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CRIME & COURTS

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Judge won't dismiss fatal accident case

By Martha Bellisle
RENO GAZETTE-JOURNAL

3/6/03

A Washoe District judge refused Wednesday to throw out a case against a Reno woman accused of having marijuana in her system when she allegedly caused a crash that killed a motorcycle officer last fall.

But while prosecutors prepare to take Anna Marie Jackson to trial, a Clark County District judge has granted a new trial for a Las Vegas woman who is in prison for the same crime, saying the Nevada statute used to convict her is flawed.

The law fails to identify one of the marijuana-related chemicals as an illegal substance, the Clark County judge said.

Prosecutors there plan to appeal, so the precedent-setting case of Jessica Williams, a 23-year-old former Las Vegas stripper who had tested positive for marijuana when she ran her car into six teenagers in 2000, appears again to be headed to the Nevada Supreme Court.

According to Reno police, Jackson, 25, also had marijuana in her blood when she pulled out of a business driveway on Sept. 26 and into the path of Officer Mike Scofield, 55, who was on his way to an accident.

Scofield, a 25-year veteran on the force, died instantly when his motorcycle slammed into Jack-



Trial: Anna Marie Jackson, 25, is accused in the crash that killed a Reno traffic officer.

Washoe Sheriff's Office

son's Toyota 4-Runner on Mill Street. Jackson faces up to 20 years in prison on the single felony count of driving while having a illegal amount of a prohibited substance in her blood, causing death. Washoe District Judge Janet Berry set trial for June 23.

Jackson's blood contained 3 nanograms of marijuana's active ingredient, tetrahydrocannabinol, or THC, and 18 nanograms of a marijuana metabolite, according to police tests taken shortly after the crash.

Nevada statutes prohibit drivers from having more than 2 nanograms of THC and/or more than 5 nanograms of marijuana metabolite in their system.

It's the metabolite limit in the law that landed Williams of Las Vegas a new trial.

Dr. William Anderson, chief toxicologist with the Washoe County crime lab, said a metabolite occurs when the body takes in a drug and turns it into something else.

"Metabolite is a product that results from the body taking ac-

tions against a drug or some chemical," he said. "The body tries to get rid of it, to convert it into something more readily excreted."

In a post-conviction motion filed last month, Williams' lawyers argued that while THC is a prohibited substance, the metabolite, or carboxylic acid, is not.

"She was charged alternatively (with) unlawful conduct and lawful conduct," said Ellen Bezian, one of Williams' lawyers, adding only the THC is illegal.

In his Feb. 25 ruling, Clark County District Judge Michael Douglas agreed.

When legislators changed the law in 1999, they did not specify that carboxylic acid was a prohibited substance, Douglas said. And since the jury did not specify which of the chemicals was in Williams' blood, he had to grant a new trial.

Chief Deputy District Attorney Gary Booker, the Clark County prosecutor on the Williams case, said he disagrees with the judge's ruling and plans to appeal.

Booker said other prosecutors in the state might want to put similar cases on hold until the appeal is resolved.

But Washoe County Deputy District Attorney Bruce Hahn said Tuesday that the Clark County ruling won't change his plans for Jackson's trial.

"I don't see any reason to do that," Hahn said. "Until the Supreme Court tells us something different, this is the way it is. And there's no guarantee they're going to tell us something different."

Walter Fey, one of Jackson's lawyers, said he had not read the Clark County judge's ruling, but they planned to monitor the appeal.

Fey had argued Tuesday that Jackson's case should be thrown out for a different reason. He said there was no way to show whether Jackson actually was impaired by allegedly having the marijuana or the metabolite in her blood.

But Judge Berry said the Nevada Supreme Court already ruled on that argument when they took on the Williams case the first time.

The court found that the Nevada Legislature was correct when it rejected arguments that the driver must be impaired to be prosecuted. The justices said they agreed with prosecutors who said the law "is rationally related to the state's interest in highway safety and in deterring illicit drug use."

Berry said she was in no position to challenge the statute.

"It's not appropriate for the court to legislate," Berry said.

"Williams is the law in the state of Nevada," she added, because the case was used to set the precedent concerning impairment for this statute.

ASSEMBLY JUDICIARY

DATE: 3/31/03 ROOM: 3138 EXHIBIT H

SUBMITTED BY: Laurel Stadler