

**IN THE TENTH JUDICIAL CIRCUIT  
IN AND FOR HARDEE, HIGHLANDS  
AND POLK COUNTY, FLORIDA**

**County Case No.: TT02-000365-WH**

**Appeal No.: EE-24**

**WILLIAM ODUM,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

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**OPINION OF THE COURT**

This is an appeal from the county court of Polk County, Judge Ellen Masters presiding. The Appellant was charged by information with driving under the influence, in violation of §316.193 Florida Statutes (2001). A jury convicted Appellant and the trial judge sentenced him to 364 days in county jail and permanently revoked his driver's license. Appellant filed a timely notice of appeal. This court has jurisdiction. Fla. R. App. P. 9.030(c). The ruling of the county court is affirmed.

In the first issue on appeal, Appellant argues that the trial court erred in failing to grant the defense's request for a cause challenge to a venire member where there was doubt as to her impartiality. During jury selection, defense counsel moved to strike a juror for cause based on the revelation that her sister had died as a result of drug and alcohol abuse. The test for determining a juror's competency is whether that juror can set aside any bias or prejudice and render a verdict solely on the evidence presented and instructions on the law given by the court. Kearse v. State, 770 So.2d 1119 (Fla. 2000). A juror should be excused for cause if there is any reasonable doubt about the juror's ability to render an impartial verdict. Singleton v. State, 783 So.2d 970 (Fla. 2001). A trial court has great discretion when deciding whether to grant or deny a challenge for cause based on juror incompetence. Id. at 1128; Pentecost v. State, 545 So.2d 861 (Fla. 1989). On appeal, a trial court's ruling on a challenge for cause will be sustained absent an abuse of discretion; discretion is abused only where no reasonable person would take the view adopted by the trial court. Singleton at 973.

While admitting that she would be thinking about her sister during selection process, the juror never expressed that her sister's experience would impact her ability to decide the case fairly. Further, in response to the judge's inquiry about whether she could serve as an impartial juror, she replied, "I believe so." Therefore, the Court finds that the trial court did not abuse its discretion in refusing to grant defense counsel's request for a cause challenge.

Second, Appellant claims that the lower court erred in allowing the State to introduce breath test results from an improperly notarized document. Though the officer initially signed the affidavit without being notarized, he later swore to his signature at the State Attorney's Office, where it was then properly notarized. As the State contends, there is no requirement in §117.05, Florida Statutes (2002) that compels the signer to sign the document in the notary's presence. Thus, the trial court did not err in admitting the document.

It is therefore ORDERED and ADJUDGED that the ruling of the county court is AFFIRMED.

DONE and ORDERED September 9, 2003.

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**RONALD HERRING**, Chief Judge