

[*Birchfield v. North Dakota*](#), 579 U.S. ____ (June 23, 2016). In three consolidated cases the Court held that while a warrantless breath test of a motorist lawfully arrested for drunk driving is permissible as a search incident to arrest, a warrantless blood draw is not. It concluded: “Because breath tests are significantly less intrusive than blood tests and in most cases amply serve law enforcement interests, we conclude that a breath test, but not a blood test, may be administered as a search incident to a lawful arrest for drunk driving. As in all cases involving reasonable searches incident to arrest, a warrant is not needed in this situation.” Having found that the search incident to arrest doctrine does not justify the warrantless taking of a blood sample, the Court turned to the argument that blood tests are justified based on the driver’s legally implied consent to submit to them. In this respect it concluded: “motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense.”