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**State v. Henry and Implied Consent**

On September 14, 2017, the Court of Criminal Appeals at Jackson, TN, issued the opinion of *State v. Henry*, 2017 WL 4082488. This case involved charges of DUI, DUI 3<sup>rd</sup>, violating the Financial Responsibility Law and Aggravated Assault. After a motion to suppress was granted, the State filed an interlocutory appeal. The CCA affirmed the trial court's suppression ruling and made many observations that affect implied consent and application of the good-faith exception argument.

On March 18, 2015, Mr. Henry was driving on Main Street in Henderson, TN when his vehicle hit the rear of another vehicle. Three different officers arrived at the scene and investigated the crash. The defendant performed poorly on SFSTs and admitted to taking a prescription pain medication. The implied consent form was not provided or used due to a miscommunication in which each officer believed that the other officer had presented the form and proper admonishments. A search warrant was never obtained and the officers proceeded with a blood draw under the then mandatory blood draw provisions of TCA 55-10-406 as in effect on March 18, 2015. The trial court ruled that by not providing the implied consent form or admonishments, the officers did not comply with TCA 55-10-406 and the blood test was suppressed.

The CCA, in *Henry*, relied heavily upon the Supreme Court's recent ruling in *Birchfield v. North Dakota*, 136 S.Ct. 2160, (2016) in determining that "implied consent" does not create a per se exception to the warrant requirement, but merely provides an incentive for cooperating with a breath or blood test by providing a penalty for refusal to submit to the test. The court concluded that implied consent does not qualify as voluntary consent under the Fourth Amendment.

The CCA in *Henry* also chose not to apply the good faith exception as outlined in *State v. Reynolds*, 504 S.W.3d 283 (Tenn. 2016) due to the timing of the ruling in *Missouri v. McNeely*, 133 S.Ct. 1552 (2013), which held that exigent circumstances do not apply to all DUI cases merely because of the natural dissipation of alcohol in the blood stream. The *Henry* court concluded that post *McNeely*, the officers should have obtained a search warrant or articulated an exigent circumstance, since voluntary consent was never acquired. The CCA also stated that *State v. Humphreys*, 70 S.W.3d 761 (Tenn.2001), should be abrogated and

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## State v. Henry and Implied Consent Continued

it no longer amounts to binding precedent. As a further warning, the CCA stated that failure to present the argument of good faith at the trial court level can be considered a waiver to further argument at the appellant level.

The *Henry* court concluded, "...the days of conducting warrantless blood draws in DUI cases are over, barring the existence of truly exigent circumstances, some other recognized exception to the warrant requirement, or the exceedingly rare case in which a detained motorist has the capacity to voluntarily consent to a blood test." *Id.* It should be noted in both the *Reynolds* and *Henry* cases, how the courts emphasized that alcohol, drugs and injuries are serious considerations when determining the voluntariness of consent for blood. Also, the Supreme Court in *Birchfield* stated that consent for blood will not be considered voluntary if the defendant is threatened with criminal sanctions upon a refusal.

Currently, an officer can obtain a breath test upon the defendant's implied consent (if the implied consent form has been provided and properly signed), express consent, a search warrant, incident to a lawful arrest or as required by TCA 55-10-406 (c). If an officer wishes to obtain a blood sample for testing, it must be done by a search warrant, exigent circumstances or after the defendant has read, or been read, the implied consent form and it has been properly signed, dated, timed and initialed. The consent for blood must be voluntary, which is heavily scrutinized by the courts as discussed above.

### RECENT DECISIONS

#### STATE OF TENNESSEE v. TEDD A. TJORNHOM

No. M2015-02207-CCA-R9-CD

(August 1, 2017)

In this Tennessee Court of Criminal Appeals case, the defendant, Tedd A. Tjornhom, filed a motion to suppress in the Williamson County Criminal Court, because the Tennessee Bureau of Investigation (TBI) had destroyed the defendant's blood sample before it could be tested by an independent testing facility. The trial court granted the motion to suppress and the State of Tennessee appealed.

