

People v. Anonymous (Henrietta Tn. Ct., 3/21)

MR. CORLETTA TURNS POTENTIAL DWI INTO OUTRIGHT DISMISSAL

In a recent case, an inexperienced Deputy, more concerned with Mr. Corletta's client's alleged intoxication, got neither a DWI, nor a traffic conviction, due to improperly prepared Supporting Depositions, in **People v. Anonymous** (Henrietta Tn. Ct., 3/21).

Mr. Corletta's client was involved in a rear-end motor vehicle accident. The client left the scene of the accident because they had been drinking, and went home. The other driver got the client's plate number, and gave it to police, who tracked the client to their home.

Mr. Corletta's client told the Deputy any drinking occurred at home *after* the accident. The inexperienced Deputy, suspecting a DWI, accused Mr. Corletta's client of same in the Supporting Depositions, but didn't charge the client with DWI because they believed they couldn't prove it, and because they failed to conduct a proper investigation.

Instead, the Deputy charged the client with Following Too Closely and Leaving the Scene of a Motor Vehicle Accident.

The problem with each Supporting Deposition was the Deputy's failure to enunciate the factual elements of the infractions actually charged. Each was primarily concerned with the client's prior alcohol consumption, which was irrelevant to the offenses that were charged. The Supporting Depositions were both conclusory and nonfactual.

Mr. Corletta, immediately noticing the defect, moved for dismissal. The Assistant District Attorney contacted Mr. Corletta, and attempted to get him to plead his client to one of the infractions. Mr. Corletta refused.

The Assistant District Attorney failed to assert any opposition and *admitted* at the Court appearance that the Supporting Depositions were defective and improperly prepared. As a result, the Assistant District Attorney did not oppose Mr. Corletta's Motion and all charges were *dismissed*. Mr. Corletta did not have to even make oral argument, because the DA *conceded* he was right, and the Town Justice agreed.

Once again, Mr. Corletta demonstrated that no matter what the facts are, if properly analyzed, the case can be resolved favorably for the client, even where the client does not deserve such a disposition. It is not for the defense attorney to judge. It is for the defense attorney to minimize or eliminate consequences. This requires knowledge of the law and objective analysis of the facts. This is why Mr. Corletta gets dismissals, while other lawyers ask the DA for a "break".

It is always better to be aggressive, and to deal from a position of strength.