

Oregon Court Of Appeals Acquits Teen Of Negligent Homicide In Traffic Death

Sierra Nicole Rigel [has been acquitted](#) of negligent homicide and third-degree assault by the Oregon Court of Appeals. Rigel's convictions were related to a traffic accident that resulted in the death of a motorcyclist in 2010.

In the fall of 2010 Rigel was 17 and a senior with a 4.0 GPA at Brookings-Harbor High School in Brookings, Oregon. Brookings is a town of about 6,000 people on the Oregon coast about five miles north of the California border, and 320 miles southwest of Portland. The only vehicle access to Brookings is Highway 101, which is a two lane coastal highway with limited vehicle turnouts that runs parallel with the Pacific Ocean.

After school on the afternoon of September 15, 2010 Rigel drove a friend to Gold Beach, which is 28 miles north of Brookings. At about 5:30 p.m. on her way back to Brookings, the 2003 Ford Excursion Rigel she was driving crossed the center line and struck a motorcycle traveling in the opposite direction operated by Danny Michael Nudo. Nudo was thrown from his motorcycle and killed when he struck a roadside sign post. After the collision near Milepost 341 on Highway 101, Rigel's vehicle ran off the road and struck a tree. Rigel was transported to Curry General Hospital in an ambulance. Milepost 341 is about 9 miles south of Gold Beach.

Police officers at the scene found skid marks from Rigel's vehicle. At the time of the accident the weather was dry and clear, and she was wearing her seat belt and driving the speed limit of 55 m.p.h.

Rigel told an officer at the scene and again at the hospital where she was taken, that while driving she suddenly became very drowsy and knew she needed to pull off the highway as soon as possible. There was no vehicle turnout and no emergency lane on the two-lane highway where the accident occurred. She also told the officer that other times when she was driving she had gotten drowsy and was able to pull off the highway to take a short nap.

Rigel was charged as a minor in juvenile court with negligent homicide and third-degree assault. She pled not guilty.

During her bench (judge only) trial before Curry County Circuit Court Judge Cynthia L. Beaman, the prosecution's case was Rigel acted recklessly and was criminally negligent for failing to pull off the highway prior to hitting the motorcyclist. The prosecution stipulated Rigel had not been drinking, had not taken any drugs, and was not using a cell phone at the time of the accident. There was evidence she had slept about six hours during the 24 hours prior to the accident.

Rigel's defense was that by looking for a vehicle turnout upon becoming drowsy a minute or so before the accident, she did not act recklessly and exercised the care a reasonable person would take in that situation. Her defense was supported by the unrebutted testimony of human factors expert, Dennis Wylie. Wylie is an internationally recognized human factors expert concerning driver error; inattention and improper lookout; driver fatigue; sleep debt; and other driver related issues. Wylie, whose office is in Santa Barbara, California, directed the largest study of driver fatigue and alertness conducted in North America. [During Rigel's trial:](#)

"Wylie testified that people are not good at recognizing when they are fatigued and that a driver can go from not being aware of tiredness, to being aware of tiredness, to a light state of sleep where the driver is not responding to stimuli, all within 60 seconds. Wylie testified that driver drowsiness is not uncommon and that "the driver is not always aware that the driver is being overcome by fatigue, and by the time they realize it, it could be too late." Wylie also testified that it is very common for people to drive after only five or six hours of sleep." *State of Oregon v. S.N.R.*, No. A148495 (Ore. Ct. of Appeals, 1-29-2014), Op.Cit. 5.

Judge Beaman found Rigel guilty of both charges, and in announcing her reasons she wholly sided with the prosecution's arguments: Rigel acted recklessly because she did not to pull off the highway before the collision occurred, and so she was criminally negligent.

Since Rigel was prosecuted as a juvenile she couldn't be sentenced to adult prison. During Rigel's sentencing hearing on May 2, 2011 her lawyer Chris Keusink [told Judge Beaman](#): "What has happened, has happened. It can't be brought back." To mitigate her sentence Keusink explained Rigel was a member of the National Honor Society, president of Brookings' student branch of Rotary, on a committee for fundraising for a children's hospital, a member of a group which raises funds to feed the



Sierra Nicole Rigel was a Valedictorian of the Brookings-Harbor High School graduating class escorted around the track by phys. ed. teacher Bev Rose on June 11, 2011 (The Pilot - Jeff Hatch)

less fortunate, a 4.0-plus student, and she was taking advanced placement classes for college. He also said Rigel had performed more than 300 hours of community service.

Judge Beaman placed little to no weight on Rigel's exemplary background, volunteer activities, and character, in sentencing her to 5 years probation as a ward of the court (not to exceed her 23rd birthday), banning her from driving for life, ordering her to perform 100 hours of community service, fining her \$214, and ordering her to pay restitution.

The month after her conviction Rigel graduated on June 11 from Brookings-Harbor High School as a Valedictorian of her senior class. [During her speech](#) "Rigel talked about remembering her school experience since kindergarten and how far she has gotten in life. She concluded that "we will all remember this last day together as one.""

In October 2011 Brookings' paper, the *Curry Coastal Pilot*, ran an article -- "Two similar fatal accidents, two very different outcomes. Why?" -- that detailed Rigel had been prosecuted by Curry County District Attorney Everett Dial when in a similar case a 76-year-old man wasn't prosecuted after he fell asleep on Highway 101 and his car's collision with an oncoming car killed the driver. In declining to prosecute that elderly man [DA Dial described](#) the driver's death as the result of "an unfortunate and tragic accident."

