

DUI PROBABLE CAUSE HEARING 1/9/2020
DEPUTY AARON MCCUBBIN'S TESTIMONY
(BASED ON HEARING VIDEO):

1. On **April 26, 2020**, Deputy McCubbin testified that my car and my person smelled like an **alcoholic beverage** when he pulled me over for speeding. He testified that he could tell the difference between the smell of all bourbon, beer, and vodka, yet he couldn't identify what the type of alcoholic beverage he smelled in my car and on my person. At **1:25:23 on the video**, Deputy McCubbin was asked based on his training and experience is he trained to identify other substances that smell like alcohol, and he said, **"YES," However**, once more, he could not identify what type of alcoholic beverage or substance he smelled on my person and in my car. Deputy McCubbin did not smell an **alcohol beverage** in my car and on my person, but he uses this lie as probable cause to arrest someone for a DUI. If by chance he did smell alcohol, it must have been from my homemade hand sanitizer which contains isopropyl alcohol, essential oils, and vitamin E for which I had just used before I left Louisville, KY which is about a **45-50 minute** drive. Plus, I kept it in my driver's side door, so it's possible that some of it could have leaked out in my driver's side door, where I kept it since I had just used it before I left Louisville.
2. Deputy McCubbin said that he could smell an **alcoholic beverage** in my car again the 2nd time he pulled me over even though I had been outside of my car and my car window was down for a several minutes. How is this possible when there were not any open containers in my car that would be a source of the alcoholic beverage smell? He is **LYING!!**
3. The assistance, County Attorney stated that there was no way the hand sanitizer smell would still be in my car **45-50 minutes** after driving from Louisville. If that were the case, then how would any alcohol smell still be in my car from me drinking 45-50 minutes later since there were no open containers in my car? Once more, he could not identify what type of alcoholic beverage he smelled even though he admitted that different drinks including bourbon and beer have distinct smells that he could easily recognize.
4. Deputy McCubbin stated that he asked me if I could physically perform **Field Sobriety Tests (FSTs)** which is untrue! He only asked me if I had Lasik or any other eye surgery. Deputy McCubbin testified that he gave proper instructions and demonstrated how to do the FSTs, yet he did not properly explain nor demonstrate how to do these tests. Plus, he perjured himself, again, when he said that I expressed that I understood how to do the FSTs. Lastly, McCubbin was asked if he recalled me acting **CONFUSED** or anything like that about what he told me about the FSTs. He said, **"I remember repeating myself a couple of time, but before the tests begin, and do you understand what you are doing? Yes."** However, in the DUI Arrest Report

under Officer's Observation and Questions of Driver, he circled **CONFUSED**, yet he did not say I was confused when he answered this question because I **WAS NOT** confused.

5. In his initial testimony, recalling the events that led up to my DUI arrest, Deputy McCubbin never stated he gave me any breathalyzers or PBTs, only the FSTs. Plus, he also never mentioned that there were 2 other officers that showed up after he pulled me over the 2nd time. Why?

8. Deputy McCubbin perjured himself at least **6 different times** regarding where the other cars were positioned around me when he clocked me for speeding which was the probable cause for pulling me over on **April 26, 2019**. All of this contradicts what he said in the **DUI, Uniform Citation Report**. Deputy McCubbin never mentioned in this report that there were other cars on the road around us when he pulled me over. Why? Plus, he stated in the **DUI Arrest Report** that there was light traffic on the road that night, yet he testified that there was moderate traffic. Which was it light or moderate traffic?

Deputy McCubbin stated on the **DUI, Uniform Citation Report** that I **changed lanes** into the left lane and **failed to use a turn signal**, yet he testified that I passed a car in the right lane and then **whipped it over** in the left lane and passed that car also. Whipping it over and just changing lanes are two entirely different things. Whipping it over, implies that I was driving carelessly or recklessly. Plus, nowhere in Deputy McCubbin's testimony did he ever mention that I failed to use a turn signal, only that I was speeding. Additionally, on the DUI Arrest Report under incident information, he circled **NO** under **Suspect Vehicle: Driver Pass---Other Vehicle: Driver Pass**.

