

[5/6/05 - 12:57] This morning's Appellate Division decision in *State v. Bealor* provides some important clarifications related to the prosecution of driving while under the influence of marijuana under NJSA 39:4-50(a). The defendant in this case was stopped by troopers as a result of weaving. Evidence at the scene of the stop strongly suggested recent consumption of both alcohol and marijuana. At the State Police barracks, the defendant became increasingly abusive and out-of-control. A urine sample taken from defendant's body revealed the presence of the metabolite that is found in marijuana. The defendant was convicted in both municipal court and Superior Court on appeal.

The Appellate division reversed the conviction today on the basis that the State never established through expert testimony or specialized lay witness testimony that the defendant was under the influence of marijuana at the time he was operating his motor vehicle. The Court also declined to formulate a pre se rule that would hold that the mere presence of the marijuana metabolite in a defendant's urine is sufficient evidence to find him guilty of being under the influence of marijuana while driving.

A copy of *State v. bealor* is attached to this muni-mail.

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