

NEWS RELEASE

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Misdemeanor appeals prosecuted in superior court

CHARLOTTE, N.C. – The Misdemeanor Appeals Team for the Mecklenburg County District Attorney's Office held court in Courtroom 5170 for the week of September 5, 2011, and during the weeks of August 29, 2011, and September 5, 2011, in Courtroom 5130.

Courtroom 5170

The Superior Court Judge presiding was The Honorable Timothy S. Kincaid.

Monday was a State observed holiday and no court was held. Tuesday was designated as an administrative day in this courtroom. 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 pleas, remands, motions, and trials occurred during the week:

Erroll Flanigan, 41, was convicted of driving while impaired and speeding 67 m.p.h. in a 45 m.p.h. zone. He remanded his case for sentencing on September 8, 2011 in courtroom 4310.

David Earl Johnson, II, 24, was convicted of driving while impaired. He remanded his case for sentencing on September 8, 2011 in courtroom 4150.

Heidi Schmidt, 24, was convicted of driving while impaired and remanded her case for sentencing on September 8, 2011 in courtroom 4150.

Joshua Beaver, 35, was charged with driving while impaired. The defendant made a motion to suppress based on the lack of reasonable suspicion. Judge Kincaid granted the defendant's motion and the case was dismissed.

Kevin Dahlquist, 37, was charged with driving while impaired. The defendant made a motion to suppress based a challenge to the constitutionality of the checkpoint and lack of probable cause. Judge Kincaid denied both motions and the case was continued to December 5, 2011 in courtroom 5170 for further proceedings.

James Ferlet, 24, was charged with driving while impaired. The defendant pled not guilty and was tried in front of a jury. The jury returned a verdict of *not guilty*.

Kyle Pulley, 26, was charged with driving while impaired. The defendant made a motion to suppress based on lack of reasonable suspicion. Judge Kincaid granted the defendant's motion and the case was dismissed.

Thomas Staton, 24, was charged with driving while impaired. The defendant made a motion to suppress based on lack of probable cause. Judge Kincaid granted the defendant's motion and the case was dismissed.

Courtroom 5130

The Superior Court Judge presiding was The Honorable Linwood O. Foust.

Three defendants were tried.

Sterling Easter, 49, was tried for driving while impaired. The jury returned a verdict of *guilty*. The Honorable Linwood O. Foust, Superior Court Judge, sentenced Easter to 5 days in the county jail; that sentence was suspended pending Easter's successful completion of 12 months of unsupervised probation. Easter also pled *guilty* to speeding 80 m.p.h. in a 60 m.p.h. zone. Judge Foust granted Easter a prayer for judgment continued.

Keith Cave, 43, was tried for driving while impaired. The jury returned a verdict of *guilty*. Judge Foust sentenced Cave to 1 day in jail; that sentence was suspended pending Cave's successful completion of 12 months of unsupervised probation.

Reginald Rivers, 45, was tried for driving while impaired. The jury was unable to reach a unanimous verdict. Judge Foust declared a mistrial.

Six defendants pled guilty before trial.

Michelle Stemplinger, 52, pled *guilty* to habitual driving while impaired. Judge Foust sentenced Stemplinger to 13-16 months in prison.

Noah Hensley, 39, pled *guilty* to habitual driving while impaired. Judge Foust sentenced Hensley to 13-16 months in prison.

Toney Dunn, 56, pled *guilty* to driving while impaired. Judge Foust sentenced Dunn to 180 days in prison; that sentence was suspended pending Dunn's successful completion of 18 months of supervised probation. As one of his conditions of probation, Dunn must serve 45 days in the county jail.

Charles Rice, 77, pled *guilty* to assault on a female. Judge Foust sentenced Rice to 60 days in the county jail; that sentence was suspended pending Rice's successful completion of 12 months or supervised probation.

Hoang Tu, 21, pled *guilty* to misdemeanor carrying a concealed gun. Judge Foust sentenced Tu to 30 days in the county jail; that sentence was suspended pending Tu's successful completion of 12 months of supervised probation. Tu also pled guilty to driving after consuming alcohol while under the age of 21. Judge Foust granted Tu a prayer for judgment continued.

Iasia Strickland, 40, pled *guilty* to driving while license revoked. Judge Foust granted Strickland a prayer for judgment continued.

Nine defendants remanded their cases before trial. In this context, when a case is remanded, the case is sent back to the district court for a sentencing hearing and the defendant's appeal of the district court conviction is no longer pending in the superior court.

Eric Span, 41, was charged with 1) possession of marijuana less than half an ounce and 2) misdemeanor maintaining a dwelling for controlled substances. He remanded his cases.

Michael Mayfield, 19, was charged with resisting public officer. He remanded his case.

Rebecca Bullard, 53, was charged with driving while impaired. She remanded her case.

David Oden, 34, was charged with driving while impaired. He remanded his case.

Heather Kegerreis, 31, was charged with driving while impaired. She remanded her case.

Christopher Hendrickson, 27, was charged with driving while impaired. He remanded his case.

Paul Hee, 50, was charged with driving while impaired. He remanded his case.

Charles Cisne, 48 was charged with driving while impaired. He remanded his case.

Verneshia White, 35 was charged with driving while impaired. She remanded her case.

Seven defendants filed legal motions with the Court.

Jefferey Willet, 37, was charged with driving while impaired. Willet filed a motion to suppress all evidence obtained after his arrest, alleging violations of his constitutional rights. After hearing testimony and the arguments of defense counsel and the Assistant District Attorney, Judge Foust denied defendant's motion. Willet remanded his case.

Vinay Loganadan, 49, was charged with driving while impaired. Loganadan filed a motion to suppress all evidence obtained after his arrest, alleging violations of his constitutional rights. After hearing testimony and the arguments of defense counsel and the Assistant District Attorney, Judge Foust denied defendant's motion. Loganadan remanded his case.

Kevin Baird, 37, was charged with driving while impaired. Baird filed a motion to suppress all evidence obtained after his traffic stop, alleging violations of his constitutional rights. After hearing testimony and the arguments of defense counsel and the Assistant District Attorney, Judge Foust denied the defendant's motion. Baird remanded his case.

Julia Brandon, 24, was charged with driving while impaired. Brandon filed a motion to suppress all evidence obtained after her arrest, alleging violations of her constitutional rights. After hearing testimony and the arguments of defense counsel and the Assistant District Attorney, Judge Foust denied the defendant's motion. Brandon remanded her case.

Dwight Irons, 48, was charged with driving while impaired. Irons filed a motion to suppress all evidence obtained after his stop at a checkpoint and to suppress all evidence obtained after his arrest, alleging violations of his constitutional rights. After hearing testimony and the arguments of defense counsel and the Assistant District Attorney, Judge Foust denied the defendant's motion to suppress evidence obtained after the traffic stop but granted the motion to suppress post-arrest evidence.

Mark Nahrstedt, 28, was charged with driving while impaired. Nahrstedt filed a motion to dismiss the charge against him based on a delay, of several months, by a district court judge in

returning a verdict in his district court case. After hearing the arguments of defense counsel and the Assistant District Attorney, Judge Foust granted the motion to dismiss the charge against the defendant.

Christopher Blatz, 48, was charged with driving while impaired. Blatz filed a motion to dismiss the charge against him based on a delay, of several hours, by the Mecklenburg County Sheriff's Office in processing Mr. Blatz after his arrest thereby disallowing Mr. Blatz to gather evidence in his defense. After hearing the arguments of defense counsel and the Assistant District Attorney, Judge Foust granted the motion to dismiss the charge against the defendant

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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