



DUI NEWS

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THE PROSECUTOR'S GUIDE TO PERFECTING A DIRECT APPEAL

Mark Fulks,
Assistant Attorney General

If it has not happened to you already, it will. You will enter the courtroom to defend against the defendant's motion to suppress, the law and the facts squarely on your side, only to leave some time later with an order suppressing the evidence in hand. When that day comes, your immediate inclination will be to take the case to a higher court. Accordingly, you will be well advised to have some familiarity with the appellate process. To begin, you should read the Rules of Appellate Procedure. The rules that will be most important to you are rules 3, 4, 9, 10, and 24. You should also be familiar with rules 25 and 26.

The first question you will need to answer is whether your appeal is a direct appeal as of right pursuant to Rule 3, an interlocutory appeal pursuant to Rule 9, or an extraordinary appeal pursuant to Rule 10. See Tenn. R. App. P. 3(c), 9, and 10. For the most part, this is an easy question to resolve when dealing with an order suppressing the State's evidence. Rule 3(c) provides for an appeal by the State as a matter of right from an order or judgment "the substantive effect of which results in dismissing an

indictment, information, or complaint."¹ In simplest terms, a suppression order has the substantive effect of dismissing a case if the evidence remaining is not sufficient to take the case to trial. In other words, ask yourself if the trial court's order makes it impossible to proceed.

For example, if a motorist is charged with DUI under Tenn. Code Ann. § 55-10-401(a)(1) and the trial court suppresses the BAC test results, but the arresting officer can still testify that the motorist was driving erratically, had blood-shot eyes and slurred speech, was unsteady on his feet, and failed a field sobriety test, the ruling does not prevent the case from being prosecuted. Under those circumstances, Rule 3(c) would not allow an appeal as of right. Instead, appellate review would be pursued through an interlocutory or extraordinary appeal under rule 9 or 10. However, if a motorist is charged with DUI with a BAC of 0.08 percent or greater under Tenn. Code Ann. § 55-10-401(a)(2) and the trial court suppresses the BAC test results, the ruling would prevent the case from being prosecuted and Rule 3(c) would allow the State to pursue an appeal as of right.

To perfect an appeal pursuant to Rule 3(c), the State must file a notice of appeal with the trial court clerk's office within 30 days after the entry of the judgment being appealed. See Tenn. R. App. P. 3(c) and 4(a). First, however, you should contact the Criminal Justice Division of the State Attorney General's office

RECENT DECISIONS

STATE V SLAGLE, 2006 Tenn. Crim. App. Lexis 822

AMBIEN DEFENSE

It did not take long for the defense of involuntary intoxication due to the use of Ambien to hit Tennessee. In April, 2006 Court television featured the case of Texas v Dr. Mark Gilliland. The plastic surgeon claimed he was sleep driving. He left the scene after striking two women, who worked for the "Animal Planet" television network. He was

convicted of vehicular assault and received a ten year sentence. The defense was popularized despite the verdict.

Defendant Slagle was pulled over after failing to dim his bright headlights. He admitted to drinking two beers and taking medication. He refused to perform sobriety tests. After being placed in the squad car he became belligerent. He refused to take a breath or blood test and became combative. When issued a jail jumpsuit, he urinated through the cell door and attempted to flush the jumpsuit causing a flood. At trial he blamed Ambien. He said he did not remember anything except for waking up naked in a jail cell. Dr. Berta David testified on his behalf. Dr. David testified that appellant was being treated for alcohol dependency and that patients must be very cautious drinking alcohol while taking a prescription drug such as Ambien. Mixing the two, she stated, can be very dangerous and can cause serious problems such as blackout spells. She further noted that the Appellant was also on Paxil and Seroquel, both of which can also cause problems when mixed with alcohol. Additionally, she testified that alcoholics often have blackout spells. During these episodes, a person may do certain things but later have no memory of what they did.