The defendant was arrested on June 1, 2013 for DUI, after which his blood was drawn and sent to TBI. After about a month, on July 9, 2013, the TBI issued an alcohol report, which listed the defendant's BAC as .11%. The report noted that after 60 days the blood sample would be routinely destroyed as part of TBI policy. The defendant was then indicted by a Williamson County Grand Jury for DUI and DUI per se on Dec 2, 2013. The trial judge signed an agreed order on August 14, 2014 for independent testing of the defendant's blood sample by a laboratory in Alabama. The blood sample had already been destroyed by the TBI Laboratory as per TBI's policy in July of 2014. On October 20, 2014, the defendant filed a motion to dismiss which was to be heard by the trial judge.

On October 27, 2014, the motion was heard by Judge Kurtz. The defendant also provided evidence in this hearing that there had been two requests for independent testing. The court did not grant the motion to dismiss because the sample was not exculpatory for the defendant under Brady and the defendant had failed to show that the destroyed sample affected his right to a fair trial under a theory of due process violation per *State v. Ferguson*, 2 S.W.3d 912 (Tenn. 1999).

On May 29, 2015, however, the defendant filed an additional motion to suppress the blood test for trial. In the second hearing, Judge Johnson granted the motion to suppress but not the motion to dismiss. The state appealed. The Tennessee Court of Criminal Appeals held that Judge Johnson had not been able to address the due process violation issue because she had been barred by Judge Kurtz's order after the first hearing, leaving as the only issue the argument that the state had an obligation under Tennessee Code Annotated section 55-10-408(e) to preserve a sample for independent testing. However, the Tennessee Court of Criminal Appeals concluded that in this regard the statute does not give a defendant the right to test the blood sample which was collected and tested by the State, but must request an additional sample be obtained for testing. The Court further found that as to the destruction of the blood sample pursuant to TBI policy that there was not a violation under the statute.

## RECENT DECISIONS Continued

### STATE OF TENNESSEE v. CHARLOTTE LYNN FRAZIER AND ANDREA PARKS No. M2016-02134-CCA-R9-CD

One of the more challenging conditions regarding the new implied consent statute that went into effect on July 1, 2017 has been in the number of questions that law enforcement officers and prosecutors have had as to who can issue a search warrant and what is the authority of a Circuit Court Judge to issue such warrants. In short, does a Circuit Court Judge have authority to issue a search warrant that carries state-wide authority or is he/she limited by their judicial district. This case gives a clear direction as to who has the authority to issue search warrants and the jurisdictional authority of the warrant. This case is being included here, because search warrants are beginning to be used more often due to the general confusion stemming from the various interpretations of the new implied consent statute.

In this case, there was a joint investigation being conducted by several agencies. The United States Drug Enforcement Agency (DEA), the Kentucky State Police, the Twenty-Third Judicial District Drug Task Force, the Nineteenth Judicial District Drug Task Force, and the Clarksville Police Department were conducting a joint operation to find the source of methamphetamine dealing going on in their combined jurisdictions. Information gathered from this joint investigation led the agents involved to the homes of two of the defendants, Charlotte Lynn Frazier and Andrea Parks. Agent Kyle Chessor, who was a member of the Twenty-Third Judicial District, applied for and was granted search warrants for the defendants' homes. Ms. Frazier's home was located in Montgomery County, while Ms. Parks' home was located in Robertson County, both of which are in the Nineteenth Judicial District. The Circuit Court judge, who issued the search warrants, was from the Twenty-Third Judicial District.

After searching the homes, a great deal of cash, paraphernalia, and drugs (Methamphetamine), including LSD, Ecstasy, and marijuana, were found. Once their cases made it to court, both Defendants filed motions to suppress the evidence, based on the Circuit Court Judge not having proper authority to issue a search warrant for property located outside of his/her Judicial District, thus violating their Fourth Amendment rights under the United States Constitution and Article I, section 7 of the Tennessee Constitution.

