

real cases - real results
dui/dwi • criminal • divorce • traffic

problem

Client was charged in Howard County with DWI. Client had received Probation Before Judgment in the early 90's. The week before being arrested for DWI in Howard County, client was arrested and charged with DWI in Anne Arundel County. So, technically, the Howard County charge was the client's third offense. Client was observed driving on Route 70 with a broken taillight. The officer stopped client to write an equipment violation. The officer noticed other damage to the vehicle and fresh mud and dirt lodged in the bumper. The officer also smelled the odor of alcoholic beverage on client's breath. Back up police officers were called. Client was told to step from the vehicle. Client was told to perform field sobriety tests on the side of the road. Client refused, saying, "do what you have to do". The officer then cuffed client and placed him under arrest. After being cuffed, client changed his mind and asked to perform the field sobriety tests. Client did poorly on the field sobriety tests, and was arrested and took a breath test with a result sufficient to convict him.

solution

We rejected the lousy plea offer offered by the prosecutor. Instead, we stood trial. At the appropriate time in the state's case, I made a motion to suppress the field sobriety tests and breath test. I pointed out to the judge that at the point of arrest, when client was cuffed and told he was under arrest, the state needed probable cause to support the arrest. The elements of drunk driving are (1) driving on a roadway, (2) evidence of consumption of alcohol and (3) impaired coordination. The state had evidence my client was driving (the police saw him), and consumption of alcohol (the odor on his breath). The state had no evidence of impaired coordination. The prosecutor responded to my motion by saying that my client was uncooperative. If he had performed the field sobriety tests, the state would have had evidence of impaired coordination. I pointed out to the judge that we hear evidence of impaired coordination all the time that is not related to the field sobriety tests. We often hear about poor driving like weaving, slurred speech, poor balance while stepping from the vehicle or while walking on the shoulder of the road. In this case the state had none of this type of evidence.

result

The judge was not eager to suppress the evidence, but I continued to argue my point calmly and aggressively. The judge relented and agreed to suppress the evidence. As a result, my client was found not guilty. He walked from the courtroom without punishment.