DEPUTY MCCUBBIN TESTIFIED:

1. **7:04 on the video:** Deputy McCubbin said there was a car behind him in the left lane, and she passed that car and then there was another car in front of her in the right lane and that's when she **whipped it over** in the left lane and passed that car also.
2. **7:56 on the video:** He said he was the only vehicle in the left lane and 2 other vehicles besides mine were in the right lane.
3. **40:13 on the video:** When asked about the 3 vehicles around him, Deputy McCubbin said he wasn't for sure where I was in the pack of cars, but I was coming in behind him in the right lane.
4. **40:42 on the video:** When asked where were these other cars, he started to say he believed they were both in the right lane, but then quickly said he knew the one in front was in the right lane.
5. **40:51 on the video:** When asked were the cars all in a row or not, he said they were kind of spaced, and he used a hand gesture to show that the cars were all in a row on the same side of the road.

6. The above contradicts what Deputy McCubbin stated in the **DUI, Uniform Citation Report** that he observed my vehicle pass him in the right lane at a high rate of speed and radar confirmed a high rate of speed, radar confirmed speed 72 mph in a posted 55 mph zone. I then changed lanes into the left lane in front of him and failed to use a turn signal. McCubbin stated in this report that he clocked me speeding in the right lane, and I had another car in front of me. **So, why didn't he pulled the car over in front of me that would have been driving faster than 17 mph over the speed limit?** Plus, once more, he never mentioned that any other cars were around us in this report. Why?

9. Deputy McCubbin testified and stated in the **DUI, Uniform Citation Report** that he had to pulled me over a second time after I drove off, after he advised me to sit back in my vehicle, so that he could back his vehicle up to make room for the FSTs. He said after he pulled me over a 2nd time, and I leaned out of my car window and said, ***"Oh you forgot to give me my driver's license back?"*** and he calmly said, ***"No, we aren't done with the traffic stop."*** Why would Deputy McCubbin be so calm and say this so matter-of-factly, like it was not a big deal, that I drove off if he gave me instructions to sit back in my car? When my attorney asked him at **19:11 on the video**, was he surprised that I drove off, he said, ***"YES."*** Yet, he didn't charge me with fleeing, which is a big deal because it's a class D felony. When Deputy McCubbin was asked if he thought I was trying to get away from him, he answered, ***"NO, I didn't charge her with fleeing or anything, I think she genuinely may have not understood what I asked her which is why I didn't charge her with fleeing."*** Deputy McCubbin never got angry or acted like I tried to flee. Why, considering I did the opposite of what he told me to do? I know without a doubt, that he was letting me go until I drove off without my driver's license and registration.

WHAT REALLY HAPPENED: Reference document entitled, "DUI Case Details."

10. When Deputy McCubbin testified he stated several different things about the HGN eye tests he conducted the night of my DUI arrest. Why did Deputy McCubbin do the HGN eye test **twice**, but he only record the results of the 2nd test? If I had failed the eye test the 1st time, then what would be the reason to give it a 2nd time? Plus, he didn't remember nor document what degree the nystagmus occurred on either test. Considering these issues, my attorney should have been able to have the HGN eye test results suppressed.

DEPUTY MCCUBBIN TESTIFIED:

1. At **26:36 on the video**, Deputy McCubbin testified that he gave me the HGN eye test twice, but he only documented the 2nd set of results because he was **starting over from scratch** after the 2nd stop. Next, he contradicted himself when he was asked if that was

when he started his investigation, and he said, "***I continued it.***" Was he starting from scratch or did he continue the tests? Why did Deputy McCubbin feel the need to start over to begin with? I know it was because he was letting me go the 1st time until I forgot my driver's license and registration.

2. I had testified that Deputy McCubbin had given me the 1st HGN test as I sat in my car. He testified, "***He has NEVER given HGN to anyone sitting in a car. I have NEVER done that in my career. They aren't facing you so no way you could do it. I've NEVER while someone was sitting in their vehicle.***" Deputy McCubbin **LIED**, to many times to count, during this hearing, so it's not difficult to conceive that he is lying about the HGN eye test as well.

3. He was asked if he **followed procedure** when he asked me to step out of my car to do the HGN eye test, and he replied, "**YES,**" several times. However, he should have been asked, was it procedure to do **2 HGN tests** and not record the results of the 1st one?

