

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 7, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 00-2527-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

LOUIS E. FETTES,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Manitowoc County: PATRICK L. WILLIS, Judge. *Affirmed.*

¶1 SNYDER, J.¹ Louis E. Fettes appeals from a judgment of conviction after his motion to suppress evidence of the results of a blood test was

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

denied. Because the issues Fettes raises in this appeal were decided in the State's favor in *State v. Thorstad*, 2000 WI App 199, 238 Wis. 2d 666, 618 N.W.2d 240, we affirm the judgment of conviction.

FACTS

¶2 While on patrol in the late evening on November 20, 1999, City of Manitowoc Police Officer Jennifer Kneeland saw a car turn into a parking lot, stop and immediately back out of the lot. The car then pulled alongside the curb facing the wrong direction of traffic and stopped.

¶3 After making contact with the driver, Fettes, Kneeland placed Fettes through a series of field sobriety tests, which he failed. After placing Fettes under arrest, Kneeland read him the Informing the Accused form and asked him whether he would submit to an evidentiary chemical test of his blood. Fettes answered, "I don't want needles, I hate needles." However, Fettes later agreed to take the blood test.

¶4 Fettes was charged in Manitowoc county with operating a motor vehicle while intoxicated (OMVWI), third offense, contrary to WIS. STAT. § 346.63(1)(a). Fettes filed a pretrial motion which was heard by Judge Patrick Willis on June 2, 2000; Fettes's suppression motion alleged that his verbally coerced submission to the blood test violated the reasonableness requirement of the Fourth Amendment. This motion was denied. Fettes pled guilty to the charge.

DISCUSSION

¶5 This case presents a question of law based upon an undisputed set of facts, which we review de novo. *State v. Edgeberg*, 188 Wis. 2d 339, 344-45, 524 N.W.2d 911 (Ct. App. 1994).

¶6 As Fettes concedes in his brief, we have recently considered and rejected the exact arguments he makes in this appeal. In *Thorstad*, we concluded that so long as the four requirements outlined by the Wisconsin Supreme Court in *State v. Bohling*, 173 Wis. 2d 529, 533-34, 494 N.W.2d 399 (1993), are met, there is no Fourth Amendment violation when the police obtain a blood sample from an OMVWI arrestee. *Thorstad*, 2000 WI App 199 at ¶17. *Thorstad* is dispositive. Therefore, we affirm the judgment.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

