

ALBUQUERQUE CRIMINAL LAWYER BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

June 22, 2010

Ron Bell Case Illustrates Problems with New Mexico DWI/DUI Laws

Ron Bell was arrested and charged with DWI on a blood alcohol score of 0.0. That is not a typo. He was charged under New Mexico's impaired to the slightest degree standard despite the fact that he had no alcohol in his system.

The charges have been dismissed against Ron Bell. The fact is the charges should have never been filed to begin with. Nor should the many under the limits DWI/DUI cases that are routinely charged in New Mexico exposing the under the limits drivers to the full consequences of a DWI/DUI conviction despite the fact that they were under the .08 legal limits. The case against Ron Bell perfectly illustrates the possible problems with the impaired to the slightest degree standard.

Ron Bell's face is etched in the minds of every man, woman and child in the Albuquerque metropolitan area. You can hardly leave your home without seeing one of his advertisements. The arresting officer most certainly knew Ron Bell. A 0.0 blood alcohol reading resulting in a DWI arrest suggest something other than a legitimate suspicion of DWI.

Perhaps the officer doesn't like Ron Bell or his advertisements. Perhaps he doesn't like lawyers. Lots of people don't. There are a number of illegitimate reasons that could have led to the arrest of Ron Bell on a 0.0 blood alcohol reading. Impaired to the slightest degree gives officers absolute discretion in making an arrest, for both legitimate and illegitimate reasons. The lack of any real standard can lead to abuse. An arrest on 0.0 at the very least raises the question of motive.

The question of motive could and does come up frequently in below the .08 limits DWI arrests. What if it is not lawyers an officer does not like but blacks, Hispanics, whites, women, gay men or women, people with the wrong bumper stickers, people that voted for Obama, people who voted McCain, people with purple hair or people that just plain rub the cop the wrong way. In any of those cases as happened here, the officer can make a DWI arrest despite the lack of any real impairment based upon any number of contrived basis. Unfortunately, unlike Ron Bell, most people faced with a similar wrongful arrest lack the resources to fight the charges. Instead, the courts routinely convict these people. After all, we live in a state where the supreme court had to stop the practice of arresting people for sleeping while intoxicated.

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquecriminallawyerblog.com/>

In short, impaired to the slightest degree is no legal standard at all. It is whatever the officer says it is. In the best light, it is not fair to officers to force them to make these decisions. In the worst, it is most unfair to subject drivers to the whims of each individual officer. The great majority of officers are honest. Well defined legal standards govern those few on both sides of the law who are not.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.albuquerquecriminallawyerblog.com/>