In this case A.D.A. Frank Harvey, of the 9th District, was able to point out several inconsistencies in the defendant's story. Included was the fact that the defendant remembered he had two beers and medication after he was pulled over. Judge Hayes points out in his opinion the dangers of mixing medications and alcohol and

STATE V CLARK, 2006 Tenn. Crim. App. Lexis 849

SOBRIETY CHECKPOINT

What happens when a sobriety checkpoint catches an impaired elected official? The obvious answer is that the checkpoint and every person and every thing will be challenged. In this decision the Court embraces the outstanding work done by the Montgomery County Sheriff's Department. The checkpoint was planned and executed with the Supreme Court decision of State v Downey 945 S.W. 2nd 902 (Tenn.1997) in mind. The on-site supervisor was Sgt. Jerry Tucker. Jerry is now a Law Enforcement Liaison for the Governor's Highway Safety Office and the Training Director for the GHSO. He has worked with the District Attorneys General Conference to put together a

training manual for law enforcement offices concerning sobriety checkpoints.

STATE V MANN, 2006 Tenn Crim App Lexis 792

Evidence was sufficient to convict defendant of DUI as defendant was in control of his car when officers observed it hit another car and then continue down the road. Defendant Mann had beer on his person when the car was stopped and could not walk without assistance. Mann admitted that he had been drinking.

STATE V HARTLEY, 2006 Tenn Crim App Lexis 570

Officer Craig Wright had been instructed to watch the restraint areas due to Cinco de Mayo celebrations. While walking to a welfare check concerning a person vomiting in the parking lot, he saw the defendant stumbling toward and leaning against his car. After checking on the "upchucker" he saw the defendant start driving. He immediately

Recidivist Wall of Shame



Samuel Shaw, 54, of Memphis has been convicted in Memphis for his sixth and seventh DUI and his third violation of the Habitual Motor Vehicle Offender Act. On February 3, 2006, Shaw posted a .345 BAC after nearly striking a vehicle and a telephone pole. A citizen approached a Memphis officer who then found the drunken Shaw, who admitted to drinking all night. Shaw refused testing during his next arrest in Bartlett on June 6, 2006. Shaw pled guilty to both DUI's and two violations of the HMVO law and received a three year sentence. His previous DUI convictions were all between 1989 and 1992.



Randall Shannon, 44, of Memphis pled guilty to his 6th DUI, his 7th violation of the Habitual Motor Vehicle Offender law and simple assault. He received a four year sentence. Shannon has used a variety of alias' including: ALEX BRASSEL, RANDALL HUGE, RANDELL HUGE, ARNOLD MORRIS LEAPER, RANDALL SHANNAON during his criminal career. In this case he backed into another vehicle, tried to leave and assaulted the victim. He refused to perform SFST's and a breath test as is typical for persistent DUI offenders.

DELIVERING A DUI

According to it's website, Tennessee Rehabilitative Initiative in Correction (TRICOR) provides an environment where offenders learn work ethics and marketable skills which will assist with a successful reintegration into society. Terry Munday is an employee. On October 13th, WATE television in Knoxville reported that Munday entered the headquarters of the Tennessee Highway Patrol to deliver a large file cabinet. He had driven from Nashville to Knoxville. A receptionist noticed a strong smell of alcohol. A

DEA SAYS MISUSE OF COUGH SYRUP/SOFT DRINK MIX ON RISE

Mixing cough syrup and soft drinks or power drinks has become a popular way to get high in some parts of the U.S., the Drug Enforcement Administration (DEA) says. [USA Today](#) reported October 19 that users mix prescription cough suppressants containing promethazine and codeine with soda or sports drinks, sometimes adding a Jolly Rancher candy and ice. The mix causes euphoria and impairs motor skills.

The trend got national attention when Terrance Kiel, a defensive back for the San Diego Chargers, was arrested last month for allegedly having cases of cough syrup shipped to his home in East Texas. The coughmedicine cocktails, known as "Lean," "Sizzurp," "Purple Drank," or other nicknames, are especially popular in the region.

