

Sentencing Exercise – Defense Attorney Instructions

You are about to argue briefly on behalf of your client in the case of *State v. Steven Winslow*. Your client has just plead guilty to one count of Felony Death by Motor Vehicle, because he was driving while impaired and got into a crash resulting in the death of another driver. Your client is a record level one, with a clean record, and is pleading guilty to a class D felony. Felony Death by Motor Vehicle does allow for probation, even though class D felonies are typically active sentences only. The defendant has agreed to one aggravating factor, number 8, that due to his high speeds in excess of 90 miles per hour, he created a risk of serious injury or death to others on the road.

While making your argument, be considerate of the victim's family and try to show a few mitigating factors for the judge to consider. You may ask the judge to make a finding that the mitigating factors outweigh the aggravating factor and that the defendant should be sentenced in the mitigated range and/or receive probation instead of an active sentence. As you make your arguments, consider the facts below as well as a statement from your client. You must also consult the felony sentencing grid for class D, record level 1 offenders.

FACTS: On February 28, 2021, at 11:30 PM, the victim, Ralph Marsden, was operating a red Honda Civic on I-85 Northbound. According to witnesses, Marsden was slowing down to approximately speeds of 50 miles per hour to exit the interstate offramp when the Defendant, Stephen Winslow, operating a silver Chevy Tahoe at approximately 90 miles per hour ran into the back of Mr. Marsden's vehicle. Marsden was pronounced dead at the scene shortly thereafter when EMS arrived. The defendant, who was unresponsive at the time police arrived, was taken to the hospital and underwent a blood test, where it was determined that his blood alcohol level was 0.18.

ABOUT THE DEFENDANT: Stephen Winslow is 22 years old and on the night of February 28th, was attending the funeral of his grandfather, who helped raise him as a kid. Stephen had an abusive father and when he was 12, he and his mother moved in with this maternal grandfather. Stephen was gainfully employed as a mechanic at a local body shop and has the support of his mother, girlfriend, and 3-year-old daughter, whom he provides for. The night of his grandfather's funeral, Stephen become emotional and intoxicated and drove even though he shouldn't have. He feels deeply remorseful, accepts responsibility, has enrolled in alcohol treatment and promises to devote his life to becoming a spokesperson about drunk driving. Stephen is so worried about missing his daughter's first days of school and hopes that he does not receive any significant jail time.