

# Analysis: Is the case against John Goodman beatable?

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WEST PALM BEACH — The hot topic among the morning coffee crowd of lawyers near the courthouse last week was the DUI manslaughter case of Wellington polo club founder John Goodman, now on trial for the February 2010 crash that killed Scott Wilson.

Local criminal defense attorneys, prosecutors and even civil litigators have been reading news stories and sneaking peeks at live streaming broadcasts on the high-profile case since testimony began Tuesday, watching with rapt attention between their own hearings and depositions.

The consensus among South Florida attorneys from the start was that Goodman's legal team, led by famed Miami attorney Roy Black, walked into the case with serious problems.

Juries usually don't like the mix of alcohol and driving, they say. And the manslaughter charge brings with it a life cut tragically short, in this case a bright 23-year-old engineering grad on his way home to his mother.

Now, with the prosecution case virtually over and two days of defense testimony expected this week when court resumes Monday morning, defense attorneys describe the case against Goodman as challenging, but not entirely unbeatable.

"A DUI case is more subjective than, say, a murder or a bank robbery, where you can have video evidence or eyewitnesses to definitively say the person committed a crime," said Ron Herman, a former prosecutor and now a criminal defense attorney. "DUI is different because to some degree it involves opinion - how the person was acting or how they handle themselves."

In this case, Herman and others say, prosecutors Ellen Roberts and Sherri Collins had the benefit of forensic evidence in the form of Goodman's blood, drawn three hours after the crash.

The blood test revealed that Goodman had a blood-alcohol level of 0.177 percent, more than twice the level a person is legally presumed too drunk to drive, and traces of hydrocodone from a prescribed dose of Vicodin he'd been taking for back pain.

Goodman's defense has said that result did not come from heavy drinking before the crash, but rather from drinking afterward at a friend's barn to soothe the pain of his injuries.

Fort Lauderdale defense attorney David Bogenschutz, who two years ago represented former New York Yankees catcher Jim Leyritz when a jury returned a lesser verdict of simple DUI against him in a DUI manslaughter case, argued the same theory.

But in that case, Bogenschutz said, he had witnesses who could testify that they saw his client drinking after the crash. No similar evidence has been offered in Goodman's case.

Bogenschutz said that in a case like this, the International Polo Club founder's vast fortune could work against him with jurors. The fact that Goodman's \$200,000 Bentley collided with and crushed a Hyundai Sonata is a tough circumstance, even for a skilled defense attorney such as Black, he said.

"If you have a client that's that high-profile, unfortunately you're in significantly worse shape than if you're representing someone who is a middle-class, working person," Bogenschutz said.

Difficult, the attorneys say, but possible.

Before the start of the trial, local defense attorneys warned that the only way prosecutors could get into trouble with the strong case they appeared to have would be to overlay it.

Lawyers, they said, are taught never to ask one question too many - the extra question that could bring a response that makes trouble for your case.

If prosecutors ran afoul of that last week, defense attorney Jack Goldberger and other defense attorneys said, it was during the testimony of forensic toxicologist Tate Yeatman, who used Goodman's blood-alcohol level to estimate the number of drinks he'd had before the crash.

Yeatman made the calculation using the standard assumption that people metabolize one drink, or 1 ounce of alcohol, every hour. He calculated that Goodman probably had 16 to 18 drinks over the course of the night and had at least 13 ounces of alcohol in his system at the time of the crash.

Defense attorneys say the standard for metabolizing drinks is fine for experts making general statements, but Yeatman's application of that standard to Goodman specifically leaves room for his defense team to argue that Yeatman's numbers are off.