

Wiley Files Supreme Court Petition Regarding Application of the Fourth Amendment to Implied Consent Laws

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Wiley, working with the Supreme Court Program at the University of North Carolina (UNC) School of Law and co-counsel, has filed a petition for a writ of certiorari in *La Anyane v. Georgia*, asking the U.S. Supreme Court to review whether Georgia's implied consent statutory scheme violates the unconstitutional conditions doctrine and the Fourth Amendment by impermissibly coercing consent to warrantless blood draws. The case has significant implications for matters involving implied consent statutes and related civil penalties and Fourth Amendment law.

The petition, which is a "Featured Petition" on SCOTUSblog, stems from a case in which the Petitioner, during her arrest for driving under the influence, consented to a warrantless blood draw after being warned by police of Georgia's implied consent statute and the consequences of refusing to consent, including having her driver's license suspended for a minimum period of one year and potentially having her refusal used as evidence of guilt in a subsequent criminal trial.

The petition asks the Court to review a Georgia Supreme Court ruling that rejected the Petitioner's arguments that consent obtained under threat of such severe adverse consequences is not voluntary and violates the Fourth Amendment. The Georgia court's decision was based on non-binding dicta from the Supreme Court's decision in *Birchfield v. North Dakota*, in which the Court invalidated an implied consent statute that imposed a criminal penalty on a driver arrested for driving under the influence who refused to consent to a warrantless blood draw for blood alcohol testing.

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The petition seeks clarification of the *Birchfield* dicta and asks the Court to review the important constitutional issue on the merits, arguing that implied consent statutes imposing severe civil consequences on drivers who refuse to consent to warrantless blood draws violate the unconstitutional conditions doctrine because they condition a critical government benefit (the right to drive) on waiver of a driver's Fourth Amendment rights. The petition emphasizes that, regardless of the outcome on the merits, such important constitutional issues should only be decided after proper briefing and argument and not based on non-binding dicta.

Georgia initially waived its right to respond, but the Court called for a response. The petition is now fully briefed and awaiting decision.

Read the petition [here](#).

The Petitioner is represented on a pro bono basis by Wiley partner Richard A. Simpson and associate Kelsey R. Hunt. The Wiley team filed the petition along with co-counsel Greg Willis and Casey Cleaver of Willis Law Firm, in Atlanta, Georgia, and Interim Dean F. Andrew Hessick of the University of North Carolina School of Law. UNC Law student Ian Russell and Wiley paralegals Aidan Young and Kristine Lynch assisted in preparing the petition and reply brief in support of the petition.