During the hearing, the defendants argued that the Judge lacked the authority to issue the warrants and the state argued that the Judge did have the right as a Circuit Court Judge, because Tennessee Code Annotated §40-1-106 not only authorizes circuit court judges as actual magistrates but grants Circuit Court judges that authority throughout the State of Tennessee.

The Court of Criminal Appeals of Tennessee (CCA) began its analysis by looking at who is a magistrate and what authority the magistrate has. However, they did find that there was some ambiguity in Tennessee Code Annotated § 40-1-106, which might lead to different yet reasonable interpretations of the statute. The Court of Criminal Appeals for Tennessee then looked at the legislative intent to clarify the language of the statute. After an exhaustive review of the various amendments of the statute, there was no evidence in the CCA's view that indicated that the legislature intended to give out such expansive powers for magistrates. In this case, the CCA found that such an interpretation would permit forum shopping by law enforcement for more sympathetic judges in counties far removed from the essential nexus of events and facts of a particular case. There was simply no such evidence in the legislative history to permit such sweeping power. The trial court was affirmed and the defendants' motions were granted. The bottom-line for our purposes: there exists no authority to issue warrants outside the Circuit Court Judge's own jurisdiction.

## When to use HGN Testimony

In driving impaired cases, if Horizontal Gaze Nystagmus (HGN) is a factor in the arresting officer's determination of probable cause for arrest, it is imperative that the officer testify to the defendant's HGN results and all other factors that formed the bases of the officer's probable cause determination, when appropriate. Everyone is familiar with the landmark case of *State v. Murphy*, 953 S.W. 2d 200, (Tenn. 1997), which held that HGN is a scientific test and to be admissible at *trial*, such evidence must be offered through an expert witness and must meet the requirements of Tennessee Rules of Evidence 702 and 703. (Emphasis added) Since the *Murphy* case, courts have allowed the arresting officer to testify regarding HGN results to support probable cause at preliminary hearings and during motion to suppress hearings. Also, officers that qualify as experts have been allowed to testify to HGN results at all court proceedings.

In the case of *State v. Roscoe*, 2014 WL3511041, (July 11, 2014), the court stated, "Even with the high standard set by our supreme court concerning the admissibility of the results of an HGN test at trial, nothing precludes an officer from taking into his probable cause determination his observations when the test was administered." In the *Roscoe* case, Officer Thomas of the Memphis Police Department stopped a motorist for running a stop sign. Upon making contact with Mr. Roscoe, Officer Thomas noticed the odor of alcohol, slurred speech and bloodshot eyes. Officer Thomas conducted the HGN test, which indicated alcohol impairment, and the officer then called for a DUI unit. The *Roscoe* court included the HGN testimony when considering the "totality of circumstances" in determining probable cause to arrest by Officer Thomas and in denying the motion to suppress. The *Roscoe* court relied heavily on the case of *State v. Bell*, 429 S.W.3d 524, (Tenn. 2014).

Although the Tennessee Supreme Court in *Bell* did not consider HGN, because it was not presented during the prior motion to suppress, they did quote other cases that did. The *Bell*, court stated, "in dealing with probable cause,... we deal with probabilities." (quoting *State v. Grier*, 791 P.2d 627, 631 (Alaska Ct. App. 1990)). The court in *Bell* pointed out that one of the factors used to support probable cause in the *Grier* case was the unsuccessful HGN test, even though that motorist was successful on four other field sobriety tests. (The motorist was successful on the alphabet test, the counting test, the walk-and-turn test and the one-leg test, see footnote 15 in *Bell*.) In the *Bell* case, the defendant did very well on the one-leg stand and the walk-and-turn field sobriety tests. The trial court found no probable cause to arrest because the defendant did "pretty doggone good" on the SFSTs. The Supreme Court stated that the satisfactory performance on the SFSTs do not, by themselves, undercut the existence of probable cause. Probable cause was found based upon bad driving, smell of alcohol and admission of drinking. The testimony of the failed HGN test, could have bolstered the officer's probable cause determination if it had been entered into evidence at the motion to suppress.

