

In the District Court for the State of Alaska at Anchorage

Media No.: 3AN2108-7

Judge: P. Hanley

Date: Friday, January 11, 2008

Clerk: C. Poorman

Plaintiff: Municipality of Anchorage

vs.

Defendant's Name:
Jacqueline Camille
LaFrance

Case No:
3AN-06-10675CR

DOB:
3-27-83

Address:

Type of Proceedings: Trial Day 4

Counsel Present: Plaintiff: Hanley Smith and Mike Shaffer, Asst. Municipal Prosecutor
Defendant: Jim Gould, GL & G w/client NIC

Bail Set/Continues:		
Transport Order:		
Other Court Orders: Verdict of Guilty count 1		
Next Court Date(s) and Time(s): Jan. 30, 2008 at 7:45 am	Type of Hearing(s): Remand	Location:

8:44:11 AM On record
Court identifies case and parties

Jury Absent

COURT:

sick juror
juror was enjoying process
jury instructions packet received

Shaffer
slight modifications

parties discuss jury instructions

COURT:

take break

9:07:33 AM Off record

9:49:58 AM On record

Jury Absent

Shaffer
instruction 12
instruction 13

parties discuss instructions

9:51:08 AM clerk retrieves jurors

3AN06-10675CR; 1-11-08 Day 4

See page 5
for Guilty Verdict

116

9:54:04 AM

Jury Present

COURT:

welcomes jurors
apologizes to jury

Smith
City rests

9:54:54 AM

closing by Ms. Smith
thank you for being here and for paying attention
your role as jurors is important
when we get on the road and drive, we put a lot of trust in other drivers
I couldn't tell another driver had bad breaks, bad night vision
had to much to drink and not safe to drive vehicle
all we have is function like department of Motor Vehicles
we have laws to keep us safe, prevent accident's and keep us from getting hurt
there was a car accident, it could have been really serious, anytime someone is driving the wrong
way on a one way
the car accident alone was not the breaking of the law
evidence that there was a car collision
both called into Anchorage Police Department
gave Defendant standardized field test
Defendant failed the eye test, it is involuntary test, body giving signals that I have had a lot to
drink
the Datamaster, it is highly sophisticated instrument , .096 was breath test, blood sample was
above the limit, we have two samples
difference between .096 and .10
that is pretty consistent with Defendant's behavior
as time goes on body burns off alcohol to rate of .02
as time goes on alcohol burns, when Defendant drove she had to be above .096
go by what we know, she drove, she drank, and both tests indicated she was drinking alcohol
the only outcome in this case is she is guilty

10:02:49 AM

closing by Mr. Gould
sounds like the prosecutor knows a lot
in the instructions that the Judge will give you
Jury's job is to evaluate the case that the prosecution
that is kind of a unique job, our evidence can be used by you to evaluate the prosecution's case
your job is to evaluate the prosecutions case
what is missing in their case, there are a couple of Officers who didn't come in to testify
Jakeway was his supervisor and he kept and eye on the officer and what he was doing
they are in charge of what, they weren't here
I believe that she didn't have anything to drink when she got home
ask yourself whether the police did a fair job, if the police are not gathering evidence tying up lose
ends
that is important to decide how strongly to believe in
she will say, can't bring in every officer to bring them in
they should go to all of that trouble, someone is hearing asking citizens to listen to what
happened
to do the best job that they can, if they decide not to

