

STATE OF MINNESOTA

COUNTY OF DAKOTA

State of Minnesota,

Plaintiff,

v.

[REDACTED],

Defendant.

DISTRICT COURT

FIRST JUDICIAL DISTRICT

File No. [REDACTED]

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

The above-referenced matter came on for Court Trial on November 6, 2018, at the Dakota County Judicial Center, Hastings, Minnesota, before the undersigned Judge of District Court.

Defendant is charged with two counts of Second Degree DUI (Counts I and II) and two counts of Third Degree DUI (Counts III and IV). The sole issue tried relates to Second Degree DUI.

[REDACTED], Assistant Inver Grove City Attorney, appeared on behalf of the State.

Charles Ramsay, Attorney at Law, appeared on behalf of Defendant.

Based upon the file, the record and proceedings herein, the exhibits received and being duly advised in the premises, the Court hereby makes the following:

FINDINGS OF FACT

1. The sole issue before the Court is whether the State proved beyond

a reasonable doubt that Defendant had a blood alcohol level of 0.16 or greater within two hours after driving.

Stipulated Facts

2. The facts of date and time of driving, location of driving, and whether Defendant had a blood alcohol level of 0.08 or greater within two hours of driving are all conceded by the defense.

3. On May 8, 2018, Defendant provided two valid breath samples in a correctly administered DMT breath test, and had driven his vehicle within two hours of testing. His driving conduct took place in Inver Grove Heights, Dakota County, Minnesota.

4. The DMT instrument was properly functioning at the time of breath testing.

5. The breath samples provided by Defendant measured 0.165 and 0.163, respectively.

Court's Findings of Fact

6. [REDACTED] a forensic scientist with the Minnesota Bureau of Criminal Apprehension ("BCA") testified credibly to the following:

- uncertainty of measurement is present in every measurement, including breath test measurements;
- when blood samples are measured for alcohol, by way of qualification, a "plus/minus" measure of accuracy is included with the printed result;
- given the measurements obtained in the present case, and in view of an otherwise valid test, there is a "70.74%" probability that Defendant's actual blood

alcohol level was 0.16 or more; and

- by extension, the probability that Defendant's blood alcohol was below 0.16 is "29.26%."

Based upon the above Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. Proof beyond a reasonable doubt is such proof as ordinarily prudent men and women would act upon in their most important affairs. A reasonable doubt is a doubt based upon reason and common sense. It does not mean a fanciful or capricious doubt, nor does it mean beyond all possibility of doubt. 10 Minn. Prac., Jury Instr. Guides - Criminal CRIMJIG 3.03 (6th ed.)

2. The doubt raised by a 29.26% chance of being incorrect is a reasonable doubt.

3. It has *not* been proved beyond a reasonable doubt that Defendant's blood alcohol concentration was at least 0.16.

4. By virtue of the agreement of the parties on the record, it *has* been proved beyond a reasonable doubt that Defendant's blood alcohol concentration was at least 0.08.

Based upon the above Findings of Fact and Conclusions of Law, the Court makes the following:

ORDER

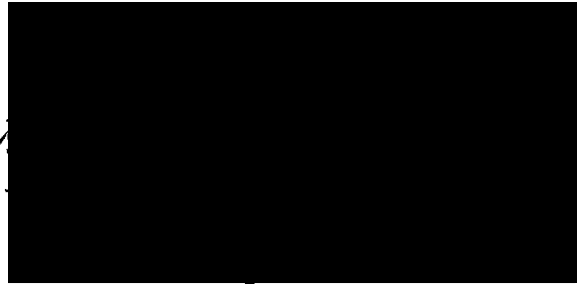
1. Defendant is not guilty of Counts I and II of the Complaint. Counts I and II are hereby dismissed.

2. Defendant is guilty of Counts III and IV of the Amended Complaint.

Sentencing on Counts III and IV of the Amended Complaint shall take place on
January 11, 2019 at 9:00 a.m. at the Dakota County Judicial Center,
Hastings, Minnesota before the undersigned.

DATED: November 15, 2018

BY THE COURT:

A large black rectangular redaction box covering the signature of the court.