

## NOTES ON THE TESTIMONY OF RICK SWOPE

During my discussions with prosecutors about Rick Swope's testimony, I was told that Rick can help you as much as hurt you. He will come up with some outrageous ideas, but if you ask him direct questions, he will not lie.

For example, if you ask him if the instrument has been properly maintained, he will say yes. If you ask him if all of the FDLE rules were followed, he will say yes. He will tell you that he based his testimony on facts that the defense provided him and if the true facts are different, he would change his testimony.

Rick's position is that the instrument is reliable, but it is not accurate. The instrument will give you the same reading over and over, but the reading does not reflect the actual alcohol level of the defendant.

His extrapolation will always result in a low BAC, no matter how outrageous. He will not give you anything on extrapolation.

Spoke to Beverly Matz, Inv., SAO - 5, who said she spoke to FDLE about a claim Rick is making that he was involved in the approval process on the Intoxilyzer instrument when the program was at HRS. Joanne Searls told Beverly that he kept bugging HRS to help, but HRS said no. After being bugged long enough, they allowed Rick to watch, but did not let him touch anything. They had to open their doors because of the sunshine law.

Beverly also said she has a transcript she is sending me of a deposition of Rick Swope during an internal investigation. He was accused of acting as a private expert witness on company time. He was terminated, but claims he resigned. Yes he did walk out of the deposition, but he was terminated as a result.

*Rich did not teach for IPTM*

*His degree is in management, not science.*

Testimony from Rick Swope that seemed odd or inconsistent.

Testimony about undergraduate education is inconsistent.

In State v. Kierst he testified that he graduated from Saint John University.

In State v. Hatfield he testified that he graduated from Saint Thomas University.

Testimony about graduate education is odd.

In State v. Kierst he testified that he did not have an electrical engineering degree.

In State v. Hatfield he testified that he had a master's degree in technology and engineering.

Testimony about past disqualification or failure to be qualified as an expert is inconsistent.

In State v. Kierst he was not qualified as an expert in the intoxilyzer.

In State v. Hatfield he stated had not been disqualified or failed to be qualified as an expert.