

# State Supreme Court declines to take case seeking to force hospital to administer ivermectin

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A split state Supreme Court has rejected a petition to bypass the appeals court in a lawsuit seeking an order directing Aurora Health to enforce a prescription for ivermectin written by a physician not authorized to practice at the medical center.

In the 4-3 order, the majority opined the petition failed to meet the court's standards for review because there were unresolved questions of fact and failed to establish the case presented a well-developed legal issue.

Conservative Justice Rebecca Bradley ripped the order, writing in her dissent it was rare that judges are asked to make life-or-death decisions and: "This case presents one of those rare circumstances."

The family of John Zingsheim, who is on a ventilator and in a drug-induced coma while battling COVID-19, sought an order from a Waukesha County judge Oct. 7 seeking to force the hospital to administer ivermectin. His nephew, who has the power of attorney for health care decisions, sought the court order to administer the drug consistent with Zingsheim's wishes before he was ventilated.

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The FDA hasn't approved the use of ivermectin to treat COVID-19. Formulations of the drug for human use are intended to treat parasitic worms as well as head lice and some skin conditions. There have been multiple reports nationally of people taking the version of the drug intended for animals to combat COVID-19 and sickening themselves in the process.

According to the order, issued Monday, Aurora doctors believed administering the

drug would violate professional medical standards of care because the prescribed dosage may be lethal. They also said the drug cannot be administered to Zingsheim, who is intubated. The prescribing physician had never met Zingsheim or reviewed his medical records.

The circuit court originally directed Aurora to immediately administer the prescription. But two days later, after negotiations by the two sides, the circuit court judge drafted an order that would direct Zingsheim's attorney to find a doctor willing to administer the prescription and apply for emergency privileges at Aurora solely for that task. The two sides also agreed to a release absolving Aurora of all liability over the administration of the drug.

But before the draft order was put in place, the appeals court granted Aurora's petition on an earlier order and stayed proceedings in the case. Zingsheim's family then filed an emergency order to bypass the appeals court and have the justices hear the case.

The majority didn't go into detail on its rationale. But Rebecca Bradley knocked Justices Ann Walsh Bradley, Rebecca Dallet, Brian Hagedorn and Jill Karofsky, writing they "again can't be bothered to resolve a pressing issue of grave importance to the people of Wisconsin." She cited a series of cases, including those involving disputes over the 2020 election, that the four declined to hear without first requiring them to go through the lower courts.

Rebecca Bradley wrote the appeals court stayed the proceedings without knowledge of the draft agreement to administer the drug. She added the legal questions in the case are of significance to health care providers, families and patients statewide, and the issue is likely to come up again.

"If Aurora is right and a court cannot compel a health care provider to administer treatment it considers ill-advised, the circuit court's decision is reversible, but in the meantime Mr. Zingsheim receives the potentially life-saving treatment he and his family and his physician prescribed," Bradley wrote. "In stark contrast, the unreasoned decision of the court of appeals to deny Mr. Zingsheim that treatment, and the refusal of the majority of this court to act, impose irrevocable and irreversible consequences for Mr. Zingsheim, who will receive only palliative care going forward."

See the order [here](#).