

## What is a Felony DUI in Arizona, Number 10, State v. Spillman

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. Spillman, No. 1 CA-CR 14-0387 (8/25/15).

### FACTS:

The defendant was pulled over by a police officer for speeding and weaving within his lane. The defendant showed the officer an ID card and explained that his license was suspended. The officer said he observed eyes which were watery and bloodshot, the passenger compartment smelled of alcohol, and there was an open bottle of malt liquor in the passenger seat. The defendant admitted that he had been drinking.

The defendant performed poorly on field sobriety tests and was then arrested.

The defendant's blood was drawn pursuant to a warrant approximately four hours after the traffic stop and was tested as 0.121%.

At trial an expert testified that based on the test results the blood alcohol was between 0.141% and 0.182% within two hours of driving.

The defendant was charged with two counts of aggravated DUI: (1) driving while impaired with a suspended license and (2) driving with an alcohol level of 0.08% or more within two hours of driving with a suspended license.

The defendant went to jury trial, was found guilty and appealed after sentencing.

### LEGAL ISSUE:

No legal issues were discussed in the decision.

### SENTENCE:

The defendant was sentenced to concurrent three-year terms of probation, to begin following four months' imprisonment, with credit for 33 days of presentence incarceration.

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

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