

DOCKET NO. MV08-224245S : SUPERIOR COURT
STATE OF CONNECTICUT : JUDICIAL DISTRICT OF LITCHFIELD
VS. : AT G.A. 18
JENNIFER MULIOLIS : APRIL 19, 2009

**MOTION TO SUPPRESS EVIDENCE CONCERNING THE NATIONAL HIGHWAY
AND TRAFFIC SAFETY ADMINISTRATION METHODS, PROCEDURES, TRAINING
AND SCORING ON STANDARDIZED FIELD SOBRIETY TESTS**

The Defendant, pursuant to Connecticut Practice Book, moves the Court to order the State and all its witnesses from referring to or mentioning any testimony concerning the National Highway and Traffic Safety Administration (NHTSA) methods, procedures, training and scoring on standardized field sobriety tests in the Prosecution's case regarding its theory on the defendant's impairment to such a degree such that the defendant was unable to operate a motor vehicle with the caution characteristic of a sober person under the same or similar circumstances. In light of this court's ruling on April 15, 2010 the chemical test results in the instant case have been suppressed, therefore making any evidence of BAC inadmissible against the defendant, and the state is only proceeding by information with a single count of DUI in violation of 14-227a(a)(1).

Rule 401, Connecticut Rules of Evidence provides: "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable than it would be without the evidence." Any evidence that the state wants to offer which arises out of the NHTSA methods, procedures, training and scoring is not relevant to impairment because all that information is **only** relevant to blood alcohol concentration (BAC). Therefore the SFST evidence does not have any tendency to make the issue of impairment any more or less probable than without such evidence.

Indeed, this no impairment correlation premise is admitted by NHTSA, the progenitor of the Standardized Field Sobriety Testing battery. In the 2000 Student Manual entitled "DWI Detection and Standardized Field Sobriety Testing", at section VIII-1, at p.4., it says, "[l]aboratory research indicated that three of these tests, when administered in a standardized manner were a highly accurate and reliable battery of tests for **distinguishing BACs above 0.10**" (emphasis added). The manual does not correlate standardized field sobriety tests performance to physical or mental impairment.

Moreover, the NHSTA study entitled “Development and Field Test of Psychophysical Tests for DWI Arrest (March 1981)”, at p. 72, that “[t]he major objectives of this project have been to...assess in the field its feasibility and effectiveness when used by police for **estimating BAC** (emphasis added)” Additionally the NHSTA study entitled “A Florida Validation Study of the Standardized Field Sobriety Test (S.F.S.T.) Battery” reaffirms the notion that the SFST results are made strictly in terms of BAC, as the purpose of the study is to correlate correct results with BAC levels above 0.08. Finally, the NHSTA study entitled “A Colorado Validation Study of the Standardized Field Sobriety Test (SFST) Battery” (November 1995), says in pertinent part that “...this analysis...**is defined strictly in terms of the BAC statute and does not speak to the more difficult question of the individual driver’s impairment**”, at p.3. (emphasis added)

Clearly, any attempted use of NHSTA SFSTs training or test results is totally irrelevant in the prosecution of a violation of 14-227a(a)(1) concerning a defendant’s ability to show the caution characteristic of a sober driver under the same or similar circumstances. As per Rule 401 of the Connecticut Rules of Evidence, the NHSTA tests and training are simply not relevant to impairment.

Under Rule 402 of Connecticut Rules of Evidence, the NHSTA SFST evidence is not admissible because is it not relevant in an impairment prosecution

WHEREFORE, the Defendant respectfully moves that the Court to suppress any evidence of Standardized Field Sobriety testing and order the State to instruct its witnesses not to voluntarily provide or respond to questions calling for testimony regarding information contained in the NHSTA manual referencing SFSTs and how a test subject’s results correlate with loss of mental and/or physical faculties.

THE DEFENDANT

By _____
James Ruane
Ruane, Attorneys at Law
1 Enterprise Drive, Suite 305
Shelton, CT 06484
(203)925-9201
(203)925-9207
Juris # 415988

ORDER

The foregoing motion having been heard is hereby ordered:

GRANTED / DENIED

J.
JUDGE

CERTIFICATION

This is to certify that a copy of the foregoing was mailed, postage prepaid, this ____ day of April 2010 to the Attorney Jonathan Knight, Office of the State's Attorney, 16 Doyle Road, Bantam, CT.

James Ruane
Commissioner of the Superior Court