

# TRIAL DECISION TREE

March 31, 2026 Trial — Page 1 of 3: Voir Dire, Opening & State's Case

COLOR KEY: █ Favorable / Granted

█ Unfavorable / Denied

█ Neutral / Delayed

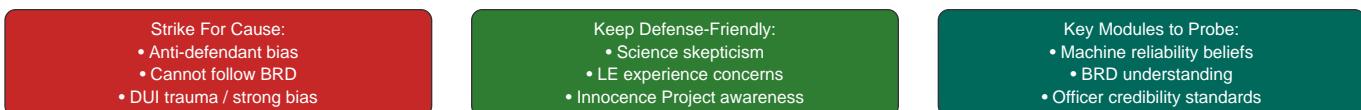
█ Action Item

█ Verdict

█ Appell



## PHASE 1: Voir Dire — Juror Selection



## PHASE 2: Opening Statement — Preview 4 Pillars



## PHASE 3: State's Case-in-Chief & Cross-Examination

### State's Evidence:



### Cross-Examination of Ernstsen — Key Lines:

- 144-sec test:** 'Was the test done properly?' — Officer admitted 'improper'
- Missing officer:** 'Why is Carpenter not in your report?' — 3.5 hrs on video
- No video proof:** '10 blocks followed, no signal violation captured on camera?'
- 24x arrest rate:** 'Your DUI arrest rate is 24 times the state average?'
- One-leg stand:** '0 out of 4 clues of impairment = perfect performance?'
- Miranda delay:** '80+ minutes before Miranda warnings were given?'

### BREATH TEST BATTLE (Central to Pillar 1)

If COBRA/Logs Produced & Show Issues → Attack with data: aborted attempts, error codes, maintenance problems

If COBRA/Logs NOT Produced → Attack with absence: State chose not to provide, undermines reliability, adverse inference

Core Arguments Regardless: 21.6L air vs 4.8L lung capacity • Single sample only • No blood draw • Protocol violations

## TRIAL DECISION TREE

March 31, 2026 Trial — Page 2 of 3: Defense Case & Closing Arguments

### PHASE 4: Defense Case

#### Call Defense Witnesses?

**NO WITNESSES**  
Rest on cross-examination and reasonable doubt from State's own evidence

**CALL CARPENTER**  
Risk: May bolster State  
Benefit: Inconsistencies with Ernstsen's account

**EXPERT WITNESS (if pursued)**  
Breath test science  
Protocol violations  
Biological impossibility

#### Defense Exhibits:

Carpenter Body-Cam  
Favorable clips showing defendant's behavior

GRAMA Data  
24x arrest rate documentation

PowerPoint Slides  
Demonstratives for 144-sec, timeline, etc.

Intoxilyzer Slip  
Timeline analysis showing anomaly

### **PHASE 5: Closing Arguments — Tie All 4 Pillars to Reasonable Doubt**

**PILLAR 1**  
Science Failed:  
Test is unreliable —  
144 sec, no 2nd sample,  
officer admitted improper

**PILLAR 2**  
Investigation Failed:  
No video of violation,  
10 blocks of footage show nothing

**PILLAR 3**  
Bias Proven:  
24x arrest rate,  
ignored perfect one-leg stand

**PILLAR 4**  
Procedures Failed:  
Miranda delay,  
missing reports,  
erased second officer

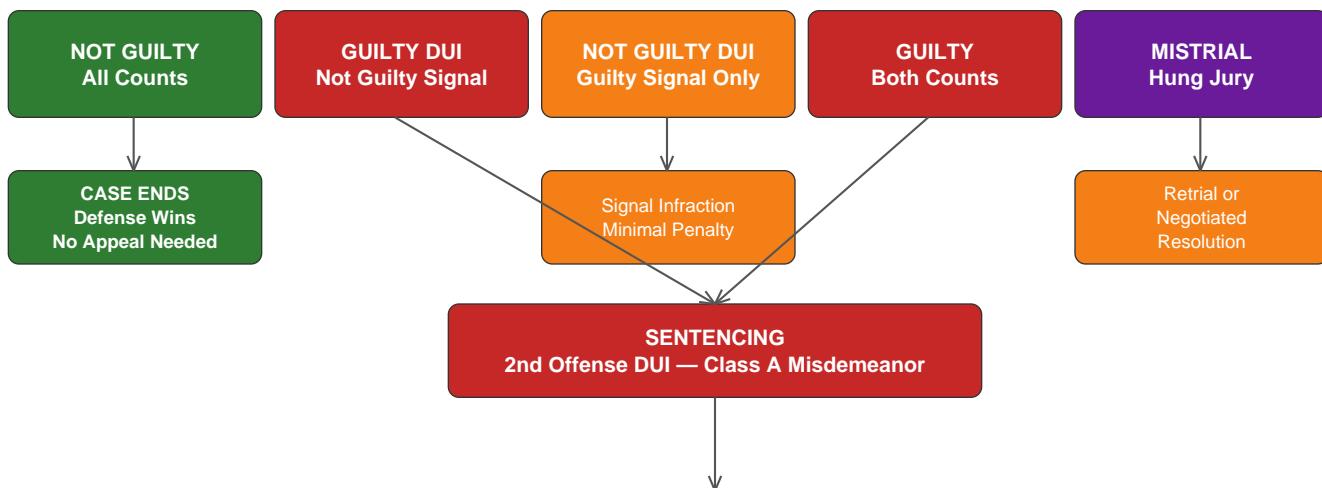
**"If ANY ONE of these doubts exists across these four pillars, you MUST acquit."**

→ Continues on Page 3: Jury Deliberation, Verdicts & Post-Trial →

## TRIAL DECISION TREE

March 31, 2026 Trial — Page 3 of 3: Verdicts, Post-Trial & Appeal

### PHASE 6: Jury Deliberation & Verdict



### POST-TRIAL MOTIONS

Motion for New Trial

Motion for Judgment  
Notwithstanding Verdict

### APPEAL TO UTAH COURT OF APPEALS

#### Preserved Appellate Issues:

- |                                      |   |
|--------------------------------------|---|
| 1. <b>Brady / Rule 16:</b>           | Carpenter discovery denial — second officer materials never produced        |
| 2. <b>Intoxilyzer Foundation:</b>    | Discovery denial — COBRA data, maintenance logs, certification reports      |
| 3. <b>Improper Jury Instruction:</b> | State's 'affirmative findings' presumption shifted burden to defense        |
| 4. <b>Miranda Violation:</b>         | 80+ minutes of custodial interrogation before warnings given                |
| 5. <b>Sufficiency of Evidence:</b>   | No video of traffic violation; stop based on officer's uncorroborated claim |
| 6. <b>404(b) / Bifurcation:</b>      | Prior conviction prejudice if bifurcation was denied                        |

**KEY: Each appellate issue must be preserved on the record at trial.**

Object at the time, state the legal basis, and ensure the court rules. Renew all objections before jury instructions are read.