11. Deputy McCubbin contradicted himself because he testified that Lasik was the only physical issue that I had, but later he testified that he knew I had a hearing impairment.

12. Deputy McCubbin stated, in the **DUI Uniform Citation Report**, that failure to use a turn signal was one reason he pulled me over, yet he testified that he did not notice if I used my turn signal any other time after the initial stop.

13. At **20:52 on the video**, When Deputy McCubbin was asked how long HAD he been a sheriff's deputy, he thought for a moment, and said 3 years total and 1 year with the Bardstown Sheriff's office. I'm thinking that this question means at the time of my arrest, on **April 26, 2019**, how long had he been a Sheriff's Deputy? However, this is a complete **LIE!!** At the time of my DUI arrest on **April 26, 2020**, Deputy McCubbin had only been a deputy for **less than 2 years**. According to the **Kentucky Department of Criminal Justice Training's (DOCJT)** article written on **May 11, 2017**, Deputy McCubbin had just graduated from law enforcement basic training that day. Plus, even on the date of this hearing on **January 9, 2020**, he had only been a Deputy for a total of about 2 year and 8 months. So, Deputy McCubbin perjured himself, once again, so he could make it seem like he had more experience than what he truly had. This is not just an oversight or lapse of memory because he knows how long he has been a Deputy.

14. Deputy McCubbin testified that the only DUI training he had was at the police academy. However, he never mentioned that he has had any continuing education to refresh his training on DUI stops. Plus, he testified that he only does **10 - 15** DUI stops out of **100+** stops per year. If this is the case, then Deputy McCubbin does not have much experience nor training on DUI stops. It is apparent that he not either been properly trained, or he has

forgotten how to properly conduct DUI stops, FSTs or how to operate the breathalyzer device etc.

15. Deputy McCubbin **LIED** and perjured himself at least **8 TIMES** at the suppression hearing regarding the shoes I was wearing the night of my DUI arrested which was the basis for the perjury charge along with his memory.

DEPUTY MCCUBBIN TESTIFIED:

1. **At 28:45 on the video:** When asked if he remembered anything about the footwear that I was wearing, and he replied, **"NO."**
2. **At 32:01 on the video:** Deputy McCubbin said, he **DID NOT BELIEVE** I was in high heels, and next when asked if he **did not think** I was, he then shook his head and said, **"NO."** Next, he turned around and said, ***"I don't she think was."*** and said ***"nuh huh."*** Deputy McCubbin said **3 different things** about the shoes I was wearing in this time frame.
3. **At 32:18 on the video:** Deputy McCubbin said, ***"I believe she was like in sweatpants and tennis shoes and like a jacket because she was coming from work, and I thought that was odd, wearing that attire."*** This contradicts the jail log for which he used as proof to arrest me for perjury. Plus, he said he thought it was odd that I would wear that attire to work, yet he could not remember where I worked. How is he going to remember all information on my DUI arrest when he stated at **39:12 in the video** that he has made **100+ stops** in the **9 months** since my DUI arrest and about **10-15 DUI arrests**. Plus, when asked was it fair to say that he could not possibly remember every detail of every single stop because he said, ***"ABSOLUTELY."***
4. **At 1:27:59 on the video,** Deputy McCubbin was asked if he recalled if I had high heeled shoes on what would be his procedure and protocol for someone in high heeled shoes like that, asking them to take these tests? He replied, ***"Typically I'll ask someone, I had a man in cowboy boots, and I've asked if he wanted to take his boots off before. Typically, I will ask if I see they are having a horrible trouble with high heels or something. I will tell them typically."*** Typically to me means that he normally does it, but that he may not do it every time, and he **DEFINITELY DID NOT** ask me if I wanted to take off my heels to do the field sobriety tests.
5. When asked by his attorney, **at 1:28:39 on the video,** do you recall that Ms. Simpson had high heels on that night, and he shook his head **NO** and stated, ***"I can't recall HONESTLY."*** Deputy McCubbin answered this question **HONESTLY** when he admitted that he couldn't recall what kind of shoes I had on, yet in the perjury, arrest warrant he stated he **REMEMBERED** that I did not have said shoes on. How can he state he can't recall if I had heels on but then turn around and say he **REMEMBERED** I didn't have said shoes on? How could judge Kelly, who was at this hearing and heard the numerous **LIES** McCubbin testified about my shoes ect., ever sign a perjury, arrest warrant.
6. **At 1:28:47 on the video,** When asked, a similar question, is it your testimony using **YOUR** protocol, **YOUR** habit, If they had heels on, and they want to take them off, that

you would ask them to take them off and he replied **"Typically I ALWAYS do, YES."** You can't use **TYPICALLY** and **ALWAYS** together since they have complete opposite meanings. He may typically, always say yes, but does that mean that it's true?? As in McCubbin's case, I can say without a doubt that what he says is not always true.

