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MAN CLEARED IN CARNIVAL DEATH STATE FAILS TO PROVE LEVEL OF INTOXICATION

BRAD BRANAN / THE SUN HERALD

GULFPORT --- A Gulfport man was cleared Tuesday of a charge of killing a motorist while driving drunk, even though he was legally intoxicated after the crash.

After the prosecution rested its case against Robert Judson Doss, Judge Jerry O. Terry granted a request by the defense to throw out the case because the state didn't prove how drunk he was when he hit a truck occupied by Brian Mann. Doss hit and killed Mann in Henderson Point after the 1995 Pass Christian Carnival parade. Doss' blood-alcohol level was twice the legal limit, but it was tested about two hours after the crash. Doss admits that he lost control of his car on the westbound lane of U.S. 90, hit the median, then hit Mann's truck in the eastbound lane. The truck burned, leaving the 24-year-old Mann charred and dead from smoke inhalation, according to Harrison County Coroner Gary Hargrove, who testified Tuesday.

But Doss' attorney, **Wayne Woodall**, perhaps the Coast's best-known DUI attorney, said during his opening arguments that he planned to attack the state's method for determining how much alcohol Doss had in his system when he hit Mann.

Doss' blood was drawn for testing at a Hancock County hospital. According to the State Crime Lab, Doss registered a blood-alcohol level of .21, more than twice the legal limit for drivers in Mississippi.

But **Woodall** argued that the state had to prove how much alcohol was in his blood at the time of accident. Alcohol first goes to the stomach, where it has less of an influence, before it is absorbed by the blood system, he said. He planned to have an expert witness testify that Doss' blood-alcohol level might have been below the legal limit during the crash.

But **Woodall** said he realized he didn't have to call the expert after the state rested its case. Prosecutor Beau Stewart never asked Sam Howell of the State Crime Lab to estimate how much alcohol Doss might have had in his system during the crash.

Toxicologists from the State Crime Lab have testified in other trials that blood-alcohol levels go down when defendants stop drinking. According to that theory, Doss would have been drunker at the time of the accident.

Stewart could not be reached to comment about why he didn't ask the toxicologist to come up with an estimate.

Law enforcement officials, a medical technician and a witness to the accident testified that they smelled alcohol on Doss' breath and noticed glassy eyes and slurred speech.

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