

DWI Mock Trial – TZD 2018

October 23, 2018 – Mankato, MN

Your Presenters

- David Bernstein, Prosecutor – City of Minneapolis
- Joe Van Thomme, Prosecutor – Eckberg Lammers, P.C.
- The Honorable Mark E. Betters – Blue Earth County
- Lt. Don Marose – Minnesota State Patrol
- Some Guy From The Crowd!




What We Will Cover

- The Best Witness (AKA "P.E.T.")
- Direct Examination
- The Judge's Perspective
- Questions

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State v. Uttecht

- LE receives report of vehicle going wrong way and striking median
 - Vehicle located and observed striking curb and driving through yard
 - Impairment clues observed in during DRE
 - Statements given by suspect
 - Blood sample taken
- 



THE BEST WITNESS

“P.E.T.”

- PREPARE
- ENGAGE
- TEACH

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THE BEST WITNESS - PREPARE

Three Questions to Consider

- 1. Did you do your homework for court?
- 2. Do you know why you're testifying?
- 3. Have you talked with your prosecutor?

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TIPS FOR BEING PREPARED

Three Tips

- 1. Review your evidence.
 - Testify from memory (not memorization)
 - Review ALL of your evidence
- 2. Know Your Role.
 - Understanding your role in the process will help you anticipate issues
 - Practice your answers! (Seriously.)
- 3. Be Punctual. (Seriously.)

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THE BEST WITNESS - ENGAGE

Three Questions to Consider

- 1. What does your body language say?
- 2. Are you answering the question asked?
- 3. Do you have an “active memory?”

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TIPS FOR BEING ENGAGED

Three Tips

- 1. Credibility.
 - Don't be evasive.
- 2. Professionalism.
 - Judges/jurors pay attention to demeanor and attitude.
 - No arguing!
- 3. Impartiality.
 - Don't volunteer information.

From: *The Effects of Testimony Training on Law Enforcement Officer Self-Assessment of Testimony Skills*, Erica L. Baer, Florida Gulf Coast University; Brodsky, S.L., Neal, T.M.S., Cramer, R.J., & Ziemke, M.H. (2009). Credibility in the Courtroom: How Likeable Should an Expert Witness Be? *Journal of the American Academy of Psychiatry and Law*, 37, 525-532.

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THE BEST WITNESS - TEACH

Three Questions to Consider

- 1. How can you teach the jury?
- 2. How can you/should you talk to the jury?
- 3. How can you be a confident expert without being cocky?

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TIPS FOR BEING A GOOD TEACHER

Three Tips

- 1. Educate.
 - Be able to demonstrate technical topics, your actions, your training/experience.
- 2. Talk Good.
 - Judges/jurors pay attention to demeanor and attitude.
 - No arguing!
- 3. Be confident.
 - Don't volunteer information.
 - Most jurors want to trust officers.

From: *Courtroom Testimony*, Bench and Bar, Winter 2009 Issue.

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THE BEST WITNESS

The Judge's Perspective

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QUESTIONS?

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