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News - Local  
Thursday, Dec. 03, 2009

# Morse's DUI fatality sentence reduced to 3 years, 4 months

Son of Merced County DA had faced more than 12 years in prison

By VICTOR A. PATTON  
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After Dylan Morse was first sentenced in July, defense attorney Chris Andrian argued that the 12-year, four-month sentence for his client was grossly unfair and disproportionate when compared to similar cases in Sonoma County.

Andrian presented a similar argument Wednesday, telling Gness that an analysis of similar cases showed Morse's sentence was exorbitantly long.

He also said 2006-07 data from the California Department of Corrections and Rehabilitation indicated most people convicted of DUI crimes similar to Morse's, on average, were able to reach parole within three years.

After Wednesday's hearing, Andrian said Morse's three-year, four-month sentence was more suitable for the crime. Andrian said a more severe sentence would have left Morse "without hope."

"He was going to be in (prison) with the worst of the worst," Andrian said. "You get up to those numbers, and you're in with lifers -- people who commit violent crimes, who do it with a premeditated plan, as opposed to making an error, or doing something stupid."

Robert Waner, prosecutor in the case, left the courtroom without comment after the hearing. In court, however, Waner said whatever hardship Morse encounters in prison won't compare to his victims' pain. "While prison is a difficult road, especially for a young man, I don't think Dylan Morse would like to stand here and swap horror stories with (the victims). He'd lose," Waner said.

The night of the Feb. 14 collision, CHP investigators said the car Morse was driving, a 1998 Volvo, passed through a red light around 2:20 a.m., at the intersection of Stony Point Road and Highway 116. Morse smashed into a 1988 Honda driven by Ruiz, killing him.

The crash seriously injured the passenger in Morse's car, 19-year-old Spitzer, who remains in a coma. Vanessa King, the 25-year-old passenger in Ruiz's car, suffered a broken arm and facial lacerations.

During Wednesday's hearing, Spitzer's parents, Mark and Tamara Spitzer, pleaded for a more lenient sentence for Dylan Morse. Mark Spitzer told Gness that he'd ideally like to see Dylan Morse sentenced to home confinement -- on the condition that he'd be responsible to care personally for the semiconscious Ryne Spitzer, at his bedside. Gness said such a sentence would be outside of his judicial powers.

Dylan Morse pleaded guilty in May to three felony counts and three misdemeanor counts, which included felony driving under the influence and vehicular manslaughter.

In reaching the new three-year, four-month sentence Wednesday, Gness gave Morse 16 months in prison on the felony vehicular manslaughter charge for killing Ruiz. He sentenced Morse to a year in prison for injuring King and a year in prison for injuring Spitzer.

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Gross also sentenced Morse to three years, four months in prison on the other two felony counts, although those sentences will run concurrently.

Under state law, Gross had 120 days to reconsider his first sentence. He was allowed either to reinstate Morse's original sentence or to give him less time in prison.

Morse was driving with a blood alcohol level of 0.15 percent, nearly twice the state's legal limit, according to the CHP.

Morse will be eligible for parole within 30 months.

According to a July 18 article in the Santa Rosa Press-Democrat, there were virtually no DUI fatality cases over the past decade in Sonoma County with similar facts to Morse's case that resulted in a sentence as severe as 12 years, four months in prison. Some of those sentences in Sonoma County were as lenient as a sentence of probation.

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John Burgess/The Press Democrat

Merced County District Attorney Larry Morse hugs a relative outside of the Sonoma County Courthouse on Wednesday. Morse, with his wife and two other children, left the court after a hearing to reduce the 12 year sentence imposed last July on Dylan Morse for the death of Alex Ruiz and injury to two others while driving drunk last February.

By PAUL PAYNE  
THE PRESS DEMOCRAT

Published: Friday, December 4, 2009 at 6:06 p.m.  
Last Modified: Friday, December 4, 2009 at 6:06 p.m.

Central Valley prosecutor Larry Morse walked out of a Sonoma County courtroom this week with tears in his eyes after a judge slashed a prison sentence handed down to his 19-year-old son, convicted in a felony drunken-driving crash that killed one person and left another in a coma.

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Aubree Hogue



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Merced County woman got an 11-year young people's lives are forever altered. It also has touched off concern about sentence parity and sparked conversations from the courthouse to the dinner table about whether justice truly is blind.

Morse's son, Dylan Morse, got an unusual reprieve this week when Sonoma County Judge Ken Gness lopped nine years off the 12-year prison sentence he had initially handed down for the Feb. 14 crash that killed Berkeley art student Alex Ruiz, 22, and left Morse's friend, Ryne Spitzer, 19, in a coma.

