

SERIOUS MISTAKES MADE BY OWI/DUI /DWI DEFENDANTS

(Not Legal Advice)

“I Just Want to Get it Over With.”

Many people charged with an OWI offense take the matter far too lightly. Some view it as a mere “traffic ticket.” They “just want to get it over with” or put it behind them. This can be a big mistake.

Many people plead guilty with woefully inadequate information about the consequences of their plea. The truth is, by pleading guilty or no contest to OWI, you may never be able to put it behind you.

The consequences of even a first-offense OWI have steadily grown more severe. In Wisconsin, for example, the vast majority of people convicted of OWI will have that conviction on their driving record forever. That conviction can then be used to enhance, or aggravate, future OWI charges and consequences.

The fines associated with an OWI conviction are very significant. Moreover, the conviction will almost always result in substantially increased insurance premiums, and in some instances, outright cancellation.

In Wisconsin, an OWI conviction will result in a mandatory license revocation of at least 6 months. This can jeopardize your livelihood. For example, if you are convicted of OWI twice within any five-year period (counting from the date of the driving incident), you will not even be eligible for a “work permit” for a year, no matter how much hardship you face. Moreover, after September 2005, persons with “commercial” driver’s licenses are not allowed to drive their work vehicle during the revocation period. Those who incur two OWI convictions after September 2005—even if the convictions stem from use of their private vehicle—will simply have to find a new line of work.

The fact is, some people will plead guilty or no contest to an OWI that could have been dismissed, reduced, or which could have resulted in acquittal. Many will plead guilty not knowing how the conviction will affect them, now and into the future. A good OWI attorney will obtain your driving record, get all the facts, and provide you the information you need before you make a decision you cannot take back, and often, will never live down.

“I Don’t Need a Lawyer.”

If you have been charged with an OWI offense, you have some very important decisions to make. A conviction will likely follow you for the rest of your life. The “other side” will have a lawyer representing its interests against you. That lawyer took an oath to zealously represent his/her client, the town, city, county or State. That person cannot represent your interests at the

same time. If you are relying upon the prosecuting attorney to advise you of your best interests, you are making a big mistake.

A prosecutor can prosecute you so long as there is “probable cause” supporting your charge. “Probable cause” is a lower level of proof than is needed to convict you. Most prosecutors have a heavy caseload. You simply cannot rely upon them to point out weaknesses or defenses that could jeopardize their “client’s” case. Rest assured, most prosecutors would rather have you plead guilty or no contest to the offense. You need an experienced advocate on your side to help you determine what is in **your** best interests.

“I Have Time to Think About This.”

In Wisconsin, if a legal blood-alcohol test puts your blood- or breath-alcohol level over .08, or if you refuse to undertake such test, you have as little as 10 days to act to prevent the suspension or revocation of your license. If you blow it off, your driving privileges will automatically be suspended or revoked by the DOT. This is serious, because a test “refusal” can have the same effect as an OWI conviction, in terms of being “counted” as a prior offense.

Your rights can be drastically affected well before your first mandatory court appearance. Many people let this crucial time lapse, thinking there is nothing they can do. However, there are issues that a good OWI attorney can look for, and a good OWI attorney will have helped numerous clients avoid an interruption of their driving privileges. One thing is for sure, if you do nothing, you will lose.

“Any Lawyer Can Handle My OWI Case.”

OWI law is complicated. Public demands for more strict standards and penalties have caused frequent changes in the laws and penalty structures. It is challenging for a criminal defense attorney who regularly practices in this field to keep abreast of these frequent changes, let alone the attorney who defends the “occasional” OWI case.

A lawyer who keeps track of these changes will help you navigate this “minefield.” To ensure the competency and efficiency of your legal counsel, it is strongly recommended that you hire a lawyer who regularly practices in this field. Before you hire an OWI attorney, ask (1) if they have ever taken an OWI case to trial, (2) how frequently they handle these matters, and (3) how they keep up with the changes in the laws.

OWI cases regularly involve scientific testing procedures to determine blood-alcohol levels (“BAC”). These procedures involve strict protocols and standards that must be observed to ensure the reliability and admissibility of the test results. The introduction of such evidence at trial can be tricky, even for the seasoned prosecutor. A good OWI attorney is familiar with the rules the scientists and prosecutors must follow, and he/she will jump to action when they have not done so.

A good OWI lawyer must know how to obtain, analyze, and detect possible defenses from the various materials available. He/she should have “experts” he/she can turn to aid in this process

and, if necessary, testify at trial. Do not assume that just because an attorney will accept your case, he/she also regularly practices in this field and knows what to do.

“The Cheaper the Lawyer, the Better.”

Lawyers are also businessmen. A good law practice is expensive to maintain. Lawyers must charge sufficient money to pay expenses and their salaries. More importantly, OWI cases require very careful attention to detail, and may need to go to trial. Most good OWI attorneys will not undertake responsibility for a case unless there are sufficient funds to guarantee a substantial portion of their fees and expenses. If you find a lawyer who will take your case at a very low price or rate, it may be cause for concern. You may only be worse off if your lawyer withdraws from your case after the insufficient retainer he/she required has been exhausted.

Almost any lawyer can sit next you as you plead guilty. A good OWI attorney should consider a guilty plea the last resort, not the presumed outcome. However, properly investigating and developing your defense will cost money.

“I Tested Over ‘the Legal Limit’, So I Must Be Guilty.”

In Wisconsin, you are “guilty” of simple OWI only if you drove or operated a motor vehicle on a highway while (1) impaired in your ability to drive by alcohol; or (2) while having a blood-alcohol concentration at or above .08. If your blood-alcohol level was at or above .08 at the time of the test, it does not necessarily mean it was the same level while you actually drove or operated your vehicle. Importantly, the Preliminary Breath Test, which is the device used to test your blood- alcohol level at the roadside, is not admissible at trial in most states, including Wisconsin.

Alcohol is absorbed into the blood stream over time. Therefore, a person who was not impaired, but who “tests” with a blood-alcohol at or above .08, could in fact be innocent. With the proper information, a good OWI attorney can have your case analyzed to determine whether you fall within this category of defendants. No person should have to plead guilty to an offense they did not commit.