**COURT OF APPEALS DECISION DATED AND FILED**

**December 11, 2001**

**Cornelia G. Clark**
**Clerk of Court of Appeals**

**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.**

**Appeal No. 01-1771-CR**

**Cir. Ct. No. 00-CT-56**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS**
**DISTRICT III**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**RANDY J. KAHL,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Chippewa County: THOMAS J. SAZAMA, Judge. *Affirmed*.

¶1 CANE, C.J.[1] Randy Kahl appeals from a judgment of conviction for operating a motor vehicle while intoxicated in violation of WIS. STAT. § 346.63(1)(a), second offense. Kahl challenges the denial of his motion to suppress

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

the results of a chemical test of his blood. Specifically, he contends that the police were required to obtain a search warrant before submitting his blood sample for testing. As part of this contention, he also contends that his consent to the blood test pursuant to the implied consent law is coercive and therefore unconstitutional. We reject his arguments and affirm the judgment.

¶2 The facts are not in dispute. The police arrested Kahl for operating a motor vehicle while intoxicated and advised him of his rights and obligations under the implied consent law. Kahl consented to the taking of a blood sample, and the test results showed a blood alcohol concentration of 0.257%. Prior to trial, Kahl filed a motion to suppress the blood test results contending that even if the initial *seizure* of his blood sample without a warrant was lawful, the subsequent *analysis* of the blood sample required a warrant because there were neither exceptions to the warrant requirement nor exigent circumstances justifying the warrantless analysis of his blood. He also reasons that any consent given under the implied consent law applies only to the blood withdrawal and not to the later analysis or testing of the blood sample. We reject his argument and affirm the conviction.

¶3 In ***State v. VanLaarhoven***, 2001 WI App 275, we rejected an identical argument. In ***VanLaarhoven,*** we held that the examination of a blood sample seized pursuant to the warrant requirement or an exception to the warrant requirement is an essential part of the seizure and does not require a judicially authorized warrant. ***Id.*** at ¶16. As we stated in ***VanLaarhoven***:

> [***State v.***] ***Petrone***, [161 Wis. 2d 530, 468 N.W.2d 676 (1991)] and [***United States v.***] ***Snyder***, [852 F.2d 471 (9th Cir. 1988)] teach that the examination of evidence seized pursuant to the warrant requirement or an exception to the warrant requirement is an essential part of the seizure and does not require a judicially authorized warrant. Both decisions refuse to permit a defendant to parse the lawful seizure of a blood sample into multiple components, each to be given independent significance for purposes of the warrant requirement.

¶4 Here, Kahl concedes that the initial seizure of his blood was legal. Consequently, because testing the blood sample is not a separate event from the seizure of the sample, we need not address Kahl's additional contention that his consent under the implied consent law does not extend to the subsequent testing of the lawfully seized sample.

*By the Court.*—Judgment affirmed.

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