

I Gotta Have A Mint

I represented a young lady who was charged with Driving While Impaired. Her case looked pretty solid for the State, but during my careful interview of her she disclosed that she had a mint during the breath testing procedure. She wasn't sure when in the process that had happened. I immediately ordered the DVD's (that are sometimes available) of her performance of the intoximeter test. Prior to receiving the DVD I discussed the case with the charging officer who was also the intoximeter operator. He told me that she had a mint but that he was certain that he waited the appropriate amount of time after that mint to continue her testing procedure (I argued that he didn't wait a long enough time, but that argument was not reached by court). I convinced the Judge that the chemical analyst had not performed the two consecutive tests on the intoximeter EC-IR that are required by Statute and the Judge suppressed her intoximeter reading. Afterwards we had a trial in which I argued that there was not enough evidence to find she was actually impaired. The judge agreed and found her not guilty.