

Spotlight On: Dominic F. Andriacchi, Jr.



Please tell us about your background, where you practice, and what drew you to practice criminal law.

My father is an attorney, and my mother is his secretary, in Ishpeming, which is in Marquette County in the Upper Peninsula. My parents say that a week after I was born, I was in the law office with them. Before law school, my background was the opposite of law. Throughout high school and college, I played football and was interested in weight lifting and sports. I went to college to be a physical education teacher and student taught in a couple of inner-city, at-risk schools in Kenosha, Wisconsin.

I graduated from college in 2009. After graduating, I decided to take the LSAT and go to Cooley in Auburn Hills. I volunteered at SADO when SADO needed help with the Detroit Crime Lab analysis. After graduating, I moved back home to practice in Marquette County, although I have cases throughout the Upper Peninsula.

My father primarily practices criminal defense, so that's what I started with. Criminal defense sucked me in because I see the Government committing a lot of injustice against citizens. That gets me fired up, and I think, "If I don't stand up against it, then who?"

Please tell us about one of your interesting cases. What were the theories of the parties?

One of my more interesting cases was a recent OWI, OWVI, and OWPD (THC) trial I had. Essentially, my client was a designated driver for his father and brothers. They went bar hopping over 7-8 hours. My client had a drink or two.

On the way home, they went to the family camp where my client did donuts with the car (drive in circles). After that, on the road, the tire went flat, and they went in the ditch. While they were waiting for a ride, my client had a couple more drinks because he could no longer drive. That's when the deputy showed up. The deputy saw a beer can, asked for the driver, had my client perform SFSTs,

arrested my client based on a .11 PBT and SFSTs, and found marijuana in a cigarette pack.

Our theory was that: (a) the deputy thought it was an easy OWI and thus saw what he wanted to see; (b) that my client drank after going in the ditch; and (c) the THC result (1 ng/mL) could have been "not detected" if the uncertainty was factored in.

The Government's theory was that my client had more to drink than he thought and even though it was 1 ng/mL, that's enough.

Were experts involved in the case?

Yes. They had two MSP forensic scientists: one for blood alcohol (.14), and one for the THC. I used the blood-alcohol scientist to talk about uncertainty rates, how they work, why knowing them is important, and that the scientist could not testify to what my client's blood alcohol level was at when he last drove.

I used the THC scientist to say what the uncertainty rate was, that THC-COOH is not "active" (the trial judge denied my motion to exclude it), and that it was within the uncertainty for the THC result to come in under 1 ng. Finally, if it was under 1 ng, the THC wouldn't even show up on the results.

The jury found my client not guilty on all counts.

What changes would you like to see in Michigan's criminal jurisprudence?

First, prosecutors should be held accountable when they overcharge. They load up on bogus charges to force a plea. I have no idea how that would work or what that would look like. But it's a change I'd like to see.

Second, we need case law that says a prosecutor cannot withdraw a plea offer just because a prelim or motion is heard. That is simply penalizing a person for enforcing their constitutional rights.

What are some things you find helpful to your practice?

Without a doubt, SADO's and CDAM's continuing-education materials are essential. For technology: a Dropbox or other cloud-storage account; an iPad; a Fujitsu ScanSnap scanner;

Evernote for task management; and Westlaw for research.

What advice do you have for lawyers new to the practice of criminal law?

First, be humble. The quickest way to getting better or learning is admitting you don't know and that you have room for improvement.

Second, care about what you're doing and who you're helping. You'll work harder and be more persuasive.

Third, join SADO and CDAM and go to as many conferences as you can. Trial College is a must. We

have some of the best trial attorneys in the US here. You'll find them at those conferences. If you can go to Trial Lawyer's College, do it. It's a life-changing experience.

Finally, some books: *Extreme Ownership* by Jocko Willink; *Getting Things Done* by David Allen; and *Letters from a Stoic* by Seneca. They will all help beyond lawyering.

Mr. Andriacchi's website: <http://andriacchilaw.com/>

***by Neil Leithauser
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