

**Filed 4/22/15 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2015 ND 86

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David Michael Mesch,

Petitioner and Appellant

v.

Grant Levi, Director of the North Dakota  
Department of Transportation,

Respondent and Appellee

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No. 20140419

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Appeal from the District Court of Stark County, Southwest Judicial District,  
the Honorable Dann Edward Greenwood, Judge.

AFFIRMED.

Per Curiam.

Thomas F. Murtha IV, P.O. Box 1111, Dickinson, N.D. 58602-1111, for  
petitioner and appellant; on brief.

Douglas B. Anderson, Office of Attorney General, 500 North Ninth Street,  
Bismarck, N.D. 58501-4509, for respondent and appellee; on brief.

**Mesch v. Levi**

**No. 20140419**

**Per Curiam.**

[¶1] David Mesch appealed from a district court judgment affirming a Department of Transportation hearing officer's decision suspending his driving privileges for 180 days. Mesch argues the warrantless search of his breath was unlawful because his consent to the searches was coerced, and the implied consent statute is unconstitutional because it violates the unconstitutional conditions doctrine. We have previously held that consent to a chemical breath test is not involuntary or coerced solely because an individual is advised of the implied consent law, which criminalizes refusal. State v. Smith, 2014 ND 152, 849 N.W.2d 599, and McCoy v. North Dakota Dep't of Transp., 2014 ND 119, 848 N.W.2d 659. We have also previously rejected Mesch's argument that the implied consent law is unconstitutional because it violates the unconstitutional conditions doctrine. Beylund v. Levi, 2015 ND 18, ¶¶ 16-30, 859 N.W.2d 403. We summarily affirm under N.D.R.App.P. 35.1(a)(7).

[¶2] Gerald W. VandeWalle, C.J.  
Dale V. Sandstrom  
Daniel J. Crothers  
Lisa Fair McEvers  
Carol Ronning Kapsner