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## Newsroom: Horwitz on Fatal Brown Accident

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# Newsroom

## Horwitz on Fatal Brown Accident

The Brown Daily Herald spoke to Associate Dean of Academic Affairs Andrew Horwitz on prosecution of alleged DWI driver who killed a Brown student.

[The Brown Daily Herald](#) interviewed **Associate Dean Andy Horwitz** for its story, "[Driver still awaits trial for death of Schaefer '13](#)" by Claire Peracchio, City & State Editor.

**PROVIDENCE, February 7, 2011:** The driver who struck and killed Avi Schaefer [Brown University '13] nearly a year ago has not yet been tried for Schaefer's death.



Daniel Gilcreast, 24, hit Schaefer and Marika Baltscheffsky [Brown University '13] in the early morning Feb. 12 as they walked in the breakdown lane at the intersection of Thayer and Hope streets. Schaefer was pronounced dead after reaching Rhode Island Hospital, and Baltscheffsky sustained serious injuries as a result of the crash, according to the police report.

Gilcreast's case remains in the pretrial phase. Since October, the prosecution and defense have held five pretrial conferences, during which they have met with the court to exchange information, establish ground rules for a trial and negotiate possible resolutions to the case without a trial. The next pre-trial conference is scheduled for Feb. 23.

If the case cannot be resolved with a pretrial plea agreement, it will go to trial, beginning a process that may involve a lengthy additional wait before it is heard in court and a sentence is issued.

Gilcreast was formally charged Aug. 26 on five counts — driving under the influence, death resulting; driving to endanger, death resulting; driving under the influence, serious injury resulting; driving to

endanger, personal injury resulting and possession of marijuana, first offense. He pleaded not guilty to all counts.

Gilcreast, a North Providence resident at the time of the accident, is a 2009 Boston College graduate and has no prior felony convictions in Rhode Island. He faces five to 15 years in prison if convicted on the first charge and a maximum of 10 years if convicted on the second.

"The University has not been involved" in the case, wrote Marisa Quinn, vice president for public affairs and University relations, in an e-mail to The Herald.

Gilcreast was the first person subjected to a new state law allowing police to force suspected drunk drivers to take a blood alcohol test. After refusing an alcohol test at the scene of the accident, he was required to submit a blood sample, which showed his blood alcohol content was above the legal limit, according to the police report.



Gilcreast's prosecution is proceeding at a normal pace, according to **Andrew Horwitz, director of the Clinical Programs and the Criminal Defense Clinic at Roger Williams University.**

"The system is slow," **he said**, adding that drunk driving cases often involve a medical examiner's report and the collection of chemical and medical evidence, which produce delays.

Because Gilcreast is not currently incarcerated, there is less of a rush to take the case to trial, **Horwitz said**, adding that even when the case enters the trial phase, it is "likely to sit on the trial calendar for some time" before being tried in court.

The attorney general's office declined to comment on the specifics of the case.

"Everybody's trying to work towards something that's fair, reasonable, and — to use the word — just," said W. Kenneth O'Donnell, Gilcreast's attorney, of the pretrial conferences. While O'Donnell would not comment on the details of the case, he pointed to the six-month span between the incident and his client's arraignment on charges — time required for investigators to compile a case and for the attorney general's office to decide whether there was probable cause to try Gilcreast — as a reason the case has taken so long.

Josh Deshaies '12, Schaefer's residential counselor, said he wishes Gilcreast's case had been resolved earlier.

"Maybe if the trial had happened shortly after or a little earlier, it would have helped to ease the pain a little bit," he said.

Rabbi Arthur Gross-Schaefer, Schaefer's father, said he is not following the case closely. Instead, he said he is focused on continuing the work his son pursued during his life — advocating "peace and dialogue about what's happening in the Middle East." The Schaefer family has started The Avi Schaefer Fund, which aims to promote respectful discussion of the Israeli-Palestinian conflict on North American college campuses, according to its website.

"The quote that Avi loved was 'Everyone dies, but not everyone lives,'" Gross-Schaefer said. "What we're doing is we're trying to focus on how he lived."

*For full story, click [here](http://www.browndailyherald.com/2011/02/07/driver-still-awaits-trial-for-death-of-schaefer-13/). [http://www.browndailyherald.com/2011/02/07/driver-still-awaits-trial-for-death-of-schaefer-13/]*