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## MADD targets Parker County judge in DWI fatality

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A woman's death has prompted MADD to fire off a letter to the State Commission on Judicial Conduct about Parker County Judge Jerry Buckner, who the group said didn't order a convicted drunken driver to install an ignition interlock on his vehicle.

Authorities say Dieudonne Kazabukeye, 33, drove drunk less than two months after being convicted of DWI and caused a wreck that killed his friend Sezalia Ntahorutari, 86, a passenger in his vehicle. Officials said Kazabukeye's blood-alcohol content at the time of the crash was 0.26, more than three times the legal limit of 0.08.

Officials with Mothers Against Drunk Driving say that if Buckner had ordered an interlock on Kazabukeye's car when he was convicted of DWI, Ntahorutari might be alive today. They maintain that the incident underscores a widespread problem with judges not requiring interlocks for repeat DWI offenders or those with a blood-alcohol content over 0.15, as mandated by Texas law.

"When we became aware of [this case], we thought, 'This is what the law was intended to prevent,' " said Bill Lewis, a spokesman for MADD, which is based in Las Colinas. "If the judge had done what the law had intended him to do, this death might not have occurred, and that is when we get our knickers in a twist."

When an interlock is installed in a vehicle, the driver must blow into it before the vehicle will start. If alcohol is detected, the vehicle will not start.

### An omission

Buckner said that he always orders interlocks for defendants with a blood-alcohol content of 0.15 or higher. But he said he was not informed by the prosecutor or anyone else that Kazabukeye had taken a breath test and that his blood-alcohol content was 0.28 in the Parker County case. The prosecutor also failed to recommend an interlock in the plea recommendation papers, as is routine in a DWI case with exacerbating circumstances.

"There was no way to impose the requirement because I didn't know about the breath test," Buckner said. "I don't get to see what is in my prosecutor's files, and I don't get involved in the plea bargaining. If there is a high breath test, the prosecutor is supposed to say there was a breath test of 0.17 or 0.15 or whatever it may be."

In an affidavit dated July 29, prosecutor Steven Bosser took responsibility for the oversight, saying he did not note the defendant's blood-alcohol content in the case file or in the plea recommendation papers, as is his usual practice.

"Failure to include the requirement of an interlock device on any vehicle operated by this defendant was an unintentional mistake of omission on my part," Bosser wrote. "I do not believe this error should reflect poorly on anyone else."

### Prior arrest

Kazabukeye, who had been free on bail on a charge of intoxication manslaughter in his friend's death, was jailed again Wednesday in Tarrant County on accusations that he violated his bail conditions by using alcohol.

According to a 2007 Habitat for Humanity newsletter, Kazabukeye, his wife, children and brother fled Central Africa years ago after 16 of their relatives were killed in fighting between ethnic Tutsis and Hutus in Burundi. Three years ago, the family, all refugees, moved into a home built by Habitat for Humanity in Fort Worth.

According to court records, Kazabukeye's trouble with the law began Nov. 21, when he was arrested in Parker County on accusations of driving while intoxicated. On March 30, Kazabukeye pleaded guilty and was sentenced to 24 months' probation, 80 hours of community service and a 12-month license suspension.

Less than two months later, on May 2, Kazabukeye was driving southbound on Interstate 35W in Fort Worth when he lost control of his vehicle and struck a barrier. His car was occupied by Ntahorutari, a friend visiting from Africa; two other adults; and a 7-month-old.

According to police, Kazabukeye failed a field sobriety test and officers found a half-empty bottle of vodka and an empty beer container on the front passenger floor. Kazabukeye was arrested on accusations of driving while intoxicated with a child under 15.

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Seven days later, Ntahorutari died and Kazabukeye was later charged with intoxication manslaughter. He was also charged in Parker County with violating his probation.

#### Judges' side

Senior retired Judge David Hodges, a judicial liaison for the Texas Center for the Judiciary who specializes in educating judges in the area of alcohol and traffic safety, said there may be a handful of judges who routinely don't require interlocks, but he disagrees with MADD's assertion that there is a systemwide pattern in Texas.

"It is my opinion that painting all of the judges with the same brush, and saying because he did it, it is widespread, is an unfair characterization," Hodges said.

He said when judges fail to order the interlock, it is usually because the devices are not readily available; the defendant can't afford it; or because they weren't given the facts. "If nobody tells you it is a high-breath-test case, the only thing you can do is rule on the evidence that comes before you," he said.

Lewis, the MADD spokesman, said he hopes the case will get the attention of other judges. "The intent is for the other judges in the state to know this happened," Lewis said. "And if they have been inclined to not require interlock, that they be inclined to do so."

Buckner, for his part, said he feels that MADD is unfairly targeting him. "This was not willful on my part; I did not know," he said. "If I had known, I would have put the ignition interlock on there. . . . I'm sad for the lady that died and that [MADD] chose to pick a case where it was an accident instead of getting one of the judges who routinely don't follow the law."

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#### How it works

An ignition interlock is a breath analyzer that is put on the vehicles of those who have been accused or convicted of an alcohol-related offense and ordered not to drink and drive. To start the car, the driver must first blow into the device, which detects alcohol. The ignition will not start unless the person passes the test. Texas law requires that an interlock be installed on the vehicles of those who have been arrested twice on suspicion of DWI; those who have been arrested and are on bail on suspicion of intoxication assault and manslaughter; and those with a blood-alcohol content of 0.15 or greater.

Sources: The Texas Code of Criminal Procedure Chapter 42.12, Sec. 13 and judges