

**Filed 2/16/17 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2017 ND 16

Todd William Sadek,

Appellee

v.

North Dakota Department
of Transportation,

Appellant

No. 20160328

Appeal from the District Court of Williams County, Northwest Judicial District, the Honorable David W. Nelson, Judge.

REVERSED.

Per Curiam.

Jeff L. Nehring, 716 Second Street West, Williston, N.D. 58801, for appellee; on brief.

Michael T. Pitcher, Assistant Attorney General, Office of Attorney General, 500 North Ninth Street, Bismarck, N.D. 58501-4509, for appellant; on brief.

Sadek v. North Dakota Department of Transportation
No. 20160328

Per Curiam.

[¶1] The Department of Transportation appeals from a district court judgment concluding Todd Sadek did not waive his argument that his refusal to submit to a warrantless blood test incident to arrest violated his constitutional rights and reversing the Department's decision revoking Sadek's driving privileges for 180 days. The Department argues Sadek waived his argument that his refusal to submit to the warrantless blood test violated his constitutional rights because he did not raise the issue at his administrative hearing, or in his specification of errors to the district court. The Department alternatively argues its decision revoking Sadek's driving privileges in a civil administrative proceeding for refusing a warrantless blood test did not violate Sadek's constitutional rights. Sadek agrees with the Department's position asking this Court to reverse the district court's decision and affirm the revocation of his driving privileges.

[¶2] Sadek's specification of errors in his appeal to the district court did not identify an issue about the warrantless blood test incident to arrest violating his constitutional rights. In an appeal from a Department decision, specifications of error must identify issues with sufficient specificity to fairly apprise the Department and the court of the particular errors claimed. Dettler v. Sprynczynatyk, 2004 ND 54, ¶ 15, 676 N.W.2d 799. We conclude Sadek's specification of errors did not raise an issue about the warrantless blood test with sufficient specificity to apprise the Department and the court of the claimed error. We summarily reverse the judgment under N.D.R.App.P. 35.1(b) and Dettler and reinstate the revocation of Sadek's driving privileges.

[¶3] Gerald W. VandeWalle, C.J.
Jerod E. Tufte
Daniel J. Crothers
Lisa Fair McEvers
Carol Ronning Kapsner