

IMPAIRMENT IS THE DOOR,



It didn't have to happen. It wasn't supposed to happen. But it happened. Shock, bewilderment and disbelief – then anger and overwhelming grief. Those were the first reactions of a 16-year-old boy that saw his father laying in the middle of the road in a pool of blood; one of his legs twisted and bent so badly that it left no doubt that it was severely broken. After having spent the day at the hospital with his mom and dad and brothers and sisters hovering over his dying grandfather, he couldn't believe what he was seeing was real. What he would soon learn is that his father had just been struck and run over by a driver that chose to drive knowing full well that he was impaired from drinking alcohol. Over the next two months, the boy would be forced to endure the worst, gut wrenching emotional roller coaster of his life as his father would fall into a coma, and doctors would tell the family that the 44-year-old father of four had only hours to live.

Fortunately, the doctor's prognosis proved to be wrong. The victim of this DUI is on a slow road to recovery, however incomplete it may turn out to be. Nevertheless, it didn't have to happen. Like so many before him, the impaired driver in this case believed the big lies. You know, the ones that go something like "It won't happen to me", or "I'm okay to drive, I'm not really drunk", or "I drive just fine after a few drinks". Lies. Great big lies. For believing them, the 51-year-old defendant in this recent case from Tulare County, with no prior record mind you, was sentenced to five years in state prison. It didn't have to happen. Driving while impaired by alcohol is highly dangerous, criminal, and it often results in tragic consequences.

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Now let's be clear about a few things; drinking alcohol is certainly legal in this country. Likewise, it goes without saying that driving an automobile is a privilege long recognized by our nation as well – going back to the dawn of the automobile age more than

100 years ago. It's the combination of the two that the law is concerned with, because the results are much too ugly and predictable. Our laws have long sought to recognize this simple truth. When it comes

RESPONSIBILITY THE KEY

by Mike Moberly



to drinking and driving, our law's requirements are quite clear: ***if one chooses to walk through the door of impairment, they must likewise carry the key of responsibility, i.e. the decision not to drive. How simple can it be?***

One of the great myths that can still be found concerning driving under the influence is the false notion that one must be "drunk" while driving in order to violate the law. Here in California, the law is broken when, due to alcohol consumption, a driver no longer has the ability to drive a vehicle with the caution characteristic of a sober person of ordinary prudence under similar circumstances. That's a fancy way of saying when the driver is impaired. Most anyone who has drank alcohol understands what countless studies over many years have shown: that impairment of motor skills, judgment, reaction times, etc., are disastrously impacted well before an individual reaches a state of drunkenness. Impairment is what is at issue here, not drunkenness.

According to the California Department of Alcohol and Drug Programs, Driving-Under-the-Influence branch, Blood Alcohol Concentration (BAC) levels as low as .02 percent alcohol can affect driving ability (impairment) and crash likelihood in some drivers. Numerous studies show that an average size person consuming just one 12 ounce bottle of beer can see their blood alcohol level rise to as much as .02 percent within two hours. Do the math. A BAC of .08 percent is by definition of the law illegal and a serious crime in California but you do not have to have a blood alcohol level of .08 percent or more to be a serious law breaker. Vehicle Code Section 23152a, the California's driving under the influence law does not specify a blood alcohol level. It targets impairment!

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Unfortunately, too many drivers still foolishly cling to the myth that they are doing nothing wrong if they drive while impaired but not "drunk". They'd have a hard time telling that to the thousands of victims and their families of DUI related crashes. While clinging to myths that have long since been exposed as false

might be understandable if coming from a young child, such irrational and irresponsible thinking coming from one who claims to be an adult simply holds no credence. We expect irresponsibility coming from children, but we are entitled to demand responsibility from our adult population. We deserve no less.

Responsibility, at the very least, demands a certain level of honesty. For example, many criminal defendants in DUI cases that result in injury or death to an innocent victim will want to refer to their crime as an "accident" and will cite a half-truth when claiming that they "didn't mean to kill anybody". While they may not have imagined killing someone, it was no accident when, after consuming enough alcohol to become impaired, they made a deliberate choice to get behind the wheel and drive a machine weighing two tons or more at 60 to 70 mph down the highway. That decision, that choice, was simply not an accident, and to refer to it as such is an insult to everyone else involved.

On the contrary, the choice to drive while impaired must be examined in the light of the day and age in which we live. An information age in which the hazards of driving under the influence have been made abundantly clear. As such, the choice to drive while impaired is a most selfish choice indeed. It ignores reality and shows a disregard for human life that must not and cannot be tolerated.

When confronted with this issue, responsibility can be shown in many, simple ways. For example, a \$25 taxi fare can avoid a lifetime of heartache and regret. A designated driver who remains sober can know that their small sacrifice may very well have saved many lives. A telephone call to a friend or relative who may be inconvenienced for a short time may prove to be a lifesaver. Acting responsibly is not difficult – it's a matter of choice. Make the right choice. Make the responsible choice. You owe it to yourself and the rest of us will be eternally grateful. You have the key.

Editor's Note:

Mike Moberly is the vertical prosecutor for the new Driving Impaired Prosecution Program which targets repeat offenders and any case where death or serious injury result from alcohol impaired driving.