

# NEWS RELEASE

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## **Misdemeanor Appeals Team tries defendant; 6 plead guilty**

CHARLOTTE, N.C. – The Mecklenburg County District Attorney's Misdemeanor Appeals Team recently tried one defendant in Superior Court. Motions were held in other matters, and six defendants also entered guilty pleas. The proceedings were held January 28-February 1, 2019, in courtroom 5170 before The Honorable Casey M. Viser, Superior Court Judge.

The Misdemeanor Appeals Team prosecutes cases in which the defendant was convicted in District Court, and then appeals his or her conviction to Superior Court for a jury trial as allowed under North Carolina law.

Justin Simpson, 34, was tried for assault on a female. A jury returned a verdict of *not guilty*.

Courtney Polk, 37, pled guilty to driving while impaired. Judge Viser sentenced Polk to 12 months in prison; that sentence was suspended pending his successful completion of 18 months of supervised probation. As a condition of his probation, Polk must serve 120 days in the Mecklenburg County Jail.

Christopher O'Brien, 35, pled guilty to driving while impaired. Judge Viser sentenced O'Brien to 180 days in the Mecklenburg County Jail; that sentence was suspended pending his successful completion of 18 months of unsupervised probation.

Kevin Samuel, 28, pled guilty to 1) misdemeanor breaking or entering and 2) assault on a female. Judge Viser sentenced Samuel to 60 days in the Mecklenburg County Jail; that sentence was suspended pending his successful completion of 18 months of supervised probation.

Jacqueline Posada-Hess, 50, filed a pretrial motion to suppress evidence seized or obtained by law enforcement, alleging violations of her legal rights. After arguments by an Assistant District Attorney and the defense, Judge Viser denied the motion. Posada-Hess then pled guilty to driving while impaired. Judge Viser sentenced Posada-Hess to 30 days in the Mecklenburg County Jail; that sentence was suspended pending her successful completion of 12 months of unsupervised probation.

Jeremy Neal, 29, pled guilty to misdemeanor hit and run causing property damage. Judge Viser sentenced Neal to 10 days in the Mecklenburg County Jail; that sentence was suspended pending his successful completion of 12 months of unsupervised probation.

Stephen Barb, 37, filed a pretrial motion to suppress evidence seized or obtained by law enforcement, alleging violations of his legal rights. After arguments by an Assistant District Attorney and the defense, Judge Viser denied the motion. Barb then pled guilty to misdemeanor carrying a concealed gun. Judge Viser continued judgment in the matter.

*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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