Last year when the Tennessee Supreme Court decided *State v. Reynolds*, 504 S.W.3d 283 (Tenn. 2016), they noted that Deputy Strzelecki of the Knox County Sheriff's Department, was allowed by the trial court to testify as an expert as to the HGN results and that the defendant exhibited all six clues of impairment. The court listed Deputy Strzelecki's qualifications as an expert in footnote 6 of the *Reynolds* case, which consisted of various DUI trainings and his experience as a DUI trainer. Officers that possess the knowledge, skill, experience, training or education to qualify as experts on HGN should be proffered as such. The defense in *Reynolds* argued that the defendant was given medication at the hospital that could have affected her HGN results. The *Reynolds* court stated,

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## HGN Testimony continued

“Moreover, any adverse affect the medications had on the defendant’s performance on the HGN test is not relevant to the probable cause assessment because Deputy Strzelecki was unaware the defendant had received those medications when he administered the test.” Id. The Reynolds court also included the defendant’s poor performance on the HGN test as one of the factors used to determine that probable cause existed.

The court in *State v. Childress*, 2016 WL7468206, allowed an officer to testify at trial as to how the defendant could not follow the officer's directions to keep his head still during the HGN test. This testimony was allowed without allowing the officer to testify as to the results of the HGN test. The trial court determined that observations of impairment during the test, without testimony about the test results was proper.

As drugged driving becomes more prevalent due to increased prescription drug abuse and the recent rise in marijuana use, HGN is becoming a much more essential factor in determining the impairment of drivers. Although many studies correlate a suspect’s performance on Standardized Field Sobriety Tests with specific levels of alcohol consumption, a drug impaired driver may perform satisfactorily on the “walk-and-turn” and the “one-leg stand,” but still show signs of impairment during the “HGN” test. If drug impairment is suspected, HGN test results may become a more influential factor in determining probable cause to arrest in numerous cases.

*Tennessee Rules of Evidence* 702 states, “If scientific, technical, or other specialized knowledge will substantially assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify in the form of an opinion or otherwise.” Many officers may have the required qualifications to qualify as an expert based upon their current experience and training as Deputy Strzelecki did in the Reynolds case. Particularly if they have ARIDE or advanced HGN training. Also, officers that are certified as Drug Recognition Experts (DRE) have extensive training, skill, education and experience regarding impairment by alcohol and drugs, and the effects that these substances have upon the human body. They also obtain extensive training regarding HGN and the underlying scientific basis of the test, as required by the Tennessee Supreme Court in *Murphy*.

The *Murphy* court established the standard for qualifying an expert on HGN as the same standard used in the *McDaniel v. CSX Transportation*, 955 S.W.2d 257 decision. The Tennessee Supreme Court in *McDaniel* adopted a *Daubert v. Merrell Dow Pharmaceuticals*, 43 F.3d 1311 (9th Cir. 1995) type of analysis to determine “whether the evidence will substantially assist the trier of fact to determine a fact in issue and whether the facts and data underlying the evidence indicate a lack of trustworthiness.” *McDaniel* at 265. The *McDaniel* court presented a non-exclusive list of factors that a trial court may consider in determining reliability; “(1) whether scientific evidence has been tested and the methodology with which it has been tested; (2) whether the evidence has been subjected to peer review or publication; (3) whether a potential rate of error is known; (4) whether... the evidence is generally accepted in the scientific community; and (5) whether the expert’s research in the field has been conducted independent of litigation.” Id.

Too often HGN testimony is not offered in court proceedings when it should be properly admitted and used in determining probable cause for the arrest or to demonstrate indications of impairment. A proper pre-trial examination of the arresting officer should be conducted to determine the officer’s ability to qualify as an expert witness on potential HGN testimony.