Despite the younger Morse's use of a fake ID to buy beer and past drug use, Gness granted a reduction, citing Morse's age, acceptance of the charges and clean recor.

Yet back in Merced County, where Morse is district attorney, the parents of Aubree Hogue, 22, are feeling no such relief.

Morse's office pushed for an 11-year sentence for their daughter after she killed two men in an alcohol-fueled accident in 2007. While her actions were inexcusable, the parents said it's unfair that prosecutors called a harsher sentence on her than the one the district attorney's son ultimately received.

"There's definitely some hypocrisy here," said Richard Hogue, a farmer in the rural community of Dos Palos, just south of Merced. "He's a decent father, but what he did to me and my family I despise."

Morse said he wasn't involved in charging Hogue and that the circumstances of the case were different. He added that since his son, Dylan Morse, was involved in the fatal Valentine's Day crash while visiting a friend at Sonoma State University, he has relegated decision-making in alcohol-related accidents to a chief deputy.

"The last thing in the world I would ever want to be as a prosecutor is hypocritical," Morse said. "I believe the most important thing a person in my position can do is treat everybody the same."

The disparity reflects the challenges of prosecuting drunken-driving cases in which people die and young people's lives are forever altered. It also has touched off concern about sentence parity and sparked conversations from the courthouse to the dinner table about whether justice truly is blind.



The ruling followed emotional pleas from both sides and numerous letters sent to the judge, both from Morse supporters and from advocates for stronger drunken driving laws. Morse's mother, Cindy Morse, also a lawyer, urged the judge not to consider her husband's position as a prosecutor in making his decision.

Larry Morse remained silent in several hearings but expressed relief after the resentencing that his eldest son would not spend the next decade behind bars. Morse's lawyer, Chris Andrian, said Dylan Morse could be out in 28 months, about the statewide average for similar cases.

Meanwhile, Aubree Hogue is starting her second year at a women's prison near Chowchilla and could be out in 2017 when she turns 30, her parents said.

Her mother, Gina Moore, said she makes the 17-mile trip to the prison every Saturday to visit the former varsity softball player and 2005 graduate of Dos Palos High. Her daughter made a horrible mistake, she said, but the long sentence won't help her victims or her.

She worries her daughter will be changed for the worse by her exposure to prison, which she described as "a vicious, dangerous place."

"It's such a waste," said Moore, a longtime bookkeeper. "She's not a bad kid."

Aubree Hogue's undoing came the night of Oct. 20, 2007. Then 20, she was drinking in a bar in the Central Valley town of Atwater, a CHP report said.

Rather than spending the night at the house of a nearby friend, she attempted to drive home in her Chevy pickup. She was headed the wrong way on Highway 99 when she slammed into an oncoming car carrying four military servicemen, killing two sailors.

Her blood-alcohol content was more than twice the legal limit, her lawyer said.

Prosecutors were asked by the California Highway Patrol to seek second-degree murder charges because Hogue showed malice for driving despite the offer of a place to stay from a friend, said Chief Deputy District Attorney Mark Bacciarini.

Also, Bacciarini said, Hogue should have known better than to drink and drive because her stepfather, Daniel Moore Jr., was convicted of a fatal drunken driving crash and served five years in prison.

11 yrs  
8 mon

Prosecutors offered Hogue the 11-year sentence if she pleaded guilty to gross vehicular manslaughter, felony drunken driving and an enhancement, Bacciarini said. GREAT BODILY INJURY

He said his boss, Larry Morse, was not involved in the case. But he noted that Merced County is tough on drinking and driving in general.

"We're going to punish it harshly," Bacciarini said.

Aubree Hogue's parents have a different view. They said prosecutors made it clear early that they were going to make an example of their daughter and that charging decisions came from the top.

Peter Kapetan, the Hogue's lawyer, said Aubree Hogue was ready to plead to initial charges that would have resulted in a six-to-eight-year prison sentence, but the judge would not accept the plea because prosecutors were amending the complaint.

Rather than facing the possibility of two 15-year sentences with second-degree murder conviction, Hogue accepted the agreement that will keep her locked up at least 10 years.

"They would not deal at all," Kapetan said.

However, other Merced-area defense attorneys said Morse has not been more aggressive or unyielding than his predecessors since taking office in 2006. And some said the Morse and Hogue cases were vastly different.

Attorney Hayden Smith said the Legislature in recent years has made it harder to defend drunken driving cases and prosecutors statewide routinely seek the maximum punishment.

"I've seen DAs get super worked-up in a lot of counties," Smith said. "I don't think in Merced County the DA is particularly rabid."

