

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**February 28, 2002**

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. 01-1792**

**Cir. Ct. No. 00-TR-4576**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**IN THE MATTER OF THE REFUSAL OF ROBERT J.  
MEIERS:**

**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**ROBERT J. MEIERS,**

**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Monroe County:  
STEVEN L. ABBOTT, Judge. *Affirmed.*

¶1 LUNDSTEN, J.<sup>1</sup> Robert J. Meiers appeals an order of the circuit court finding that Meiers's refusal to submit to a chemical testing of his breath, requested pursuant to WIS. STAT. § 343.305, was unreasonable. The court revoked Meiers's operating privilege for one year. For the following reasons, we affirm.

### ***Background***

¶2 On October 29, 2000, Officer Wendell Howland of the city of Sparta Police Department was on routine patrol when he observed a vehicle approaching him at a high rate of speed. After pulling the vehicle over, Officer Howland approached the car and identified the driver as Meiers. Meiers was ultimately arrested for operating a motor vehicle while intoxicated.

¶3 After arresting Meiers, Officer Howland transported him to the Monroe County Jail where the officer read Meiers an Informing the Accused form. When Officer Howland asked Meiers whether he would submit to a chemical analysis of his breath, Meiers responded, "No." Officer Howland then told Meiers if he refused the test, Meiers's driving privilege would be revoked in the State of Wisconsin for one year. Meiers responded that because he does not drive in Wisconsin anyway, he did not care.

¶4 A hearing was thereafter conducted regarding the reasonableness of Meiers's refusal to submit to chemical testing. The circuit court issued an order

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<sup>1</sup> 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.

finding all issues adverse to Meiers and concluding that Meiers's refusal was unreasonable. Meiers appealed.

### *Discussion*

¶5 Meiers first argues that he was not properly informed under the implied consent law in that he did not receive a copy of the Informing the Accused form for his personal inspection prior to Officer Howland's request for a chemical test of his breath. Therefore, Meiers suggests, the State should not be permitted to revoke his license.

¶6 Meiers cites the following language from the Notice of Intent to Revoke form promulgated by the Department of Transportation pertaining to an officer's certification that he or she complied with the law in seeking the arrestee's consent<sup>2</sup>:

I complied with s. 343.305(4) Wis. Stats. by reading to the person the indicated portions of form SP4197 (Informing the Accused) and provided that person a copy of SP4197. The person refused a request to submit to a test or tests under s. 343.305(3)(a) Wis. Stats.

Meiers contends that, on its face, the above-quoted language constitutes a policy determination by the Department of Transportation that the law enforcement officer must provide an accused with a written copy of the Informing the Accused form before requesting a chemical test. We disagree.

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<sup>2</sup> The Department of Transportation developed the Notice of Intent to Revoke form in compliance with WIS. STAT. § 343.305(11), which directs that "[t]he department shall promulgate rules under ch. 227 necessary to administer [the implied consent law]."

¶7 The Notice of Intent to Revoke form does not say that an officer must first read the Informing the Accused form, then provide a copy of the form to the accused, and finally, request the accused's consent for a chemical test, in that specific order. Meiers points this court to no *rule* promulgated by the Department of Transportation that supports his argument, and our independent examination of the administrative code has failed to unearth any such rule.

¶8 Additionally, we note that Officer Howland fully complied with the law as written in the statutes when he orally read Meiers the Informing the Accused form and immediately thereafter requested Meiers's consent. WISCONSIN STAT. § 343.305(4) provides in part, "[a]t the time that a chemical test specimen is requested ... the law enforcement officer shall *read* the following to the person from whom the test specimen is requested ...." WIS. STAT. § 343.305(4) (emphasis added). This statute requires that the statutory information be read. It does not require that the information be reduced to writing and a copy provided to the accused. Because the Department of Transportation has not enacted any rule that requires this additional action by a law enforcement officer, we uphold the circuit court's ruling on this issue.

¶9 Meiers next argues that Officer Howland provided him with misleading information beyond that contained in the Informing the Accused form and that this information affected his decision to refuse to submit to a chemical test of his breath. More specifically, Officer Howland indicated that if Meiers refused the test, Meiers's license would be revoked in the State of Wisconsin for one year. Meiers asserts that this statement led him to believe that his license would be revoked only in Wisconsin, and not in Illinois where Meiers resides. Therefore, Meiers suggests, the State should not be permitted to revoke his operating privileges.

¶10 Like the circuit court, we reject Meiers's argument on the basis that Meiers refused to submit to a chemical test prior to Officer Howland's statements. The record reveals that Officer Howland read Meiers the Informing the Accused form and immediately thereafter questioned Meiers whether he would submit to chemical testing. Meiers responded that he would not. The Informing the Accused form read to Meiers indicates that any refusal to take the test will result in revocation of the accused's operating privilege. Nothing in the form would have led Meiers to believe at the time he refused to submit to the test that his license would only be revoked in Wisconsin. Accordingly, we affirm the circuit court's decision on this issue as well.

*By the Court.*—Order affirmed.

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