7. **At 1:30:18 on the video**, my attorney said you don't recall what shoes Ms. Simpson was wearing, is that true? Once more, he said, **"That is True."**

16. **At 39:35 in the video**, Deputy McCubbin said I was on the side of the road doing the FSTs on **concrete**. This is another **LIE!!** I was on the side of highway 245 or New Shepherdsville Road in Bardstown which is asphalt. He **LIED AGAIN**, when asked if there was any **loose gravel**, he once again, said, **"No, it was concrete."** When asked if there were any **loose rocks**, he said, **"There may have been a rock there, I'm not sure."** Then he said something else that I could not understand. Gravel is a type of rock, so this is a nonsense. This backs up what I said in the document entitled, **"DUI Case Details,"** and proves I was telling the truth when I said that I had a hard time performing the FSTs because of numerous rocks on the side of the road.

17. Deputy McCubbin **LIED** and perjured himself, once again, when he made at least 17 different statements about the PBTs/breathalyzers he gave me.

DEPUTY MCCUBBIN TESTIFIED:

1. **At 43:17 in the video**, when asked how many times did he attempt the PBT he said, **"I believe we did it twice, because she said I didn't give it to her."** He went on to say, **"She said I didn't show her the results, and she wanted to see the results, so I did it a 2nd time so she could see the results."** When asked if he thought he did it twice, Deputy McCubbin responded, **"I did, I did it twice."** When asked if he could have done it more than twice, he hesitated and said, **"I don't think so."**
2. **SMOKING GUN!! At 43:46 in the video**, When asked when he gives a PBT test was it fair to say you don't always give the results, he **IMMEDIATELY** chimed in before the question was completely finished and stated, **"LIKE IF SOME BLOWS ZEROS, IF THEY HAVEN'T HAD ALCOHOL."** He admitted that he does not give someone the breathalyzer results if they blow a zero, and they haven't had alcohol. We can draw the conclusion that this is the reason he never gave me the results of any of the 3 breathalyzers test.
3. When asked about his PBT device or when it doesn't give a reading or read correctly, he responded he **could not recall a time** when this has happened to him, but **he was sure it could happen with his PBT device**.
4. Deputy McCubbin said his PBT device has 2 readings, but he uses the reading that gives a number, yet, he told me, the night of my arrest, that his PBT device did not give a number. It only detected the presence of alcohol, and in his testimony, numerous times, he only mentions that the PBT showed the presence of alcohol instead of giving a BAC #. Why? I was told by my attorney that because of the unreliable nature of the

PBT, it is not admissible to be used against you as evidence in court, yet it was used against me at this hearing.

5. **At 45:03 in the video**, when asked was it possible the device could give a false reading, a false positive, he said, ***"He has NEVER had it give a false reading."*** Yet he contradicted himself when he previously testified that, ***"He couldn't recall a time when this has happened to him, but he was sure it could happen."***
6. **At 47:02 in the video**, Deputy McCubbin admitted that he did not change out the mouthpiece on the PBT device before my 1st and 2nd test, but that he does change it out in between different people. From my research, not changing the mouthpiece in between each test, even for the same person, could result in a false positive. Plus, with all the lies that Deputy McCubbin has told, how do we know that he truly changed out the mouthpiece in between the previous person, who may have been drinking, and myself. Once again, this could result in a false positive.
7. **At 47:15 in the video**, **SMOKING GUN!!** Deputy McCubbin was asked if it was his testimony that he **DID NOT** show me the 1st breathalyzer test, but he did show me the 2nd breathalyzer, and he said, **"YES."** **This is important because he previously said that he does not show the breathalyzer result when it reads ZERO or NO presence of alcohol. That's why he could not give me an answer when I kept asking what the results were of all 3 PBTs. However, never showed me any of the 3 results.**
8. **At 47:24 in the video**, When asked, when did you do the PBTs, Deputy McCubbin answered the 2nd time was right before then changed his answer and said right after the 2nd set field sobriety tests, and the 1st time was before the 2nd set, after she drove off and stopped again.

