



ELLIS COUNTY & DISTRICT ATTORNEY

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FOR IMMEDIATE RELEASE

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JURY GRANTS PROBATION FOR FELONY D.W.I.

On September 24, 2014, an Ellis County jury found Roberto Cardiel Hernandez, 50-years old, of Arlington, guilty of a felony Driving While Intoxicated offense with two prior convictions for DWI. The jury then recommended the judge suspend a 10 year prison sentence and place Mr. Hernandez on community supervision. Mr. Hernandez will not have to serve the prison sentence if he complies with the terms and conditions of his probation ordered by Judge Bob Carroll of the 40th District Court on September 29. During the trial the jury learned the defendant had a blood alcohol concentration of .202, which is two and a half times the legal limit of 0.08.

At 5:45 a.m. on September 29, 2012, an off duty Ellis County Sheriff's Deputy observed Hernandez driving on northbound on Highway 77, south of Waxahachie. Hernandez failed to maintain his lane of traffic, almost hitting oncoming traffic. He ran a stop sign, and he struck a curb when he was pulled over by the arresting officer. A mandatory blood draw, based on his two prior convictions, was performed for a sample of Hernandez's blood.

Hernandez has prior convictions for DWI in 1993 and 2001, both in Tarrant County.

Mr. Hernandez has filed a Notice of Appeal in this case.

Although not necessary in this case, under the law a person arrested for DWI can refuse to provide blood for testing to determine their level of intoxication. When there is a refusal, law enforcement can seek a search warrant for the blood, a procedure that has been implemented in several jurisdictions. In January of 2014, Ellis County entered an agreement with two municipal magistrates to review blood search warrants. The judges give law enforcement a 24-hour, seven day a week, availability to review the search warrants so that a blood test can be required when the officer is justified in the arrest and search.

County & District Attorney Patrick Wilson issued the following statement: "Some people may be shocked by this outcome. But Texas law provides that the defendant was eligible for probation, even though this was his third conviction for D.W.I. The jury of Ellis County citizens

had the option to send the defendant to prison for up to ten years. But after hearing the evidence they determined that probation was the appropriate sentence for this defendant in this case. My office asked the jury to send Hernandez to prison, but we respect this decision.

It is important for the community to understand that Texas law provides broad sentencing ranges that allow the sentence to be tailored to the specific offense and the specific defendant. There is no such thing as one-size-fits-all justice. The criminal justice system is frequently criticized for being either too harsh or too lenient, depending on one's point of view. But this case perfectly illustrates that it is the citizens of our community who set the standards of reasonableness under which the prosecutors, defense attorneys, and judges operate.”

[Photograph on next page]

