

Driving Under Influence: Three deaths, one driver

By Joey Cappelletti
Of the Keizertimes

The Modine brothers, Andrew and Thomas, were drinking at The Shack Bar and Grille in Salem on a September night in 2015.

The brothers left the bar around 8 p.m. and headed for Thomas's house, according to police records.

Andrew, who was driving, arrived at the house and went inside to speak with Thomas's fiancé, according to police records. The two chatted for several minutes before Andrew realized Thomas was missing.

A half a block away, Thomas Modine was lying on the road, unconscious. He was found later that night by police and transported to Salem Hospital to be treated for a severe traumatic brain injury.

Six days later, Thomas Modine, 32, died as a result of his injuries.

Andrew Modine is now in the Marion County jail, awaiting trial on charges of two counts of first-degree manslaughter, second-degree assault, reckless endangerment, reckless driving, driving under the influence of intoxicants, driving while criminally suspended, second-degree criminal mischief and a probation violation.

He is accused of being drunk and driving through the side of a Keizer home on Jan. 22, 2022. His blood alcohol content, according to a blood draw done later at Salem Hospital, was .24 - three times the legal limit. The crash killed Moira Hughes, 67, and George Heitz, 63, who were in bed at the time of the incident.

In 2015, following the death of his brother, Modine was charged with criminally

negligent homicide, driving under the influence of intoxicants and failure to perform duties of a driver to injured persons. Under the most serious charge, Modine faced up to 10 years in prison.

Instead, he was allowed to go free, sentenced to five years of supervised probation that records show lasted only two and a half years.

Prosecutors say they let Modine avoid prison in the 2015 case because there were "unique factual and legal challenges" that could have resulted in his acquittal. A review of records shows, however, that they never invoked a key provision of that plea deal - Modine would go to prison if caught drinking or otherwise violating terms of the deal.

Interviews and records established that:

*Prosecutors struck a deal with Modine, fearing a jury wouldn't convict him for the death of his brother.

*A year after his conviction, Modine admitted to drinking and smoking marijuana at a family event. That violated the plea deal in a way that was to trigger a 40-month prison sentence. Instead, records show, he was only fined \$25.

*Probation records indicate that Modine hadn't been evaluated for alcohol-use since July 2019 and hadn't spoken with his probation officer since October 2019.

"The job of a prosecutor is often an exercise in disappointment. There are cases every day that cause us to wish we could do more or do better," said Marion County District Attorney Paige Clarkson. "But we must follow the law and our obligation to prove every element of every charge is often frustrated by



Aftermath of post-crash scene

Photo by JOEY CAPPELLETTI of Keizertimes

a lack of evidence. The 2015 Modine case was one of those circumstances."

The background

Modine's history of DUIs dates back to 1999, when he was first arrested for driving under the influence of intoxicants at age 18. A year later, he received his second DUI. From 1999 to 2009, Modine was also found guilty of five felonies.

"There is an extensive history of alcohol use and there has not been a long period where that has not been an issue in his life," Gillian Fischer, then a Marion County deputy district attorney, said at a 2017 court hearing.

For a six-year period between 2009 and 2015, Modine's record was clean. Then, came the accident that led to the death of his brother.

"Hi mom I'm intoxicated and being a bad influence I'll you at the house at about 8:15," Andrew texted his mother at 7:47 p.m. on Sept. 5, according to a probable cause statement from Keizer police.

The brothers left the bar in a 1950s Chevrolet pickup truck and headed towards Thomas's house in Keizer, according to the police affidavit.

As they approached, Andrew did something that he told police his father would often do in the vehicle - turn without breaking to allow the truck to coast to the final destination. Crash reconstruction would later show that Thomas fell from the truck during the turn, tumbling along the pavement and suffering what proved to be fatal injuries.

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Oregon will now drop indoor mask requirement March 12



By Rachel Alexander
Of Salem Reporter

Oregonians can drop their masks indoors starting March 12, Gov. Kate Brown said Monday morning (February 28, 2022). The announcement moves up by one week the timeline state health officials

announced just days ago.

Oregon had been scheduled to lift masking mandates in most public places March 19. Brown acted jointly with Democratic governors Jay Inslee of Washington and Gavin Newsom of California, who will lift their state's indoor mandates on the same date, according to a joint news release.

"As has been made clear time and again over the last two years, COVID-19 does not stop at state borders or county lines," Brown said in a statement. "On the West Coast, our communities and economies are linked. Together, as we continue to recover from the Omicron surge, we will build resiliency and prepare for the next variant and the next pandemic."

Brown acted because of "rapidly declining COVID-19 hospitalizations along the West Coast," said Liz Merah, a spokeswoman for her office, as well as improved modeling at the state level and new guidance Friday from the Centers for Disease Control and Prevention.

Those factors "indicate mask requirements can safely be lifted earlier than previously announced," Merah said.

The CDC on Friday recommended Americans continue to wear masks indoors in areas where community spread of Covid is high, but said in areas with low or medium spread, most people do not need to wear masks indoors.

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