Why give a second field sobriety test when the 1st one clearly gave a zero or no presence of alcohol reading, and he stated that his device **NEVER** malfunctions. Plus, it is fair to say, at this point, that Deputy McCubbin **DID NOT** have probable cause to arrest me for the DUI because I clearly passed the 1st breathalyzer (he admitted that he did not give me the result which is usually because it gave a zero reading), and I passed the 1st HGN eye test that he did not recorded. However, he continued with a 2nd HGN eye test and 3 more breathalyzers to try to make the DUI charge stick. This is **HORRIBLE!!**

9. **At 48:09-49:06 in the video**, **SMOKING GUN!!** When asked did he decide to arrest and charge me with the DUI after the 1st or 2nd PBT, and he said, ***"Before, all the rest was based on her field sobriety tests."*** Before which one? **At 48:33 on the video**, when asked was it the results on the field sobriety tests, is that his testimony, of what gave him probable cause, and he said, **"YES."** **At 48:42 in the video**, when asked if there was anything else, he said, **"NO,"** and sat there shaking his head **NO**. My attorney asked, **"NO, so, just her performance on field tests?"** Once again, McCubbin shook his head **NO**, then hesitated and said, ***"Odor of alcoholic beverage, I mean everything."*** My attorney then asked, ***"Which is it? This is important."*** **At 48:56 in the video**, McCubbin stated, ***"Standardized field sobriety tests."*** My attorney next asked, ***"And odor of alcohol?"*** **At 48:59 in the video**, McCubbin was **FINALLY COAXED** by my **OWN** attorney

and said, ***“Odor of alcohol, PBT showed presence of alcohol as well and confirmed everything that I already believed.”***

I don't understand why my attorney kept trying to coax it out of Deputy McCubbin if there was anything else that gave him probable cause to arrest me by asking him the same question numerous times. When Deputy McCubbin stated at **48:33 in the video** that the field sobriety tests are what gave him probable cause to arrest me then my attorney should have moved on to another question. Plus, when Deputy McCubbin answered a question, he asserted that he understood the question since he is not hearing impaired.

It took my attorney to from 48:09 to 48:49 on the video, about 40 seconds of coaxing, for Deputy McCubbin to finally mention anything other than the field sobriety tests that gave him probable cause to arrest me. It took McCubbin from 48:09 to 48:59 on the video, for him to finally mention the PBT result also gave him probable cause. Whose side was my attorney on anyway?

10. At 49:06 on the video, McCubbin was asked if he counted the 2nd PBT when he made his decision for a probable cause to arrest. He said he didn't take the 2nd PBT into consideration because I was already under arrest at the point. WHAT? He didn't even mention that he used the 1st PBT as probable cause until my attorney coaxed it out of him. Deputy McCubbin testified numerous times that the field sobriety tests were the only thing that gave him probable cause to arrest me until my attorney coaxed more out of him which is ludicrous. Through contradicting answers, McCubbin admitted that the 1st PBT result was a ZERO, no presence of alcohol, and that's why he didn't give me the result. Now, he stated that he didn't use the 2nd PBT for probable cause. So, what that leaves us with is that McCubbin only used the field sobriety tests to decide on probable cause, and he admitted that he didn't record the 1st of HGN eye test results because he either started all over or continued the tests. **THIS IS A MESS!! Once more, it is clear to see that Deputy McCubbin did not have probable cause for a DUI arrest since he perjured himself, too many times to count, as to what gave him probable cause to arrest me. Lastly, he did not have probable cause to even pull me over for speeding since he perjured himself, at least 6 times, regarding where my car was positioned compared to the other cars on the road.**

11. At 49:29 on the video, McCubbin was asked why he didn't arrest me after the 1st PBT and he answered, ***“Because I wanted to see how she performed on the field sobriety tests.”*** Then he was asked if after doing HGN once, you smelled alcoholic beverage twice, and a positive PBT and you felt like you didn't have probable cause at this point? Deputy McCubbin stated he wanted to do all field sobriety tests and decide after doing these tests because he didn't get to finish his investigation the 1st time. This is another **LIE** since I apparently passed the first PBT, and the first HGN that he failed to record. Plus, Deputy McCubbin said it was all good as if I was free to go. He was just trying to make something stick since I passed the 1st PBT and the 1st HGN eye test.