## Governors Highway Safety Association Conference

*Self-Driving Cars, A Brand-New Era for Funky Hats and an Evening at the Kentucky Derby: The Governors Highway Safety Association's Annual Meeting Brings New Innovations to Old Challenges*

One of the most important roles that the Traffic Safety Resource Prosecutors perform while serving under the mandate of the Tennessee District Attorneys General Conference's DUI Training section, is the continuous duty of attending the numerous traffic safety conferences offered throughout not only the great State of Tennessee but also across this nation. These conferences keep the TSRPs up to date on the most recent issues and resources affecting the prosecution of impaired driving. One such opportunity was the recent Governors Highway Safety Associations Annual Conference held in Louisville, Kentucky, this past September 16-20, 2017. The annual conference brings together TSRPs, prosecutors, law enforcement, and almost every other traffic safety related agency along with related vendors to share their innovations and ideas for a safer and brighter future for everyone who uses a public road. This year was no exception and the presentations did not disappoint.

The opening keynote speaker was U.S. Department of Transportation Secretary Elaine L. Chao, who emphasized the continuing role of the U.S. Department of Transportation in saving lives by discussing the policies and future of the department. The ability to formulate strategies of success for the various agencies that operate under those policies allowed the audience to understand the complexities of the Department of Transportation's interactions with the safety advocacy agencies within the various states. It was an eye-opening and insightful perspective. For those of us that rely on grant funding, it was a reminder of just how interconnected our relationship truly is to the goal of bringing deaths on Tennessee highways to zero. A worthy and exalted goal to be sure, but the logistical complexities would be overwhelming if not for a federal oversight agency such as what the Department of Transportation provides.

Safety was the spark that started the heart beating in the innovative and fascinating autonomous vehicle (AV) industry's presentation by Waymo's Director of Safety, Ron Medford. He provided an in-depth analysis of current self-driving technologies and the development of a new, creative mind-set in the AV industry that may one day replace human drivers. Perhaps, in the not so distant future we may see drivers replaced by computer controlled vehicles. The so-called self-driving car may in fact be right around the corner as both Waymo and Google have been able to chart over three million miles driven in the last few years alone, purely by self-driving vehicles. This has included the complex and intricate necessities of being able to make the myriad of decisions that human drivers take for granted. Those of us in the DUI/ Drugged Driver enforcement fields may see an end to traffic deaths related to drugs and alcohol. This technology also has the added benefit of allowing disabled or elderly citizens that were prevented from driving, to once again be able to experience mobility like any other current driver.

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## GHSA Conference Continued

Perhaps one of the most impressive aspects of this new technology is the systematic acquisition of vast stores of data that the computers can access through shared connections and the “experiences” of other self-driving cars that have been operating since around 2005 in the United States. California, for example, has had every North-South highway driven for years by self-driving vehicles with their human overlords sitting in the back, enjoying a drive down the coastal highways of San Francisco and San Diego. One of the most significant aspects of this whole presentation was in witnessing what may well be the very definition of “driver” changing before our eyes.

Another one of the more relevant workshops for purposes of drugged driver and DUI enforcement was the round-table and panel discussions on marijuana legalization for recreational and medical purposes. The most alarming prospect of the marijuana legalization push has been in the sheer number of states where marijuana will be on the legislative agenda in 2018 and 2019. If this push continues unabated, we very well could see almost half of the states in the United States having some form of marijuana use permitted after 2019. If the sixteen or so states pass their currently proposed legislation, it would add these sixteen new states to the nine states and the District of Columbia that already have recreational and medical use legalized.

Amy Miles, who is the Forensic Toxicology Section Director for the Wisconsin State Laboratory of Hygiene at the University of Wisconsin School of Medicine and Public Health, led a discussion with the panel of experts that brought new concerns as to the scope of marijuana testing available within the various states. Unfortunately for us here in Tennessee, we do not have many options for detecting marijuana in a defendant’s system. A blood draw is the only effective means that we have, but that may well change in the future, as we get closer to developing oral fluid testing programs. Oral fluid is a very effective way of finding marijuana use by testing the saliva of an individual. It has been in use in California as well as other states for a number of years. Obviously, Tennessee has different laws in effect that would prohibit a swift and easy means of implementing it, but the DUI Training section has considered developing an Oral Fluid Testing pilot program. Unfortunately, the expense at this point makes the development a bit of a problem, but we have not given up hope!

