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Milwaukee County Sheriff's Office **NEWS RELEASE**



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WI Supreme Court Rules on Wrong Way Drunken Driver Case Salas-Gayton struck and killed Corrie Damske

Milwaukee, WI – Earlier today, in *State of Wisconsin v. Leopoldo R. Salas-Gayton, 2013AP646-CR*, the Wisconsin Supreme Court upheld the conviction of Leopoldo R. Salas-Gayton.

Salas-Gayton was convicted on one count of homicide by intoxicated use of a vehicle and one count of operating a motor vehicle without a license – causing death in a Sheriff's Office investigation into the January 1, 2011, killing of 34-year-old Corrie Damske. Salas-Gayton, then age 41, admitted to drinking at least 12 beers before driving the wrong way in the westbound lanes of I-94 in Milwaukee, striking and killing Damske head-on at approximately 7:20 a.m. near 20th Street. A blood draw showed that Salas-Gayton's BAC was 0.145. Salas-Gayton informed MCSO deputy sheriffs and detectives that he had immigrated to the United States illegally from Mexico 13 years ago, and that he was not an American citizen.

At Salas-Gayton's sentencing hearing, Milwaukee Circuit Court Judge Dennis R. Cimpl referenced Salas-Gayton's illegal entry into the United States, "*The fact that you're an illegal alien . . . goes to character. It's a minor character flaw very honestly.*" Later, the court added, "*Although you're here illegally, it's a factor, a minor factor, but it goes to your character.*" Later, Judge Cimpl noted that Salas-Gayton's immigration status was relevant to his conviction for causing a death while operating a motor vehicle without a license, as it directly affected his ability to secure such a license. The court ultimately sentenced Salas-Gayton to the maximum term of 15 years and another seven years of extended supervision. The court also imposed a concurrent nine-month jail term on the count of driving without a license.

Ultimately, those sentencing comments formed the basis of an appeal to the Wisconsin Supreme Court, in which Salas-Gayton argued that the sentencing court erroneously exercised its discretion by considering his immigration status at sentencing.

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In her ruling at the appellate level, Appeals Judge Ellen Brostrum found, in upholding the conviction, that Salas-Gayton's "willingness to violate this country's immigration laws was a reflection of his character," adding that, "as the circuit court also opined, it was nowhere near dispositive."

In countering the appeal, the State argued that "barring a court from ever mentioning or considering a defendant's immigration status would be inconsistent with the longstanding principles favoring circuit courts having access to as much information as possible when sentencing a defendant. According to the State, a defendant's immigration status or the fact that a defendant immigrated to the United States illegally can be relevant to the conduct for which a court imposes a sentence."

In their ruling, the court found that Judge Cimpl's mention of Salas-Gayton's immigration status was a minor factor and that the circuit court's comments did not demonstrate reliance on any improper factor at sentencing, and thus did not deny Salas-Gayton due process.

The Supreme Court found that the circuit court had, properly, "placed an overwhelming emphasis on the perils of drunk driving...impos(ing) sentence on a person who, without knowing what he was doing, drunkenly drove in the wrong direction on a major freeway and caused a tragic, fatal collision, the court made clear its objective, explaining that if it "had one wish," it would be that the publicity surrounding the case would reinforce in the public's mind that if "you drive drunk—first time, second time, third time, fourth time, fifth time—you go to prison." Expanding on that objective, the circuit court added its hope that "everybody in this community thinks, pauses, before getting behind a wheel after drinking."

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