12. At 50:28 on the video, McCubbin stated he made his decision on probable cause arrest after completing **2 field sobriety tests** and not before and McCubbin answered, ***“YES?”***

13. After 1:25:23 on the video, McCubbin was asked how many PBT tests did you give me, and he stated something **totally different** this time. He said, ***"I only recall 2, I may have given her one while she was sitting in her vehicle. I don't recall that. I only recall 2."*** When asked if both of those indicated she was under the influence, and he said, **"YES."** So, he admitted that he may have done a **3rd breathalyzer**, which he did. If so, then what was the result, and did he change out the mouthpiece? Why do 2 or even 3 breathalyzers?
14. Deputy McCubbin was asked if at any time during the PBT tests did he believe it wasn't working and once more he said, **"NO, NEVER, it showed a presence of alcohol every time I did it."** We know what McCubbin means when he says **NEVER** or **ALWAYS**.
15. After 1:30:18 on the video, McCubbin was asked why he did more than one PBT? Is one not enough and he replied, **"Yes, it is."**
16. When asked, do you always let your arrests see the PBT? McCubbin said, **"No, but she was pretty upset that I didn't let her see the results, so I had her blow into the PBT again."** Again, this is untrue. I simply asked what the results were of the 3 breathalyzers, and why he was giving me so many, but he never showed me.
17. Next McCubbin was asked if he let other people that he was arresting or that are upset and not able to see the results, see the results and he answered, **"Nuh, huh, not that I can recall."**

18. Deputy McCubbin said he was facing me the entire time I was doing the field tests which is untrue. He was standing to my righthand side the entire time.

19. When asked if he performed a search on my vehicle after he arrested me, McCubbin shook his head and said, **"NO."**

20. When asked if he had any knowledge of other officers performing a search on my vehicle, McCubbin, once again, said, **"NO."** This is **UNTRUE** considering there were 2 officers with my car after he took me to the jail, and my gun was stolen out of my purse. Plus, they had plenty of time to illegally search my car before the tow truck showed up.

21. McCubbin was asked if he looked in my car before he arrested me, and he said he glanced to see if I had any open containers, and that he did not search my vehicle by any means.

22. When asked did he see any open containers, McCubbin shook his head **NO**. So, where did the smell of the alcoholic beverage come from at 2 different times?

ISSUES WITH MY ATTORNEY'S CLOSING STATEMENT:

1. He stated that for the stop there was probable cause because of the speeding and changing lanes. However, I never agreed to him saying this because it was untrue, and it was never discussed with me. I could not hear everything that was said at this hearing due to being hearing impaired and wearing hearing aids. However, if my attorney had truly listened to Deputy McCubbin's testimony he would have seen and been able to prove that Deputy McCubbin **DID NOT** have probable cause to pull me over considering he perjured himself **AT LEAST 6 times** when he lied about the position of the cars around us and the reason why he pulled me over for speeding. I know Deputy McCubbin was hiding and pulled me over because it was 10:30 pm on a Friday night and not because I was speeding. If speeding were the issue, then why didn't he pull over the 1-2 cars he stated was in front of me that would have been going faster than I was?

2. My attorney said the main issue was the probable cause to arrest Ms. Simpson for the DUI charge was based on Deputy McCubbin's testimony regarding the presence of alcoholic beverage, the HGN which he performed twice but didn't record results of one test, the other 2 field sobriety tests. He didn't poke holes in any of these points as discussed above, nor did he mention the numerous times Deputy McCubbin's perjured himself.

3. He stated there was conflicting stories, and he certainly did not believe that Deputy McCubbin was lying about anything but when enough time passes where he has had similar interactions in the past 9 months, 100s of traffic stops and a 10-15 DUI stops, much of his testimony was, ***"I don't recall specifically doing that"*** My attorney should have written down all of Deputy McCubbin's numerous **LIES** and brought it to the judges attention to show how unreliable he is. There were so many discrepancies in Deputy McCubbin's testimony that it would not be far-fetched to say that he was lying, and he did not have probable cause to pull me over nor to arrest me.

