

FLORIDA SUPREME COURT

Goodman again asks justices to reject blood-drawing rules

By Daphne Duret
Palm Beach Post Staff Writer



John Goodman was convicted twice in a DUI death.

A Florida Supreme Court fight over blood samples in John Goodman's DUI manslaughter case continued this week, as lawyers for the imprisoned polo club founder again have asked the high court to reverse an appellate court ruling and declare a state agency's blood-drawing rules invalid.

In a 21-page brief filed Tuesday, Goodman's attorneys said both Florida's 4th District Court of Appeal and Florida Attorney General Pam Bondi's office have either ignored or failed to answer key arguments Goodman has raised over issues such as the size of the needles used in blood draws, the uses of tourniquets and screening to eliminate bad samples.

The response comes nearly eight months after the appellate court rejected Goodman's appeal, but asked Florida's Supreme Court to rule on whether the Florida Department of Law Enforcement's current rules failed to sufficiently regulate procedures for blood draws in cases like Goodman's, and whether they were wrong for not specifically regulating the work of analysts screening the samples.

West Palm Beach attorney **Jane Kreisler-Walsh**, argu-

ing on Goodman's behalf, wrote Tuesday that because the current rules don't outline specifics on what needle size should be used to draw blood, whether or not a tourniquet should be used and how samples are mixed, there's no way to be sure the subsequent scientific testing of the blood is valid.

She also said a lack of specific requirements on how analysts screen blood samples runs afoul of laws for testing drivers like Goodman, who was suspected — and ultimately convicted twice — of driving drunk in the Feb. 12, 2010, Wellington crash that killed Scott Patrick Wilson.

"They do not ensure reliable test results," **Kreisler-Walsh** wrote of the testing, adding: "These rules are inadequate and should be declared invalid."

After his first conviction, Goodman argued the court should throw out his case because blood test results that placed his blood-alcohol content at more than twice the level at which drivers are presumed impaired came from a blood draw where a

nurse used a smaller needle than what is normally used in such cases. Goodman's defense team argued that the too-small needle could have skewed his results higher.

Ultimately, however, his first conviction was overturned because of juror misconduct. His legal team continued its fight on the blood issue, however, and pursued a chance for another overturned conviction based on those grounds after a second jury convicted Goodman in 2014.

Goodman's legal team is also appealing his conviction on other matters in the case, specifically prosecutors' decision to release Goodman's Bentley to his insurance company after his first conviction.

In May 2016, the 4th DCA rejected Goodman's appeal based on the blood issue. But three months later, it approved a request from Goodman's legal team to ask the state's high court to review rules that dictate how blood is gathered and tested when someone is suspected of driving under the influence of alcohol.

Goodman's attorneys filed an initial brief in December, arguing that Florida rules on blood draws in cases like Goodman's are inadequate because blood-drawing procedures are insufficiently regulated, fail to outline a pro-

cess to "cure" clotted samples and don't have clear guidelines for the work of those who analyze samples.

In a response to that initial filing last month, Deputy Solicitor General Rachel Nordby wrote the current rules are adequate and notes "no other state appears to regulate needle gauge or tourniquet usage during blood draws."

Nordby also wrote that the Attorney General's Office agreed with the 4th DCA's explanation that if the FDLE tried to regulate screenings and documentation, as Goodman's attorney suggested, it "would run the risk of locking in today's current scientific methodology, preventing the evolution and improvement of the system."

In Tuesday's response, **Kreisler-Walsh** disputed Nordby's claims, saying that the regulations would instead ensure criminal defendants' right to a fair test.

"Requiring screening, documenting and rejection of unfit samples does not tell the analyst how to do his or her job," **Kreisler-Walsh** wrote. "Adding these requirements will not affect the scientific methodology, but they will ensure that a criminal defendant will know when his or her sample is clotted or otherwise irregular."

dduret@pbpost.com