

STATE OF MINNESOTA  
IN COURT OF APPEALS  
A23-1756



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Scott Michael Rodgers, petitioner,

Respondent,

vs.

Commissioner of Public Safety,

Appellant.

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**ORDER OPINION**

Wright County District Court  
File No. 86-CV-23-3701

Considered and decided by Ross, Presiding Judge; Reyes, Judge; and Smith, John, Judge.\*

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:**

1. Appellant Commissioner of Public Safety appeals the district court's order granting respondent Scott Michael Rodgers's motion to rescind the revocation of his driver's license. The commissioner argues that the district court erred by determining that the advisory given to Rodgers was insufficient when Rodgers was advised that the search warrant was for his blood, he agreed to take a blood test, and he was not advised that refusal is only a crime if he refuses both a blood and urine test.

2. In June 2023, law enforcement responded to a motor vehicle crash in which Rodgers was the driver. Law enforcement then arrested Rodgers on suspicion he was

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

driving while impaired by alcohol. At the hospital, a Wright County Sheriff's Deputy informed Rodgers, "I have a search warrant here signed by [a judge]. The search warrant is for your blood. Refusal to take the test is a crime. Will you take the blood test?" Rodgers complied with the deputy's request without objection.

3. The results of the blood test led the commissioner to revoke Rodgers's driver's license. Rodgers sought judicial review of the revocation.

4. The district court held an implied-consent hearing in September 2023 at which it received the deputy's audio recording of the advisory. Relying on this court's decision in *Nash v. Comm'r of Pub. Safety*, 989 N.W.2d 705 (Minn. App. 2023), *rev'd*, 4 N.W.3d 812 (Minn. 2024) (*Nash I*), the district court rescinded the revocation of Rodgers's driving privileges, holding that the advisory did not comply with statutory requirements because the deputy did not inform Rodgers that he could not be charged with refusal unless he refused both blood and urine testing. The commissioner appeals.

5. Minnesota law requires law enforcement to inform an individual at the time a blood or urine test is directed that "refusal to submit to a blood or urine test is a crime." Minn. Stat. § 171.177, subd. 1 (2022).

6. On appeal, the commissioner argues that the resolution of the issue is controlled by *Nash I*. In *Nash I*, this court considered whether an advisory was sufficient under Minnesota Statutes section 171.177, subdivision 1, when the officer told Nash "I applied for a search warrant for a blood draw, and refusal to take a test is a crime." 989 N.W.2d at 706. The officer made no mention of a urine test. *Id.* at 710. This court concluded that the advisory as given was "an inaccurate statement of law and misleading," and as

such could not be a basis for Nash’s license revocation because “the advisory informed Nash that he could be charged with a crime if he refused the blood test, even though the trooper had not offered Nash an alternative urine test.” *Id.*

7. The Minnesota Supreme Court has since reversed this court’s decision in *Nash I*, concluding that an officer’s statement of “refusal to take a test is a crime” satisfies the advisory required by section 171.177, subdivision 1. *Nash v. Comm’r of Pub. Safety*, 4 N.W.3d 812, 814, 821 (Minn. 2024) (*Nash II*).

8. Like in *Nash II*, a deputy informed Rodgers that law enforcement had a warrant for Rodgers’s blood and that “[r]efusal to take the test is a crime” because they believed he was under the influence of alcohol. Here, the advisory here was nearly identical to the advisory that the peace officer provided to Nash. *Nash I*, 989 N.W.2d at 706.

9. Because this court is bound to apply supreme court precedent, the advisory provided to Rodgers was sufficient to sustain the revocation under the Minnesota Supreme Court’s holding in *Nash II*. See *State v. M.L.A.*, 785 N.W.2d 763 (Minn. App. 2010) (stating that this court “is bound by supreme court precedent”), *rev. denied* (Minn. Sept. 21, 2010).

**IT IS HEREBY ORDERED:**

1. The district court’s order is reversed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, *res judicata*, or collateral estoppel.

Dated: July 11, 2024

**BY THE COURT**

/s/ \_\_\_\_\_  
Judge John Smith