4. My attorney mentioned that Deputy McCubbin did not have probable cause because of my hearing issues, issues with the high heels I was wearing, and me driving off was miscommunication, no open container, 1 HGN not recorded, the 2 FSTs were not good tests (but never said why they weren't good tests), conflicting info on the PBT results and how many times he conducted it. Once again, my attorney should have stated all the discrepancies or **LIES** in Deputy McCubbin's testimony to show how unreliable he is.

5. It is evident that my attorney did not thoroughly review all the facts, documents, and videos in this case. If he had, I possibly would not have a DUI conviction or the issues with the perjury charge as well. My attorney told me at our first appointment that he would hire 2 experts in this case, one was a toxicology expert and one was an expert on the breathalyzer used at the jail. Plus, he had a whole defense set up on how the radar detectors aren't reliable, yet, when I asked about these 2 experts, he said that if he hired these 2 experts that the plaintiff would then know our defense, and then they

could prepare their own defense based on that. My attorney said we don't want them to do that, so he decided not to hire them. This comment did not make sense to me the more I thought about it, but he is supposed to have my best interest at heart, so I took his word for it that he knew what he was doing as a legal professional. At the first meeting with my attorney, he seemed confident about going to trial. However, when it came time for my case to go to trial, he didn't seem so confident, and it was almost as if was trying to talk me out of going to trial. Plus, he said if I did testify again at the trial about the black high heeled shoes that I wore the night of my DUI arrested then I could possibly have a 2nd perjury charge on my record, and I may have to spend an unknown amount of time in the horrific, Nelson County jail that I have nightmares about and possibly go to prison. My attorney said the judge could have the perjury, arrest warrant sitting next to him and sign it as soon as I testified about the shoes. Then, they could take me to jail immediately after the trial. I was terrified at the thought of this, so I was bullied into taking the Alford Plea when I am innocent. I have conversations recorded with my attorney as proof of the issued mentioned. I could have paid an attorney in town \$750 or less to take a plea deal. However, I paid my attorney much more because we were supposed to take this case to trial. I realize that there are no guarantees when dealing with a jury, but with the inconsistencies in Deputy McCubbin's testimony, I would have been confident that we could have won at trial. Because of ineffective counsel, I was bullied into taking a plea deal when I am innocent. Now I will have a DUI on my criminal record for **10 years** that will prevent me from working in pharmaceutical or medical sales in which I drive a company vehicle. Plus, I have already lost one job due to just being charged with a DUI.

ISSUES WITH ASSISTANT COUNTY ATTORNEY'S CLOSING STATEMENT:

1. In her closing statement, she said that Deputy McCubbin had probable cause to stop and arrest me because I was speeding, and radar showed this, and I didn't use my turn signal. She stated that he had probable cause for the DUI arrest because he smelled the presence of alcohol, he tried to do other tests, HGNs it didn't matter how many times because what all tests showed was the presence of alcohol on Ms. Simpson. I showed positive indicators of alcohol, the PBT itself and **every time he did it, it ALWAYS** showed the presence of alcohol. We know from Deputy McCubbin's testimony that the PBT did not **ALWAYS** show the presence of alcohol and with his conflicting testimony we can conclude that the tests showed zero or no presence of alcohol. I was bullied into taking a plea deal not only because of ineffective counsel but due to an ineffective judge who failed to fully review all the facts in the case.

ISSUES WITH JUDGE'S RULING:

1. Judge Kelly was very brief in his ruling, and it was evident that he did not listen to Deputy McCubbin's contradictory testimony, **LIES**, because he ruled that he had probable cause to pull me over and to arrest me based on me speeding, changing lanes, and he smelled alcohol, I failed the HGN and PBTs and FSTs showed presence of alcohol. However, he failed to address the numerous **LIES** in Deputy McCubbin's testimony. We should have won at this hearing and the DUI and other charges should have been dismissed. I was bullied into taking a plea deal not only because of ineffective counsel and a corrupt assistant, county attorney but due to a corrupt judge who failed to fully review all the facts in this case. Instead, he sided with Deputy McCubbin simply because he is a Deputy.