

Trial query: How drunk?

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Lawyers and a toxicologist wrestled Wednesday with the question of exactly how drunk a Sound Beach man was when he drove the wrong way on Sunrise Highway and hit and killed another motorist.

It's a key question in the second-degree murder trial of Christopher O'Brien, 56, taking place in Central Islip.

There's no dispute that O'Brien was intoxicated at 5:35 a.m. on Dec. 23, 2015, when he drove east in the westbound lanes and collided with a car driven by Thomas D'Eletto, 57, an Aquebogue project engineer heading to work in Nassau County.

But if state Supreme Court Justice Fernando Camacho, who is hearing the case without a jury, finds that Suffolk prosecutors have not proved O'Brien's blood-alcohol level was over 0.18 percent, he likely would have to acquit O'Brien of the more serious charges he faces. Second-degree manslaughter does not require the higher alcohol level for conviction.

CRIME & courts

At 6:56 a.m., O'Brien's blood-alcohol level was 0.17 percent at Brookhaven Memorial Hospital, although hospital officials acknowledged in testimony that this blood sample was clearly labeled that it was not to be used for legal purposes.

Defense attorney Scott Gross of Hauppauge noted that the chain of custody for this blood sample was unclear and an alcohol wipe was used to sterilize O'Brien's arm, which could skew the result.

Michael Katz, who runs the Suffolk medical examiner's office's toxicology lab, testified during questioning by Assistant District Attorney Marc Lindemann that the principle of "reverse extrapolation" allows him to conclude that O'Brien's blood-alcohol level likely was 0.19 percent at the time of the crash. He based that estimate on studies showing that most

men lower their blood-alcohol level by about 0.015 percent an hour after their bodies have stopped absorbing alcohol.

But Katz acknowledged there are many variables. For example, he doesn't know what or when O'Brien ate, how much he drank, when he drank it and when he stopped.

During cross-examination by Gross, Katz conceded he was only giving an estimate. "It's an opinion based on scientific facts," he said.

"You could be wrong, right?" Gross asked.

"Sure," Katz replied.

Katz also agreed with Gross that different people absorb alcohol at different rates, and he doesn't know what O'Brien's is.

In the trial earlier this year of Oniel Sharpe Jr., a Queens man who was convicted of aggravated vehicular homicide in the deaths of three people, Camacho expressed unease with retrograde extrapolation, which some forensic scientists have said is unreliable.

"It's not an exact science," Camacho said then. "There are so many variables."

Mom robs bank, with baby in car

A 20-year-old woman was charged Wednesday morning after, police say, she robbed a bank in her hometown — while her 10-month-old son was in the car.

Madison Munoz, 20, of Shirley, was charged with robbery and endangering the welfare of a child; her son was released to relatives, Suffolk police said.

After entering Bridgehampton National Bank on Montauk Highway, the defendant gave the teller a note demanding cash, police said.

After the teller gave her an unspecified amount of cash, Munoz drove away at about 9:50 a.m., police said.

She was pulled over by police officers on Lombardi Drive a short time later, they said.

Munoz, of Kent Road, will be held for arraignment Thursday at First District Court in Central Islip, police said.

The county's Child Protective Services agency has been notified, police said.

— JOAN GRALLA



Madison Munoz

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