

## Man convicted of fatal hit-and-run faces third DWI charge

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NEW HARTFORD - A Sauquoit man previously convicted of leaving the scene of a fatal accident and charged twice with driving while intoxicated was charged Sunday with his third DWI.

Scott S. Zimmer, 42, was charged 1:11 a.m. Sunday in the New Hartford Recreation Center parking lot off Mill Street in the village, where he was found passed out behind the wheel of his pickup truck, New Hartford Sgt. Paul Colburn said.

Zimmer was issued a traffic summons for the DWI and is scheduled to appear at 1 p.m. Oct. 3 in New Hartford court.

This decision was made because it's unusual to call a judge out for sentencing at the time the incident occurred, Zimmer was cooperate and police know where he lives, Colburn said.

But that doesn't mean police aren't worried about Zimmer's possible future actions.

"There's always a concern it will happen again," Colburn said.

The Oneida County District Attorney's office will review the case and because of Zimmer's previous offenses could change the misdemeanor DWI charge to a felony charge before it's brought to a grand jury, Colburn said.

If convicted of a felony DWI, Zimmer would face state prison time, Colburn said.

Zimmer struck Joan Foley on July 30, 2000, when he was driving a pickup truck and she was walking on Paris Hill Road in Paris. Her husband, John Foley, found her dead in a ditch the next morning.

The Foleys and Zimmer had separately attended the Oneida County Fire Convention at the Willowvale Fire Department. A friend of Zimmer's testified at a felony hearing that Zimmer drank two or three beers at the convention.

After driving to his mother's home in Georgia, Zimmer was preparing to fix his truck when he was arrested Aug. 2, 2000. He testified he thought he struck a deer but acknowledged he didn't stop to check. Because he left the scene, alcohol tests couldn't be administered, and there was no chance for a DWI charge.

Zimmer was convicted in August 2001 for leaving the scene of the fatal accident and received a sentence of five years of probation and 12 weekends in Oneida County jail.

Foley's family filed a wrongful death lawsuit that was settled out of court.

Charged with two DWIs, aggravated unlicensed operation of a motor vehicle and leaving the scene of a property damage accident in late 2003 and early 2004, Zimmer pleaded guilty in May 2004 to one DWI and the unlicensed operation charge in satisfaction of all the charges. He was then sentenced to one to three years in state prison.