

# Nelson & Dahle, P.C.

316 North 26th Street Billings, Montana 59101 p: 406.867.7000

## DISTRICT COURT

Dahlin v. Stevenson, Judith Basin DV-99-17, 5/9/2001

VERDICT: Defense, serving of alcohol to under-age guest, single-vehicle accident, T-12 burst fracture.

An 8-4 Stanford jury found that Rick & Sara Stevenson did not fail to make a reasonable attempt to determine Dale Dahlin's age before serving him alcohol and that they did not serve him when he was visibly intoxicated.

On 9/30/97, Dahlin, 20, stopped by Stevensons' ranch to pick up a pay advance from his employer Rod Mikkelson, who was at the ranch borrowing a cattle scale. Dahlin had allegedly earlier told Mikkelson's wife that "I'm gonna get drunk tonight." After obtaining a \$50 check he stayed and visited with Mikkelson and Stevensons until either 12 a.m. or 3 a.m. All were drinking.

Stevensons provided the alcohol. They had seen Dahlin drinking in local bars prior to that day and assumed that he was 21. Dahlin did not tell them that he was under 21. Mikkelson knew that he was under 21, but said nothing. Dahlin became ill in the bathroom from heavy drinking but did not tell anyone, and admitted that he tried to conceal his intoxication from Stevensons and Mikkelson.

He left Stevensons' residence, drove a very old, run-down pickup at least 75 mph on a 55 mph road, and had a serious single-vehicle accident. At 4 a.m. his BAC was 139. Patrolman Mantooth testified that some people would be showing visible signs of intoxication and some would not.

Dahlin suffered a burst fracture at T-12. He underwent fusion and rod insertion the day after the accident and had the rod removed 2 years later. He suffered paraparesis with neurogenic bowel and bladder for a month, underwent 8 months of rehab, is restricted to light work, and will have permanent back pain for the rest of his life.

He is now pursuing a music career, for which his doctors said he has no restrictions. He incurred \$85,000 medicals. His parents David Dahlin and Kathy Henderson claimed severe emotional distress.

Dahlin asserted that the standard under §27-1-710 was strict liability. Stevensons asserted that it is a negligence standard and that the imbibing driver is subject to a defense of comparative fault. Judge Warner held that the statute sounds in negligence and that comparative fault may be asserted. He held that what constitutes a "reasonable attempt" under the statute is a fact question for the jury, denying Dahlin's summary judgment motion. He held that Dahlin's prior drinking and prior drinking & driving citations were inadmissible.

No experts.

Demand, not known; offer, \$0. Jury request, \$235,000 at discretion; jury suggestion, \$100,000 for Dale, \$700 for each parent.

Jury deliberated 1 hour 45 minutes 2nd day.

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David McLean (Knight, Dahood, McLean & Everett), Anaconda, for Dahlins; Randall Nelson, Billings, for Stevensons (Mountain West Farm Bureau Mutual Ins.).