

NEWS RELEASE

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Habitual impaired driver sent to prison; 11 others convicted

CHARLOTTE, N.C. – Eight impaired drivers, including a habitual impaired driver, were among the 12 defendants recently convicted by the Mecklenburg County District Attorney's Misdemeanor Appeals Team. The proceedings were held August 4-7, 2014, in courtroom 5170 before The Honorable H. William Constangy, Superior Court Judge. The courtroom was closed on August 6.

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. Of the 12 defendants convicted, seven pled guilty and five remanded their cases to District Court for sentencing.

Two additional defendants filed motions to suppress evidence seized or obtained by law enforcement, alleging violations of the defendant's legal rights. After hearing testimony and arguments from both the Assistant District Attorney and the defense, Judge Constangy denied those motions. Both cases will proceed to trial at a later date.

Among those who were convicted were:

Tuan Dien, 45, pled guilty to two counts of habitual impaired driving. Judge Constangy sentenced Dien to 20-33 months in prison.

Nicholas Adkins, 34, pled guilty to driving while impaired. Adkins was sentenced to 180 days in the Mecklenburg County jail; that sentence was suspended pending his successful completion of 12 months of supervised probation. As a condition of his probation, Adkins must serve 4 days in jail.

Alex Fairweather, 27, pled guilty to driving while impaired. Fairweather was sentenced to 30 days in the Mecklenburg County jail; that sentence was suspended pending his successful completion of 12 months of unsupervised probation.

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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