Rigel appealed to the Oregon Court of Appeals arguing the prosecution introduced insufficient evidence to prove beyond a reasonable doubt she committed either of her convicted offenses.

On January 29, 2014 the Oregon Court of Appeal reversed Rigel's convictions. In [State of Oregon v. S.N.R.](#), No. A148495 (Ore. Ct. of App., 1-29-2014) the court ruled Rigel "did not act recklessly" or with "criminally negligence," because as soon as

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Symieon Robinson Pierre Exonerated Of Convictions For His Dog Biting Police Officers

Symieon Robinson-Pierre's 2012 convictions of owning a dog that bit four police officers in London [have been overturned](#) by the UK's Court of Appeal.

On March 22, 2012 a warrant was served on Robinson-Pierre at his row house in east London. The police didn't knock before breaking down the front door and entering the house. After the officers entered Robinson-Pierre's pit bull terrier named "Poison" attacked one of the officers. As the officers fled the house the dog followed them outside and over a period of minutes attacked four officers. Poison was killed when he was shot four times with a shotgun. The five officers bitten by Poison suffered varying degrees of injuries on their hands and legs. The most seriously injured officer required surgery and he was off work for 85 days.

Although nothing was found during the search of Robinson-Pierre's house, he was arrested at the scene for Poison's attack on the officers. [He told the police](#), "It's not the dog's fault. You should have knocked. I would have let you in."

Robinson-Pierre, 25, was indicted for four counts of being the owner of a dog which caused injury while dangerously out of control in a public place, in violation of the UK's Dangerous Dogs Act of 1991. He was not charged for the attack on the first officer because it took place inside his house.

The later part of the incident was recorded by a local resident on his mobile phone video camera. The video was uploaded to the Internet and can be [viewed on YouTube](#).

During Robinson-Pierre's trial in August 2012 the prosecution played the video of Poison's attack to buttress the testimony of the police officers who were bitten.

At the close of the prosecution's case Robinson-Pierre submitted there was no case for him to answer on two grounds: The first



Symieon Robinson-Pierre's dog Poison attacking police officer on March 22, 2012.

count involved an officer bitten in his yard so it didn't occur in a "public place"; and, the police, not he, allowed Poison outside, so he wasn't responsible for the injuries to the officers. The judge agreed the first count involved an officer bitten on Robinson Pierre's property and directed the jury to return a verdict of not guilty on that count. However, the judge ruled the offense Robinson-Pierre was charged with was a "strict

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she felt drowsy she knew she needed to pull off the highway at the first opportunity to rest. In arriving at its decision the appeals court found the trial judge erroneously relied on the false transcription of Rigel's statement at the hospital as -- "I knew I should have pulled off" -- that was in the past tense and implied she knew she erred not pulling off the highway. When in fact the audio of Rigel's statement showed she actually said "I knew I shouldn't put it off," which was in the present tense and indicated she immediately began looking for the next turn-off after she was hit with drowsiness. [Op.Cit. at 7] The Court referred to Rigel as "youth" [in stating](#):

"The only reasonable inference that can be drawn from youth's uncontroverted statements, as correctly transcribed, and from the evidence concerning the highway, is that she did not feel tired until after she had passed the last pull out on the southbound side of highway 101 before milepost 341. [Id. at 12]

... it appears that the juvenile court did not find the testimony of youth's expert to be pertinent to its ruling; the court did not mention it when ruling. We note that the expert's testimony confirms that a driver can go from a state of not feeling tired to a state of sleep in as little as one minute and that drivers are not always

aware that they are being overcome by fatigue. [Id. at 13]

...

As discussed above, only two minutes passed between the time youth became aware of her tiredness and the accident. The expert's testimony confirms that drivers who fail to pull over *immediately* upon realizing they are tired are not for that reason alone deviating from a widely shared, reasonable norm. ... and, youth did not disregard the risk of falling asleep because she immediately began looking for an appropriate place to pull over once she started to feel tired ..." [Id. at 14]

...

Therefore, youth did not act recklessly, and the juvenile court erred in taking jurisdiction of youth based on its conclusion that youth's acts, if committed by an adult, would have constituted criminally negligent homicide and assault in the third degree.

Reversed. [Id. at 15]

The Court's ruling bars Rigel's retrial.

Rigel's appeal lawyer, George Kelly, [commented](#) after the appeals court's ruling, "I'm pleased with the decision, and I happen to think it was the right one." When contacted by Justice Denied, Kelly declined to com-

ment on specifics of the case because he hadn't been given permission to do so by the Rigel family.

[Click here to read](#) the appeals court's ruling in *State of Oregon v. S.N.R.*, No. A148495 (Ore. Ct. of Appeals, 1-29-2014), that includes an extended discussion of what constitutes criminal negligence and third-degree assault under Oregon law.



Dennis Wylie
(Drivingfatigue.com)

Dennis Wylie Associates website is, www.drivingfatigue.com.

Source:

[State of Oregon v. S.N.R.](#), No. A148495 (Ore. Ct. of Appeals, 1-29-2014)

[Court says sleep-driving strikes quickly](#): Teen driver who killed motorcyclist gets case overturned, *The Oregonian* (Portland, OR), January 29, 2014

[Two similar fatal accidents](#), two very different outcomes. Why?, *Curry Coastal Pilot* (Brookings, Ore.), October 28, 2011 10

[Judge: No license for teen driver](#) who hit, killed motorcyclist, *Curry Coastal Pilot*, May 4, 2011

[BHHS graduation 2011](#): Students receive diplomas Saturday, *Curry Coastal Pilot*, June 15, 2011

[Brookings-Harbor High School](#), Brookings, Oregon