Others among the Central Valley defense bar wondered how Morse's office would handle future DUI-manslaughter cases given the experience with his own son.

"It could be one of those ugly moral quandaries," said Merced defense attorney Mike Fagalde. "My guess is he has enough subordinates to be hands-off for a while, but if a high-profile case comes through, he is going to have to deal with it in some way."

In Sonoma County, some attorneys who saw Gness's shift of Morse's sentence from 12 years to three years as extreme, questioned whether he would face similar problems in future cases.

Richard Hogue said he and his family closely watched the Dylan Morse case. He thought 12 years and eight months was too long but was surprised the Sonoma County judge, a former prosecutor, knocked it down to three years.

"I fought as hard as I could for my daughter. He fought as hard as he could for his son," Hogue said of Larry Morse. "He came out a little better than I did."

Now, Hogue said he would do everything he could to get his daughter out sooner, but just how that will happen is unclear.

"I think it's politics," Hogue said. "It's not what you know, it's who you know. If I had a million dollars to spend defending my daughter she would be out right now."

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# Morse's DUI fatality sentence reduced to 3 years, 4 months

Son of Merced County DA had faced more than 12 years in prison

By VICTOR A. PATTON  
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SANTA ROSA -- A Sonoma County judge reduced convicted drunken driver Dylan Morse's sentence to three years, four months in state prison Wednesday -- a decision that relieved Morse's supporters, but left his victims' families stunned.

Morse, the 19-year-old son of Merced County District Attorney Larry Morse II, was originally sentenced by Judge Kenneth Gness to 12 years, four months in state prison for causing a two-car collision that killed 22-year-old Alexander Ruiz, left Morse's friend Ryne Spitzer in a coma and injured a woman in Sonoma County earlier this year.

In October, Gness recalled Morse's 12-year, four-month sentence.

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John Burge

Merced Sun-Star - Dylan Morse turns to listen to the comments of the grandmother of victim Alex Ruiz during a court hearing to reduce the sentence Morse received in July for the death of Ruiz and injuries to two others in a drunken driving accident in February.

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Before making his decision Wednesday, Gness said he reconsidered Morse's sentence based on his age and lack of a criminal background. Gness said he understood the sentence wouldn't please everyone, adding that he'd thought deeply about the case since first sentencing Morse in July. "To the families involved in this case, I'm really sorry," Gness said in a soft voice. "I know you wanted a longer sentence, but this is a state prison sentence."

Wearing a blue jailhouse uniform, Morse remained silent and without expression after Gness read the new sentence.

Ruiz's friends and family were shocked by the judge's sentence. A teary-eyed Michael Ruiz, Alex Ruiz's father, quickly left the courtroom with his family. During court, Ruiz said he'd believed Morse's first sentence was fair and just.

On Thursday, Michael Ruiz sent an e-mail to the Sun-Star, saying Morse's extreme sentence reduction will probably make it more difficult for the 19-year-old to comprehend the magnitude of his crime and "therefore even more difficult for him to live to his full potential."

"Time will tell," Ruiz wrote. "As for the rest of us, and I do mean ALL of us, Judge Gness has failed us. The man behind the bench yesterday was unrecognizable to me. Where did judge Gness go? Perhaps a search party should be sent out to find him. Now, I suppose, we must do as we have asked

Dylan Morse to do, look deeply at our lives, and make every effort to make one right choice after the next," Ruiz added.



Dominic Triglia, a friend of the Ruiz family, said Morse's reduced sentence was a huge blow to the victims. During the hearing, Ruiz's parents gave emotional testimony about how they missed their son on Thanksgiving -- and how they were robbed of the joy he had brought to their lives.

"To impose 12 years, four months and then turn around and impose three years, four months -- that's cruel and unusual punishment in itself (for the victims)," Triglia wept, as tears stained a white T-shirt he wore bearing Alex Ruiz's image.

Meanwhile, outside the courtroom, members of Morse's family shed tears and exchanged hugs. Larry Morse said even though he was pleased about the reduced sentence, his heart was heavy with grief for the Ruiz family and the other victims. "We understand that there's no joy in this for anyone, least of all us," Larry Morse said. "Nothing changes the fact that my son made a horrific mistake and shattered the lives of a good and decent family, the Ruizes, and has caused untold heartache and pain to the Spitzers."

When asked if he used his position as Merced County district attorney to influence the outcome of the case, Larry Morse said he did not. "Throughout this entire case, I never communicated one time, through others or certainly myself, with the district attorneys, with the judge or anyone in the court system here," Larry Morse said.

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