

What is a DUI in Arizona, #3, State v Pelayo

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. Pelayo, No. 1 CA-CR 14-0178 (3/10/15)

FACTS:

A civilian witness saw a white Dodge, traveling east, run a red light and hit a truck. The witness saw the defendant get out of the driver's door of the white Dodge. A police officer arrived on the scene shortly thereafter and identified the defendant as the driver of the white Dodge. The officer observed the defendant swaying, having an odor of alcohol on him, that his eyes were bloodshot and watery, and he was slurring his speech. The defendant said he did not know what happened, that he was not driving and that the car belonged to his friend. The defendant then handed the officer his Arizona Identification card from which the officer learned that the defendant's privilege to drive had been revoked. The defendant refused to perform field sobriety tests. His blood was later drawn and tested at 0.296%. The defendant was charged with Aggravated DUI based on the fact his privilege to drive had been revoked.

At trial an MVD custodian of records testified the defendant had been sent multiple notices that his privilege to drive had been suspended or revoked.

The defendant was found guilty and thereafter the jury determined the defendant had three prior felony DUI convictions.

LEGAL ISSUE:

No legal issues were discussed in the decision.

SENTENCE:

The sentence was ten years in prison.

The [memorandum decision is available by link](#), along with the [transcript/podcast of this recording](#).

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