

MR. CORLETTA ACHIEVES SPECTACULAR RESULT FOR CLIENT WITH PRIOR CONVICTION

Mr. Corletta recently took on a case where a client used a noted DWI defense attorney in the Rochester area just 2 years ago and was convicted of Driving While Ability Impaired after trial. The client was again arrested for an alcohol-related offense in People v. S.C (Roch City Ct., 5/22), with an alleged **.13** BAC.

This client, just over 2 years after having been convicted of an alcohol-related offense, got another one, and was now looking at sharply enhanced penalties, including probation or jail. He now looked to Mr. Corletta for help. Examining the facts and circumstances, Mr. Corletta realized the case was soft. He immediately filed motions and attacked the People's discovery responses and underlying breath test evidence.

Keeping up the attack with relentless motions, Mr. Corletta exposed that the manner of driving was not egregious and in fact, only a minimal at best violation of the Vehicle & Traffic Law. Mr. Corletta then got the underlying traffic violations dismissed on another motion, citing insufficiency of the factual allegations in the Supporting Depositions.

Continuing to hack away at the case, Mr. Corletta also exposed several discovery violations by the People, and filed multiple motions seeking discovery sanctions and Speedy Trial dismissal.

Unfortunately, this was met with hostility by the City Court Judge, particularly when Mr. Corletta cited several local cases supporting his argument. These cases were minimized by the City Court Judge, who said they were "lower court cases".

Given the newness of Article 245 of the CPL, and little appellate guidance at this point on application of the new statute, "lower court cases" are all that are available. Moreover, the cases cited were reported cases by Judges at the **same** level of jurisdiction. Undeterred and continuing to attack, Mr. Corletta continued to challenge probable cause for the arrest and ultimately at trial, both the allegations of intoxication and the chemical test results.

Mr. Corletta aggressively cross-examined both the arresting State Trooper, who had a disciplinary history, and the Breath Test Operator, who knew little about how the machine operated or was maintained, given that it was completely automated and all he had to do was push a button to initiate the test sequence. The Breath Test Operator appeared annoyed that he had to testify. His lack of knowledge and expertise was exposed in both his direct and cross-examination testimony.

As a direct result, Mr. Corletta obtained an outright dismissal of the test charge, excluding the breath test result, and a reduction of the DWI charge to Driving While Ability Impaired; a traffic infraction. Therefore, of the original 4 charges, the client was convicted of **none**, and was only convicted of the minor traffic violation of Driving While Ability Impaired. The client received only minimal punishments, despite having 2 DWIs in 2 years, and due to Mr. Corletta's continued advocacy, the client was in a far better position than when the case commenced.