



K61 The Egg Roll Driving Under the Influence (DUI) Defense: A Unique DUI Defense Incorporating Slow Gastric Emptying Due to the Presence of Egg Rolls, Followed by Rapid Gastric Emptying Due to Vehicle-Collision Impact

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After attending this presentation, attendees will understand a unique DUI defense put forth in a California Supreme Court, and how the criminalist and prosecution team contended with the issues. Attendees will learn more about how the concepts of tolerance and perception of impairment can be used to influence the jury. Attendees will also better understand some unusual legal aspects and challenges at a DUI trial, including: (1) a granted motion to compel the defense to discover to the prosecution; (2) the presence of the criminalist throughout the duration of the trial; (3) an attempt to impeach the criminalist on the stand; and, (4) information about the verdict, sentencing, and “reconsideration” of the sentence by the court.

This presentation will impact the forensic science community by creating an awareness of a unique DUI defense; it will also educate the forensic science community with regard to challenges and lessons in DUI courtroom testimony.

After attending a holiday social gathering on December 21, 2012, where he had been eating and drinking, the defendant, Coulter Mann, was traveling northbound on Highway 101 in far northern California. At approximately 8:54 p.m., and at the moment of receiving a cell phone call, the defendant drifted into the southbound lane of Highway 101, causing a fatal head-on collision with the driver traveling south. Due to the condition of the defendant’s vehicle after the collision, he had to be extricated from the vehicle and transported to a local hospital for emergency treatment. He arrived at the hospital at approximately 10:00 p.m. His legal blood draw occurred at 10:55 p.m. and the results were 0.20 grams/100 milliliters.

The defendant was an assistant principal at a local middle school and was a very well-liked and well-respected member of the community, as was his entire family. The defense team included two attorneys, one of which was the defendant’s father, and a toxicology expert. During trial in January of 2014, the defense’s theory was that the defendant was not impaired at the time of driving, and that the cell phone call was the sole cause of the collision. The defendant had admitted to drinking 35-40 ounces of an 8.8% beer plus two to three 12-ounce bottles of a 6% beer over the course of approximately four hours, except that he had finished two-thirds of his last bottle of beer shortly before he left the gathering. While drinking the beer, he also consumed some appetizer-type food. Of specific interest to the defense was that the defendant had consumed six to seven egg rolls just prior to arriving at his social gathering. According to the defense, the multitude of ingredients in the egg rolls delayed the defendant’s absorption of ethanol to the point that he was not at or above a 0.08 grams/100 milliliters blood alcohol concentration at the time of the collision; therefore, he was not impaired for driving purposes. While administering first aid at the scene of the collision, an ambulance driver did not note that the defendant had signs of impairment nor did they note an odor of alcohol from his breath. The California Highway Patrol officer that responded to the scene did not make note of an odor of alcohol on the defendant’s breath. The emergency room physician did not note any signs of impairment, including no observed horizontal gaze nystagmus, while she treated the defendant. A blood chemistry laboratory panel performed at the hospital approximately one-half hour prior to the legal blood draw indicated the presence of ethanol. When the California Highway Patrol was able to leave the scene of the collision and go to the hospital to obtain a statement from the defendant, he noticed a strong odor of alcohol emanating from the defendant and eventually obtained a legal blood draw for DUI purposes. The only injuries sustained by the defendant were a broken ankle and an approximate 5mm abrasion to his spleen. All other systems, including gastrointestinal, were within normal limits. While the defense did not offer specific absorption or elimination rates, they opined that the impact of the collision, as demonstrated by the laceration to the spleen, forced unabsorbed food and ethanol into the small intestine where the ethanol became rapidly absorbed by the time the legal blood draw occurred at the hospital.

DUI Impairment, Alcohol Pharmacokinetics, Courtroom Testimony