The Governors Highway Safety Association Annual Conference brought professionals and vendors from across the country together to share their insights and ideas on how we can make our roadways a safer place. Every aspect provided new experience and fresh perspectives on how to more effectively do our jobs. Overall, it was well-worth the trip and we left with much more than we came with. The whole conference was an affirmation of the hard-work and dedication that all of us bring to our profession and our goal to bring the death toll on our roads and highways to zero.

## DUI TRACKER REPORT

### DUI Tracker

The results below were taken from the Tennessee Integrated Traffic Analysis Network (TITAN) from July 1, 2017 through September 28, 2017 and reflect the DUI Tracker Conviction Report for all districts in the State of Tennessee. These numbers include only Circuit Courts, Criminal Courts, General Sessions Courts, and Municipal Courts.

The total number of arrests for the period from July 1, 2017, to September 28, 2017, since the last quarter were 1,537. This is down from the previous quarter by 457. From looking at these numbers, it is easy to see that the trend in DUI related arrests has going down slightly in Tennessee from the last quarter.

The total number of guilty dispositions during this last period is 1,107. The total number of dismissed cases is 118. This means that across the state, 72.2% of all arrests for DUI made are convicted as charged. This percentage is slightly higher than the last period ending on June 29, 2017. Only 7.47% of cases are being dismissed. Also, during this same time frame, only 237 of the total cases were reduced down to another charge, meaning that 15% of the total cases disposed of were to another charge.

### Fatal Crashes in the Quarter

The following information was compiled from the Tennessee Integrated Traffic Analysis Network (TITAN) using an *ad hoc* search of the number of crashes involving fatalities that occurred on Tennessee's roadways from June 30, 2017 through September 28, 2017.

There were a total 248 fatalities in 237 crashes from the 30th of June to the 28th of September, which is an increase from the previous quarter. This is far too many people dying on the roadways, highways and streets of Tennessee.

Out of the total of 248 fatalities, 46 fatalities involved the presence of alcohol, meaning that 18.5% of all fatalities had some involvement with alcohol. This is up from the previous quarter. Further, there were a total of 20 fatalities involving the presence of drugs, which means that 8% of all fatalities involved drugs. There were 14 fatalities that directly involved a hit and run where the driver drove off leaving the scene. This means that 6.85% of the fatalities involved a hit and run. Three additional fatalities resulted in a hit and run where the driver left the scene and the vehicle remained.

There were 133 fatalities resulting from 125 crashes involving fatalities where distracted driving was a contributing factor. Distracted driving is a broad category that includes cell phones and many other reasons for the driver to become distracted. This indicates that distracted driving, for whatever reason, is becoming a serious problem for Tennessee's highways and roadways. This also signifies that 53.6% of all fatalities that occurred this last quarter, designated distracted driving as a contributing factor.

The year-to-date total number of fatalities on Tennessee roads and highways is 756. This is up by 11 from the 745 fatalities seen last year at this same time.

Impaired and distracted driving has been steadily increasing throughout the year. It is apparent that further education and enforcement is needed. The automobile industry is continuing to implement driver-assisted technology that should help to combat distracted driving in the future and eventually decrease the number of fatalities on Tennessee's roads and highways.



