

## Sample Case Brief

**Style:** State (Montana) v. Mark Larson

Montana Supreme Court 2004

**Issues:** A) Whether Montana's criminal negligence jury instruction must include the phrase "consciously disregards" in describing the defendant's treatment of the risk of causing the death of another.

B) Whether the state offered sufficient proof of defendant's alcohol impairment

**Holding:** A) Even though Montana's criminal negligence statute uses the phrase "consciously disregards" in describing the defendant's treatment of the risk of causing the death of another, the court's jury instruction adequately defined criminal negligence without using the modifier "consciously" before disregards because the focus of the definition is not the defendant's mental state, but whether the defendant grossly deviated from a reasonable standard of care. Thus the question becomes about defendant's conduct not his state of mind. The court observed that driving while intoxicated in excess of the speed limit is a gross deviation from the standard of care.

B) The court held the state provided sufficient evidence of defendant's alcohol impairment to support his conviction for negligent homicide and driving under the influence.

**Rules:** A) Defendant's state of mind is not at issue in a negligent homicide case; instead, the standard is whether defendant's conduct manifests "a gross deviation from a reasonable standard of care."

B) Where the state provides sufficient evidence of defendant's intoxication, and defendant has an opportunity to present mitigating factors, the court will not disturb the jury's preference of the state's argument and rejection of the defendant's argument.

**Reasoning:** A) Precedent held that mental state is not at issue in negligent homicide case (*State v. Gould*); precedent held that criminal negligence can arise from intoxication. Negligent homicide differs from "deliberate" homicide in that the defendant's state of mind is at issue with deliberate homicide. There defendant must purposefully or knowingly kill another. Because state of mind is not at issue in a negligent homicide case, instruction that omits "consciously" as a modifier to disregards does not fail to adequately instruct jury on definition of negligent homicide.

B) Defendant had argued that the state did not meet its burden of proof on intoxication as the cause of the accident because defendant cited a different cause, thereby rebutting the state's argument. Court noted that it need not "know precisely why or how jury reached its decision," it was concerned with only whether sufficient evidence to convict existed.

**Facts:**

- Defendant and two friends were drinking in defendant's vehicle and various bars and residences.
- 3:30 am defendant drove his vehicle at a high rate of speed down a road
- Defendant veered off the right side of the road, then overcorrected and veered left, sending vehicle into ditch on the left side of the highway
- Vehicle flipped several times, ejecting defendant and two passengers
- Apparently, at least one of the passengers was killed
- Defendant's blood alcohol measured .12% 3 hours after accident (Legal limit .08%); elsewhere in case concentration noted and .12% 2 hours after the accident and 4 hours after defendant stopped drinking
- State's expert testified that alcohol impairs an individual's ability to drive.

**Words to Define**

Mens Rea: a guilty mind; criminal intent

Negligent: failure to do that which a reasonable person would do under similar Circumstances

Jury instruction: Judge's statement of the law applicable to a case, which the jury is bound to accept and apply