



[SunHerald.com](#) | [News](#) | [Business](#) | [Sports](#) | [Entertainment](#) | [Living](#) | [Classifieds](#) | [Jobs](#) | [Cars](#) | [Homes](#)

Sun Herald, The (Biloxi, MS)

1996-06-27

Section: FRONT

Page: A1

EVIDENCE PROBLEM SCUTTLES DUI TRIAL, FOR NOW STATE PLANS TO RETRY BLENDEN CASE LATER

*Greg Lacour
The Sun Herald*

Prosecutors have already spent 17 months and thousands of dollars to try Brandon Corey Blenden for causing a child's death while driving drunk. Now they'll have to try the case again.

After prosecutors failed to present evidence on part of a test of Blenden's blood, and a state witness offered testimony that seemed contradictory, Circuit Court Judge John H. Whitfield declared a mistrial Wednesday. A mistrial is a trial rendered invalid because of error by the court or attorneys, a deadlocked jury or other extraordinary events. The Blenden case can, and probably will, be tried again later.

After three solid days of testimony, Whitfield wasn't happy about the mistrial. "This case should have been over today," he said in his office afterward.

Blenden is accused of causing the death of 4-year-old Whitney Lee by driving drunk on the evening of Jan. 29, 1995. Blenden, 19, rammed a pickup truck into the back of Ann Lee's car.

Whitney, Ann's daughter, was in the back of the car and suffered a skull fracture, brain damage and other injuries. She died two days after the accident.

Ann Lee and her husband, Jack, left the courtroom quickly after the judge's ruling, but stopped briefly to talk. "I understand his decision," she said, her voice shaking. "It's just very hard to know we have to do this all over again. It's just really tearing us apart."

The thickness of blood

The Blenden trial was one of the more eagerly anticipated in recent memory on the Coast.

The elements of high drama existed, and played themselves out in the courtroom: a child allegedly killed by a drunk driver in a state trying to toughen DUI laws; a mother galvanized by her daughter's death into a crusade for those laws; and a defendant barely out of boyhood.

The trial proceeded with surprising smoothness until Wednesday, when the prosecution's case began to sputter. What stalled it was testimony by representatives of the Mississippi Crime Laboratory in Jackson, which on Feb. 16, 1995, analyzed a sample of Blenden's blood taken about two hours after the accident.

Sam Howell is the supervisor of the crime lab's toxicology department, which tests blood samples

for the presence of alcohol or drugs. He testified Wednesday that the sample of Blenden's blood the crime lab tested had an alcohol content of .15, well above the point at which someone is legally drunk.

But Howell also testified that blood tests are measured for accuracy against a gauge that contains water samples with differing concentrations of alcohol. Neither Howell nor Archie Meashan Hales, who helped run the blood test, could testify who prepared the gauge or whether it was done properly.

The next time

That absence of evidence, said defense attorney **Wayne Woodall**, casts the accuracy of the blood test into doubt.

``There was no way (the state) could prove the test was properly done," **Woodall** said after the judge's ruling. ``If (the judge) throws out the test results, the case falls too ... (Blenden) is entitled to know the test was conducted under valid scientific procedures and according to law."

Also, Hales testified that he had compared Blenden's blood sample with only one alcohol concentration in the gauge, when crime lab procedure requires testing the sample against at least two different concentrations.

Members of the Harrison County District Attorney's Office, which prosecuted the case, had little to say after the judge's decision. Assistant District Attorney and chief prosecutor Charlie Wood smiled wanly and referred all questions to his boss, District Attorney Cono Caranna.

``The judge has made his ruling," Caranna said. ``At this point, we're just getting ready for the next trial. That's it." Asked to explain the problem on the blood test, Caranna said: ``I'm not going to get into that."

In declaring the mistrial, Whitfield said the court would try to set a new trial date within 90 days, but that it could be later depending on how extensively the media cover the case in the coming weeks.

If coverage is extensive enough to taint a jury pool, the trial could be moved to DeSoto, Hinds or Jefferson Davis County.