief. Mr. Heidt indicated he also does not object to NCDD filing its amicus curiae brief in this matter. Counsel has also contacted Sonya Rudenstine, Esq. of the Florida Association of Criminal Defense Lawyers, as that organization is filing an amicus brief. That organization also consents for the filing of this amicus curiae brief.

CONCLUSION

Wherefore, NCDD, having demonstrated good and sufficient grounds why it should be permitted to appear as amicus curiae in this case, respectfully requests this Motion be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tracey A. Wood', written over a horizontal line.

Tracey A. Wood, Esq.
Counsel for National College for DUI Defense
Tracey Wood & Associates
One South Pinckney Street, Suite 950
Madison, Wisconsin 53703
(608) 661-6300
Tracey@TraceyWood.com

CERTIFICATE OF SERVICE

UNDERSIGNED COUNSEL HEREBY CERTIFIES

that a true and correct copy of the foregoing has been furnished
this 8th day of January, 2016, by either U.S. mail or email to the
following:

Kristen Davenport
444 Seabreeze Blvd., Fifth Floor
Daytona Beach, Florida, 32118

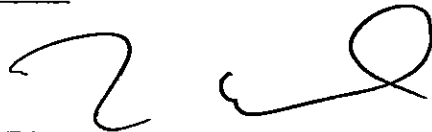
Wesley Heidt
444 Seabreeze Blvd., Fifth Floor
Daytona Beach, Florida, 32118

Aaron Delgado
adelgado@communitylawfirm.com

Eric Latinsky
elatsky@communitylawfirm.com

Sonya Rudenstine
srudenstine@yahoo.com

Karen Gottlieb
kgottlieb@fiu.edu



Tracey A. Wood, Esq.
Counsel for National College for DUI Defense
Tracey Wood & Associates
One South Pinckney Street, Suite 950
Madison, Wisconsin 53703
(608) 661-6300
Tracey@TraceyWood.com