

# Adults held liable for underage drinking

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A Canton man who served beer to a 17-year-old girl while they watched a Cleveland Browns game on television may be held liable for the death she caused in a drunken driving accident, the Ohio Supreme Court ruled Wednesday.

The unanimous court decision was heralded Wednesday by local and state officials of Mothers Against Drunk Driving, who said people who give alcohol to underage drivers share the responsibility for drunken driving accidents.

"People who supply alcohol to minors or to knowingly intoxicated persons or to persons who they know will get behind the wheel of a car should be found just as guilty as the driver themselves," said Mary Paponetti, state administrator for MADD.

"I'm glad the courts are finally getting strict on that," said Dawn Hayes, program coordinator for MADD's Stark County Chapter. "So many parents don't think anything about allowing alcohol at (teen-age) parties."

The high court's decision has implications for any Ohioan who sells or gives alcohol to someone under 21. It stems from a \$1.1 million lawsuit against an individual and a tavern owner after the Oct. 9, 1983, death of Kathryn Mitseff, 61, of Canton. Her death was caused by Jennifer Johnson, formerly of Massillon, who was then 17 years old.

According to court records,

See TOP COURT, page A4

# Top court rules adults liable in youth drinking

Continued from page A1  
Johnson's blood alcohol level was 0.26 percent — 2½ times more than the state's 0.10 percent legal limit — when her car went left of center at 8:42 p.m. on Perry Drive in Perry Township and crashed head-on with a car in which Mrs. Mitseff was a passenger.

Mrs. Mitseff's family sued Douglas R. Wheeler of Canton, who allegedly served four beers to Johnson, and William G. Jones, owner of Reedurban Tavern on Tuscarawas Street West in Canton.

Court records say Johnson, now of Meriden, Conn., visited Wheeler's home and had four beers. Wheeler knew she had not reached the age of 19, the legal age for drinking beer at the time. The state's legal drinking age was raised to 21 on July 31, 1987.

After leaving Wheeler's home at 4:30 p.m., Johnson visited the Reedurban Tavern, where she again was served alcohol. She left at about 8:30 p.m. and caused the accident that killed Mrs. Mitseff.

Johnson was found guilty March 15, 1984, of delinquency by reason of aggravated vehicular homicide and drunken driving. She served five months of a six-month sentence at a state girls' facility at Seloto Village.

In September 1984, Akron lawyer Mark Hilkert filed the lawsuit on behalf of Mrs. Mitseff's husband, Michael.

Wheeler asked Stark County Common Pleas Judge William A. Morris to dismiss the case in September 1986. Wheeler maintained that as a host who served liquor to a guest, he was not liable for injuries caused by that guest. Morris dismissed the case, and the 5th Ohio District Court of Ap-

peals in Canton upheld the dismissal in April 1987. Hilkert appealed to the Supreme Court.

Although a 1984 Supreme Court decision ruled that a host who gives alcohol to a guest isn't responsible for the acts of the guest, Justice Andy Douglas wrote in Wednesday's decision that it's different if the guest is underage.

It's against the law to give alcohol to a minor, so Wheeler can be held responsible for the death because he violated Ohio law by giving beer to a 17-year-old, Douglas wrote.

Hilkert said Wednesday, "It only makes good sense that if it is against the law to serve a minor alcohol, that someone who serves it can be held responsible if that minor injures or kills a person. I'm happy that Michael Mitseff will finally get his day in court."

Craig G. Pellini, a Canton lawyer who represents Wheeler, said Wednesday he was not surprised by the decision "that someone who gives alcohol to a minor can be negligent per se."

Pellini said that Johnson and Wheeler had known each other from high school and that she was close to observing her 18th birthday when the fatal mishap occurred.

"Even if she did have four beers on that day, we don't think those beers contributed to her intoxicated state at the time of the accident or that the four beers caused the accident itself," he said. "Four hours elapsed from the time my client saw her until the time of the accident."

Lawyer Richard Kettler of Massillon, who represents the owner of the Reedurban Tavern, declined to comment, saying he hadn't seen the opinion.