

# NEWS RELEASE

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District Attorney

**April 13, 2012**

## **Ten convicted of driving while impaired**

CHARLOTTE, N.C. – The Misdemeanor Appeals Team for the Mecklenburg County District Attorney's Office held court in courtroom 5170 for the week of April 2, 2012 before The Honorable Tanya T. Wallace, Superior Court Judge. In addition, cases were also called in courtrooms 5150, 5130, and 5370.

Monday, April 2, 2012 was designated as an administrative day in courtroom 5170. In the morning, the State called the trial calendar for the week. The Court then heard felony probation violation probable cause hearings and arraignments for misdemeanor appeals cases.

The following trials, motions, pleas, and remands were heard throughout the week in all four courtrooms:

Clarke Davis Allen, 49, was tried for driving while impaired in courtroom 5130 before The Honorable Linwood O. Foust, Superior Court Judge. The jury returned a verdict of *guilty*. Judge Foust sentenced Allen to 8 days in the county jail; the sentence was suspended pending the successful completion of 12 months unsupervised probation.

Richard Robinson Altizer, 51, was charged with 1) driving while impaired, 2) carrying a concealed weapon, 3) giving fictitious information to an officer and 4) urinating in public. The defendant made a motion to suppress, alleging violations of his legal rights, in courtroom 5150 before The Honorable Jesse B. Caldwell, III, Superior Court Judge. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Caldwell granted the motion and the case was dismissed.

Michael Scott Cadenhead, 27, was charged with driving while impaired. Cadenhead made a motion to suppress, alleging violations of his legal rights. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Wallace denied the motion, and Cadenhead pled guilty. Cadenhead was sentenced to 90 days in the county jail; that sentence was suspended pending the successful completion of 12 months of unsupervised probation.

Kinyel Lachee Depass, 27, was charged with 1) driving while impaired, 2) speeding 95 in a 55 mph zone and 3) reckless driving to endanger. Depass made a motion to suppress evidence, alleging violations of his legal rights. He also made a motion to dismiss the charges based on arrest processing procedures. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Wallace denied both motions. The case was continued for plea.

Robert Andrew Linders, 32, was charged with driving while impaired. Linders made a motion to dismiss the charge based on arrest processing procedures. Judge Caldwell denied the motion, and Linders pled

guilty. He was sentenced to 60 days in the county jail; the sentence was suspended pending the successful completion of 12 months of unsupervised probation.

Tanya Adair Martin, 27, was charged with driving while impaired. Martin made a motion to suppress, alleging violations of her legal rights. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Foust granted the motion, and the case was dismissed.

Lynton Kelly Moffett, 36, was charged with driving while impaired. In courtroom 5370, Moffett made a motion to suppress, alleging violations of her legal rights, before The Honorable Richard L. Doughton, Superior Court Judge. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Doughton granted the motion, and the case was dismissed.

Gerald Purnell Moore, 42, was charged with driving while impaired. Moore made a motion to suppress, alleging violations of his legal rights. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Wallace denied the motion, and Moore pled guilty. Moore was sentenced to 60 days in the county jail; that sentence was suspended pending the successful completion of 12 months of unsupervised probation.

Mark Christopher Nance, 44, was charged with 1) driving while impaired, 2) reckless driving and 3) speeding 64 in a 25 mph zone. Nance made a motion to suppress, alleging violations of his legal rights. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Wallace granted the motion, and the driving while impaired charge was dismissed. Nance then pled guilty to reckless driving and speeding. He was sentenced to 60 days in prison; that sentence was suspended pending the successful completion of 24 months of supervised probation, and his license was revoked.

Diana Lynn Scott, 46, was charged with driving while impaired. Scott made a motion to suppress the breath alcohol reading based on test processing procedures. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Wallace denied the motion, and Scott pled guilty to driving while impaired. Scott was sentenced to 30 days in the county jail; that sentence was suspended pending the successful completion of 12 months of unsupervised probation.

Adam Micah Seifer, 38, was charged with 1) driving while impaired and 2) possession of an open container of alcohol in the passenger area of a vehicle. The State appealed the district court's order granting the defendant's motion to suppress the blood alcohol content based on the denial of the right to counsel. Judge Wallace denied the State's appeal, and the case was remanded to district court for further proceedings.

Emerson McLean Thompson, 20, was charged with 1) driving while impaired, 2) driving after consuming under the age of 21 and 3) driving with an expired license. Thompson made a motion to suppress, alleging violations of his legal rights. After hearing testimony and arguments from the defense and the Assistant District Attorney, Judge Foust denied the motion. The case was continued for plea.

Leslie Yvette Alexander, 49, was charged with driving while license revoked. Alexander pled guilty and was sentenced by Judge Wallace to 45 days in the county jail; that sentence was suspended pending the successful completion of 12 months supervised probation.

Daniel Arroyo, Jr., 44, was charged with 1) driving while impaired, 2) hit and run and 3) injury to real property. Arroyo pled guilty to driving while impaired and was sentenced to 30 days in the county jail; that sentence was suspended pending the successful completion of 12 months unsupervised probation.

Lemar Elliot Benjamin, 46, was charged with 1) assault on a government official, 2) resisting a public officer and 3) being intoxicated and disruptive. Benjamin pled guilty to 1) resisting a public officer and 2) intoxicated and disruptive. Judge Wallace sentenced Benjamin to 20 days in the county jail.

Jenise Ariane Farrier, 30, was charged with 1) driving while impaired and 2) reckless driving. Farrier pled guilty to driving while impaired. Judge Wallace sentenced her to 30 days in the county jail; that sentence was suspended pending the successful completion of 12 months of unsupervised probation.

Dawn Lewis Rierson, 46, was charged with 1) driving while impaired and 2) having an open container of alcohol in the passenger area of a vehicle. Rierson pled guilty to driving while impaired. Judge Wallace sentenced Rierson to 24 months in prison; that sentence was suspended pending the successful completion of 18 months of supervised probation. As one of her conditions of probation, Rierson must serve 30 days in the county jail.

In addition, 5 defendants were convicted of driving while impaired, and 1 defendant carrying a concealed weapon and misdemeanor possession of marijuana when they remanded their cases for sentencing in district court.

*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 is 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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