# IN THE SUPREME COURT
# STATE OF NORTH DAKOTA

2014 ND 121

Burt Justin Keltner,                                                                    Appellant

     v.

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

No. 20130380

     Appeal from the District Court of Stark County, Southwest Judicial District, the Honorable William A. Herauf, Judge.

     AFFIRMED.

     Per Curiam.

     Thomas F. Murtha IV, 135 Sims, Suite 217, P.O. Box 1111, Dickinson, ND 58602-1111, for appellant.

     Douglas B. Anderson, Office of Attorney General, 500 North 9th Street, Bismarck, ND 58501-4509, for appellee.

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**Keltner v. Levi**

**No. 20130380**

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      **Per Curiam.**

[¶1]    Burt Justin Keltner appeals a district court judgment affirming a North Dakota Department of Transportation hearing officer's decision suspending Keltner's driving privileges. On appeal, Keltner argues the breath test taken by law enforcement was a warrantless search, and no exception to the warrant requirement applied. We summarily affirm the district court judgment under N.D.R.App.P. 35.1(a)(7). <u>See</u> <u>McCoy v. N.D. Dep't of Transp.</u>, 2014 ND 119, ¶¶ 21, 23 (holding implied consent analysis did not apply where actual consent was given, and consent was not coerced where an officer informed a driver that an administrative penalty applied to refusing the test). Keltner also argues the Department lacked the authority to suspend his driving privileges because the certified report failed to indicate he was tested for alcohol concentration under N.D.C.C. ch. 39-20. Because Keltner failed to raise this argument in his specification of error to the district court, we decline to address the issue and summarily affirm the district court judgment under N.D.R.App.P. 35.1(a)(7). <u>See</u> <u>Daniels v. Ziegler</u>, 2013 ND 157, ¶ 7, 835 N.W.2d 852 (holding a specification of error must identify the matters at issue with sufficient specificity in order to preserve those issues for appeal).

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