

What is a Felony DUI in Arizona, No. 2, State v. Wiggs

The purpose of this series of podcasts is to discuss the facts, legal issues and sentences imposed in Arizona Felony DUI cases so people can have an understanding of how individuals can be found guilty of Felony DUI and what sentences can be imposed.

The cases discussed in this series are primarily based on memorandum decisions issued by the Arizona Court of Appeals. Memorandum decisions are only binding on that individual case and are not legal precedent for other cases. However, their discussion of the facts, legal issues presented and sentences imposed are a good guide for what it takes to be found guilty of a felony DUI in Arizona, and what the sentences imposed could be. Keep in mind almost all of these cases arose from the defendant's appeal after a Felony DUI trial. Sentences for Felony DUIs which are resolved by plea agreement are often less than those imposed after a jury trial.

State v. Wiggs, No. 1 CA-CR No. 1 CA-CR 14-0294 (3/31/15)

FACTS:

A witness heard a "crashing noise," and observed a car had just been in an accident. The witness called 911 and saw the defendant, who was the sole occupant, exit the car, walked around it, and then attempt to re-start the car. The witness told the defendant that he had contacted emergency services. The defendant immediately turned and ran towards an apartment complex adjacent to the scene of the accident. Police officers responded to the scene and determined the registered owner of the car was the defendant's Mother, with a registered address at the apartment complex. The officers walked to the registered address, knocked on the door, and the defendant answered. The defendant matched the description of the driver, but denied driving the vehicle. The defendant lied about the location of the car. The defendant's eyes were "extremely bloodshot and watery" and he smelled of alcohol. An officer conducted the HGN test and observed all six cues of impairment. In addition, while attempting and failing to properly conduct the "walk-and-turn" test, the defendant stated he would not be able to complete the test. The officers arrested the defendant and then found the car keys in the defendant's pocket. The defendant's glasses were missing a lens and in a search of the car revealed a single glasses' lens located on the floor on the driver's side. The officers transported the defendant to a nearby hospital where a blood test revealed Appellant's blood alcohol level was .206%.

The defendant was charged with Aggravated DUI. The State also alleged the defendant had six historical felony prior convictions.

LEGAL ISSUES:

The defendant raised several issues on appeal. Two of those are:

Forensic Examination Report

The trial court admitted into evidence the Forensic Examination Report stating the alcohol level. The court of appeals said that was permissible because the criminalist who prepared the report testified at trial.

Car Keys

The trial court allowed the police officers to testify that the keys found on the defendant were for the case, however, the State did not seek to admit the actual keys into evidence. The court of appeals said there was no error in allowing the testimony because the issue was did the defendant have the car keys

in his possession and the State did not need to produce the actual physical keys into evidence to prove that point.

SENTENCE:

After trial the defendant admitted he had two historical priors. The court sentenced the defendant to ten years in prison.

The memorandum decision is available by link, along with the transcript/podcast of this recording.

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