

NEWS RELEASE

Spencer B. Merriweather III
District Attorney

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Misdemeanor Appeals Team tries defendant; man convicted of habitual DWI

CHARLOTTE, N.C. – The Mecklenburg County District Attorney's Misdemeanor Appeals Team recently tried one defendant in Superior Court. Two additional defendants entered guilty pleas, and motions were held in other matters. The proceedings were held February 11-15, 2019, in courtroom 5170 before The Honorable Carla N. Archie, 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.

Clayton Kowalski, 24, was tried for 1) assault on a female and 2) misdemeanor violation of a domestic violence protective order. A jury found him *guilty* of assault on a female and *not guilty* of the violation of a domestic violence protective order. Judge Archie sentenced Kowalski to 75 days in the Mecklenburg County Jail; that sentence was suspended pending his successful completion of 18 months of supervised probation. As a condition of his probation, Kowalski must complete a certified intervention program for batterers.

Deric Lewis, 35, pled guilty to habitual impaired driving. Judge Archie sentenced Lewis to 12-24 months in prison.

Eric Wagstrom, 51, pled guilty to driving while impaired. Judge Archie sentenced Wagstrom to 12 months in prison; 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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