

Sunday, February 4, 2007

Pursuing the not guilty plea.

DeKalb County, Indiana, Courthouse. (Republication permission granted by photographer Michael Walter). "Not guilty" is a phrase too many criminal defendants fear. As each year passes, it is easier for me to convince a client to plead not guilty, since the client knows I have years of experience and gut feelings to back up such recommendations. Last week, my client hit the bullseye by agreeing to plead not guilty to a drunk driving charge. Here is the case overview from the beginning: A police officer arrives at a car accident scene, sees our client there (not inside any car) among others, questions him, decides he was driving one of the two cars in the accident, and ultimately arrests him for drunk driving. Last week, we go to court, tell the prosecutor our client rejects her offer to plead guilty to drunk driving, and proceed to trial. I make some legal arguments and objections about efforts to show my client was a driver during the collision. Around fifteen minutes into trial, the judge calls me and the prosecutor back to his office. After the police officer has already testified that my client said "he hit her," the judge asks if the prosecutor is going to have any further information to present to show our client was driving. The prosecutor has no further information to present, at least not as of this time. The judge advises the parties to try to "work out" the case. So as not to give the judge a chance to change his mind about the weakness of the prosecutor's case -- and I see a real risk that the judge will change his mind -- I convince the prosecutor to agree for my client to pay a fine for negligent driving, which is one of the least serious of Maryland's traffic laws. It carries no jail exposure and one point off one's license (three points if there is a collision). The judge gives a probation before judgment, which means no points will be assessed against our client. Obtaining this victory required staying in court all morning and into the afternoon for our trial to start. Most misdemeanor courts handle trials last, so I schedule my calendar accordingly. Jon Katz.

Posted by Jon Katz in Drunk driving/DWI/DUI at 02:00