this case is about reliance about what Jacqueline told the police
did the police see her drive, no
someone ran into me, I think he said truck
there is no evidence of Ms. LaFrance saying she was driving
willing to believe her when she says I didn't have anything to drink after she got home
they pick and chose, what street were you on, don't believe that
not even going to go look
odds are it would be highly unlikely that it happened at the same time and place
it seems to me a thorough investigation to check for debris, we don't believe that
they don't have any physical evidence that
look at Early's vehicle to see if there are any transfer's of paint, an agreement of similarity to
where the damages are
trying to match things up, can take bullets and why can't they take two vehicles and say that they
match up
there is nothing in the record that ties these two vehicles together, it seems to me as citizens we
should demand
if you are going to file criminal charges, that are supposed to be arresting people that is what this
is all about
that they do an investigation if they are going to charge someone with a crime
can find an officer from June 2006 to testify to the damage of that accident
not in best interest and pick and chose, since this is on our side, since this is against us we will
check it out
they would check out every fact that they are relying on, consider the evidence presented
what do we know about this, Ms. Smith uses term well above .096 and .10
up to and not down, if it goes up .02, and have one standard drink
it is one drink above the limit
speak about the issue of going the wrong way, assume for one moment that she was going the
wrong way on the northbound road
she is coming down 9th and there are no vehicle's giving clues as to which way to go
I worked down town , it happens turns into one way roads, usually there is traffic around
if it 4:15am and there won't be much traffic, that I would submit by itself is not much evidence of
impairment, not like someone driving across two lanes of traffic
let's go to Officer Fortunato's testimony and he was doing his field sobriety tests
she was likely impaired when she was driving
she failed the HGN , at one point he was asked would that advise you to conclude,
there was nothing about her behavior about those tests show she was impaired
he also said something else, it seems highly unlikely that she said she had been driving
he concluded that she was coming from the accident, he considers the driving of the suspect and
the officer sees and or gets a report of driving, considers his results and the lack of bad driving
in this case he concluded that, if there had been an accident that she must necessarily be
impaired she failed one out of three, whoever was driving coming down the wrong road,
you heard the conversation with the officer and Ms. LaFrance and arrested her
did she sound impaired and when Ms. Swartz came in, what I heard was not signs of impairment
nothing in that tape and asking questions and being cooperative
she did what most single woman would do, this whole concept of that a citizen on the way home
makes a mistake and goes down the wrong way on a road and then four police officers arrest her
on failing one out of three without inquiring of the alleged accident
there is not meat to this charge, you may feel like maybe or I have a feeling that probably she
could actually be guilty
in the instructions that the Judge has a submitted some alternatives, if a person is charged with
one crime and one with lesser crime
if you first consider, some instruction that say you have three choices, careless driving, reckless

10:09:34 AM

driving, and driving under the influence
you have to consider the dui charge, if you find her not guilty then you go and consider the
reckless driving, then go to the careless, there are three possibilities

10:30:12 AM

Rebuttal closing by Ms. Smith
the prosecution knows a lot
there are some things we don't know
how many drinks she had, she sat down with one beer, she got up
she was drinking it throughout the night, we know that based on her blood alcohol level
we know it wasn't one beer, the time she drove had to be at least .12
she was in an accident in June , that damage was the damage from the accident
we know from the Defendant , Reginald Olyer , the officer came in and testified and said the car
was not in this state, he remembered that accident, he remembered in his report the amount of
damage
Defendant can't be believed, her blood alcohol, she failed to tell the truth, that is not reasonable
doubt
meteors can fall out of the sky, there are multiple things that don't raise reasonable doubt
the test and the diagnostic test shows had more
Defendant said the most interaction she had was with Officer Fortunato, he evaluated the
Defendant and she smelt like alcohol
she said she wasn't drinking, there are no loose ends to tie, it would be overkill to bring in the
other officers
because the Defendant told the truth sometimes
she does have a reason to lie to get her out of trouble, not many would want to admit that they
had been drinking
not reasonable to believe that there is reasonable doubt
police departments don't have unlimited resources,

10:36:24 AM

defense counsel talked about careless and reckless driving
explains differences between careless and reckless
that means nothing more than impaired driving, going against stop lights
something is just not right, get over any sympathies you have for the Defendant
breaking the law has serious consequences
that law is going to guide the oath that you took

10:39:12 AM

COURT:
reads jury instructions

11:03:00 AM

clerk leaves to be bailiff
jury deliberates

11:06:16 AM

clerk returns

11:06:28 AM

Off record

2:22:56 PM

On record

Jury Absent

2:24:40 PM

Jury Present

COURT:

Court identifies case and parties

2:25:17 PM

COURT: reviews verdict form

2:25:29 PM

verdict read count 1 guilty

2:25:49 PM

COURT:
polls jury

COURT:
thanks jurors
advises jurors that can talk about case

2:27:35 PM

Jury Absent

COURT:
proceed to sentencing

Smith recommendation for sentencing
Gould recommendation
LaFrance speaks

2:31:15 PM

COURT:
sentence and comments
ASAP, 3000/1500, 75svc, 90/85, remand date of Jan. 30, 2008 at 7:45 am , 90 dlr, 30 d. veh
imp, rest to be determine, 2 yr. njo ,
\$ 500.00 cost of counsel!

2:36:15 PM

next matter