

NEWS RELEASE

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7 defendants convicted during Misdemeanor Appeals trial week

CHARLOTTE, N.C. – The Mecklenburg County District Attorney's Misdemeanor Appeals Team tried two defendants during the week of January 13, 2014. The team also convicted another six defendants who pled guilty or remanded their cases to District Court. The proceedings were held in courtroom 5170 before The Honorable Linwood O. Foust, Superior Court Judge.

The Misdemeanor Appeals Team prosecutes cases in which the defendant was convicted in District Court and then appealed his or her conviction to Superior Court for a jury trial, as allowed under North Carolina law. Over the course of the week, prosecutors also made arguments in two cases appealed by the State after a District Court Judge previously ruled in favor of the defendant on a matter of law. In one case, Judge Foust granted the State's appeal, and in the other, he denied the appeal.

The following two defendants were tried:

Jamie Thomas, 27, was tried for 1) resisting a public officer and 2) two counts of assault with a deadly weapon. The jury returned verdicts of *guilty* for resisting a public officer and *not guilty* for both counts of assault with a deadly weapon. Judge Foust sentenced Thomas to 12 hours in the Mecklenburg County jail.

Duvall Lowery, 18, was tried for 1) fleeing to elude arrest, 2) speeding and 3) reckless driving. The jury found him *not guilty* on all counts.

Among the six defendants who were convicted when they pled guilty or remanded their cases to District Court were:

Nelson Argueta-Argueta, 37, was convicted of driving while impaired when his case was remanded to District Court. He was sentenced to a minimum of 6 months in prison; that sentence was suspended pending his successful completion of 12 months of supervised probation. As a condition of his probation, Argueta-Argueta must serve 7 days in the Mecklenburg County jail.

Douglas Weinstein, 46, was convicted of driving while impaired when his case was remanded to District Court. He was sentenced to 12 months in prison; that sentence was suspended pending his successful completion of 12 months of supervised probation. As a condition of his probation, Weinstein must serve 8 days in the Mecklenburg County jail.

Note: Misdemeanors and infractions are originally prosecuted in district court in North Carolina. In criminal district court, a judge determines guilt, not a jury; this is commonly referred to as a “bench trial.” However, defendants have a right to appeal a conviction from the district court to the superior court for a trial de novo. The new trial in superior court must be a jury trial, not a bench trial. In a de novo trial, the jury cannot be informed that a district court judge previously found the defendant guilty; further, a record of any evidence, including testimony, from district court may not be introduced. While the DA’s Office prosecutes nearly 225,000 misdemeanors and infractions each year in district court in Mecklenburg County, each defendant is entitled to exercise his/her right to appeal to the superior court. When a misdemeanor or infraction occupies the limited time available in our superior courtrooms, it the intent of the DA’s Office to keep the public informed of the results through news releases like this one. Due to the volume of misdemeanors and infractions prosecuted in district court each day, reports like this are not possible for all of those cases.

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