## VEHICULAR HOMICIDE MURDERERS ROW

### **State v. James Anthony Davenport, Cheatham County**

On April 12, 2015, at about 3:30 p.m., a Cheatham County ambulance was headed north bound on Sam's Creek Road with a patient, injured in a DUI crash, on the way to meet at a life flight delivery point. The ambulance was followed by an Ashland City Fire Department fire engine. Both vehicles had their lights on, and the ambulance had its sirens blaring. All of the southbound traffic pulled over and stopped for the emergency vehicles as they passed, except for the Ford Mustang being driven by the Defendant James Anthony Davenport. Mr. Davenport didn't respond to the emergency equipment nor did he respond appropriately to the southbound tractor trailer directly in front of him which was slowing down and moving over. Testimony from the THP CIRT expert indicated that the slowing tractor trailer should have been clearly visible to Mr. Davenport in the half-mile straightaway prior to the location where the crash occurred. After the northbound ambulance passed the southbound tractor trailer, Mr. Davenport darted around the tractor trailer and crossed the double-yellow line preceding a blind curve. The defendant struck the following fire engine head-on, killing his passenger and wife Rachel Davenport. Almost three and a half hours later, a blood draw indicated that Mr. Davenport still had present, active THC metabolite, in his bloodstream. On May 8, 2017, Mr. Davenport, plead open to the B Felony Vehicular Homicide by Impairment (punishable by 8 to 12 years). On August 21, 2017, after a sentencing hearing at which the footage of the fatal wreck, captured by the fire engine's cameras, was played, Judge Suzanne M. Lockert-Mash sentenced Mr. Davenport to 10 years in the Tennessee Department of Corrections as a Range 1 Offender and she suspended his Driver's License for a period of 3 years.

### **State v. Allan Farley Hassenplug, Humphreys County**

On October 8, 2015, Allan Farley Hassenplug was traveling westbound on State Route 230 in Humphreys County. According to the THP CIRT report, Mr. Hassenplug was going at least 93 miles per hour in a 55 miles per hour speed zone. He failed to negotiate a left-hand curve in the road, and the Jeep Cherokee he was driving struck a rock out-cropping off the right side of the road and rolled, fully ejecting the defendant and his passenger and long-time girlfriend Stephanie Holder. Ms. Holder was able to tell EMTs on the scene, that she had told Mr. Hassenplug that he was going too fast around the curves prior to the wreck, verifying him as the driver. Mr. Hassenplug declined to answer any questions either at the scene or at the hospital. Ms. Holder died in transit to Vanderbilt University Medical Center. Trooper Brandon Smith of the THP obtained a search warrant for a sample of Mr. Hassenplug's blood. About three and a half hours after the crash, Mr. Hassenplug's blood still contained Cocaine and alcohol. His blood alcohol level was .037%. Mr. Hassenplug had three prior DUI convictions. On August 14, 2017, Mr. Hassenplug, plead guilty to the A felony of Aggravated Vehicular Homicide by Impairment, as a Range 1 Offender, to a sentence of 15 years to serve in the Tennessee Department of Corrections.

## Meet the new TSRP



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Terry E. Wood graduated in 1985 with a Bachelor Of Arts degree in History from UCLA. He received his Juris Doctor degree in 1988 from Pepperdine Univ. School of Law. Terry started his legal career as a trial attorney in a Los Angeles, CA law firm. In 1990, he opened his own law office and started the Victor Valley Mediation Center. In 1994, Terry joined the San Bernardino County District Attorney's Office where he tried all types of criminal cases and supervised the DUI, Street Enforcement Prosecution and Community Prosecution units. In 2007 he joined the 21<sup>st</sup> Judicial District of the District Attorneys General Conference in Tennessee where he again served as a DUI prosecutor, later moving into a trial position and then finally serving as a Deputy District Attorney. Terry is now serving as the new Traffic Safety Resource Prosecutor.

## 2017 National Traffic Safety Prosecutor of the Year

On July 12, 2017 at the National Association of Prosecutor Coordinator's summer conference in St. Paul, Minnesota, Mitchell Blake Watson of the 2nd Judicial District was awarded the NAPC's 2017 National Traffic Safety Prosecutor of the Year Award for his outstanding work in prosecuting DUI cases and for his community contributions in teaching local law enforcement and working in local schools to make our streets and highways safer.



### *Tennessee District Attorneys General Conference*

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