

Holding

- The Supreme Court ultimately held “that in drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute and exigency *in every case* sufficient to justify conducting a blood test without a warrant.” (emphasis supplied)

The emphasis placed on the language of the holding is to remind law enforcement and prosecutors that exigency CAN still be established based upon the natural dissipation of alcohol from the body. Exigency must be established on a case-by-case basis and is a very fact-specific inquiry. The Court discussed several factors that are relevant when establishing exigency for a nonconsensual blood test without a warrant. In order to use these factors to make an exigency argument, it is essential that law enforcement document the circumstances of the investigation and the factors that led them to decide to proceed without a warrant. Prosecutors must then elicit the necessary testimony to create a complete record. This is a team effort!