

# Making the call on a case of 21st birthday gone bad

**A** defendant was charged with endangerment, a Class 1 misdemeanor. On the date of the incident she was enjoying her 21st birthday in a manner consistent with how most who reach legal drinking age celebrate.

The victim was her boyfriend, a musician in a band. He was playing in a large festival across town. The defendant came along to help set up before the show, and she started consuming alcohol far earlier than might be considered prudent. She admitted being heavily intoxicated.

After midnight, concert over, the victim loaded the group's equipment into a trailer hitched to his truck. They soon began arguing about a text message the victim sent to a longtime ex-girlfriend. The victim testified that the defendant got into his truck without incident. The defendant said she went reluctantly.

The victim testified that he and the de-



## My Turn

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call someone to pick her up from his parents'. He wasn't willing to drop her off in the middle of nowhere in her condition.

As his truck approached an exit on Arizona 51, the defendant yanked the steering wheel sharply to the right. The victim lost control of his truck, which jackknifed, causing the trailer to overturn. Thousands of dollars' worth of mu-

defendant had agreed she would spend the night at his parents' house.

On the drive she became increasingly agitated about the victim inviting his ex-girlfriend to the concert. The defendant insisted the victim take her home.

He told her it was late and too far out of the way and she could

sical equipment was destroyed.

A DPS officer responded to the scene, and the defendant apologized and repeatedly admitted it was her fault.

Defense counsel's cross-examination of the victim angled for proof of self-defense. Numerous objections were made by the prosecutor, most of which were granted. It was disclosed the victim had a previous assault conviction not involving the defendant. But the officer's unchallenged testimony was that the defendant expressed no concern or fear of the victim and made no claim of having been kidnapped or kept against her will.

The defendant's testimony was careful. She avoided blaming the victim but insisted repeatedly that she "didn't want to be" in his truck. She admitted under cross-examination that she entered his vehicle voluntarily despite being angry.

Fortunately, a judge can ask questions

of witnesses. There is no rule governing how this must be done, but it must be done fairly. Once both lawyers finished with the defendant, there remained an elephant in the room neither had noticed.

"Did you have a cellphone on you?"

"Yes."

"Was it working?"

"Yes."

"Did you call 911 or anyone else while you were in the victim's truck?"

"No."

She was found guilty and sentenced to three years' probation, anger-management counseling, 30 hours of community service and an agreed-upon restitution.

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