

NEWS RELEASE

R. Andrew Murray
District Attorney

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Defendant convicted of DWI by jury after appeal from district court

The DA's Misdemeanor Appeals Team tried one impaired driver the week of February 28, 2011. The jury trial was held in courtroom 5170 before The Honorable Jesse B. Caldwell, III, Superior Court Judge, on Tuesday, Wednesday, and Thursday.

Daniel Wood, 34, was tried for driving while impaired. The jury returned a verdict of *guilty*. After arguments from both sides as to sentencing, Judge Caldwell found that the aggravating factor submitted by the State substantially outweighed any mitigating factors submitted by the defense and sentenced Wood to 6 months in the Mecklenburg County Jail suspended for 18 months of unsupervised probation and required that he pay restitution to the victim for property damage that resulted from the impaired driving. This was an increase in Wood's sentence from District Court where Wood received 30 days in the Mecklenburg County Jail suspended for 12 months of unsupervised probation. Wood's prior record includes convictions for common law robbery, possession of cocaine, robbery with a dangerous weapon, and multiple misdemeanors.

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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