

## **Summary Statement**

*State v. Eversole*, Docket No. 43277

On petition for review, the Idaho Supreme Court affirmed in part, reversed in part, and remanded the Bingham County district court's decision in a felony driving while under the influence (DUI) case. Brant Lee Eversole was arrested for a DUI and, after refusing to submit to a breath alcohol test, was taken to a hospital where his blood was drawn. Based on the results of the blood test, police charged Eversole with felony DUI. In the criminal case, Eversole moved the court to suppress evidence obtained from the blood draw based on his earlier withdrawal of consent to the breath test. Eversole also moved the court to dismiss his case because his truck was stuck on a brick berm and was therefore inoperable at the time he was arrested for DUI. The district court denied both motions, and Eversole subsequently entered a conditional guilty plea, preserving his right to appeal the two orders.

The Idaho Supreme Court affirmed the district court's denial of Eversole's motion to dismiss, but reversed the district court's decision denying Eversole's motion to suppress. The Court held that withdrawal of consent to one form of alcohol concentration testing constitutes withdrawal of consent to all forms of alcohol concentration testing. Consequently, Eversole withdrew his consent to the blood draw when he refused to submit to the breath test, and the district court erred when it did not suppress the evidence obtained from the blood draw.