A 2004 survey found that 8.3 percent of Texas secondary-school students reported using codeine-based cough syrups to get high. Officials from Texas to Florida report misuse of the prescription medication. The syrup often is obtained from online pharmacies. The syrup sells for about \$12 a pint wholesale, but is sold for \$300 a pint to dealers who then sell it for \$40-85 per ounce to consumers (\$640-\$1,360 per pint).

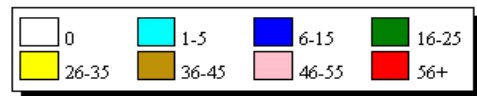
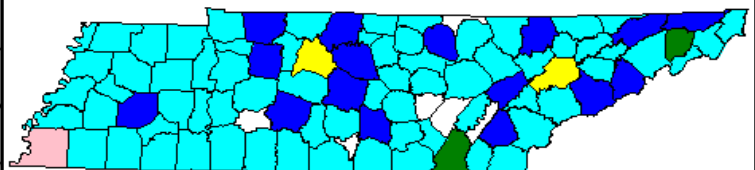
2005 COUNTY FATALITY			
County	2005		Rate per 100,000 Population
	Fatalities	Rate per 100,000 Population	
Anderson County	4	5.52	
Bedford County	4	9.48	
Benton County	1	6.07	
Bledsoe County	0	0.00	
Blount County	4	3.46	
Bradley County	2	2.17	
Campbell County	7	17.20	
Cannon County	3	22.49	
Carroll County	2	6.87	
Carter County	4	6.80	
Cheatham County	2	5.18	
Chester County	3	18.82	
Claiborne County	4	12.89	
Clay County	2	25.03	
Cocke County	7	20.04	
Coffee County	7	13.76	
Crockett County	2	13.70	
Cumberland County	5	9.74	
Davidson County	34	5.91	
DeKalb County	3	16.43	
Decatur County	5	42.79	
Dickson County	8	17.43	
Dyer County	4	10.57	
Fayette County	4	11.61	
Fentress County	3	17.48	
Franklin County	4	9.76	
Gibson County	3	6.23	
Giles County	5	17.07	
Counties in which a person is most likely to die in a traffic crash after population is considered:			
Clay	Decatur	Perry	
Houston	Overton		
County	Fatalities	Rate per 100,000 Population	
Grainger County	3	13.46	
Greene County	5	7.65	
Grundy County	2	13.69	
Hamblen County	3	5.01	
Hamilton County	17	5.47	
Hancock County	1	14.92	
Hardeman County	1	3.55	
Hardin County	1	3.86	
Hawkins County	6	10.68	
Haywood County	2	10.18	
Henderson County	1	3.78	
Henry County	4	12.69	
Hickman County	2	8.41	
Houston County	3	37.56	
Humphreys County	2	10.98	
Jackson County	2	18.06	
Jefferson County	4	8.27	
Johnson County	2	11.04	
Knox County	27	6.67	
Lake County	1	13.19	
Lauderdale County	3	11.20	
Lawrence County	4	9.73	
Lewis County	0	0.00	
Lincoln County	4	12.35	
Loudon County	4	9.22	
Macon County	4	18.56	
Madison County	7	7.37	
Marion County	4	14.41	

2005 COUNTY FATALITY

County	Fatalities	Rate per 100,000 Population
Marshall County	2	7.05
Maury County	8	10.49
McMinn County	6	11.69
McNairy County	4	15.82
Meigs County	0	0.00
Monroe County	1	2.32
Montgomery County	13	8.83
Moore County	0	0
Morgan County	2	9.92
Obion County	4	12.42
Overton County	6	29.24
Perry County	2	26.41
Pickett County	0	0.00
Polk County	1	6.27
Putnam County	3	4.51
Rhea County	2	6.68
Roane County	6	11.34
Robertson County	5	8.28
Rutherford County	14	6.41
Scott County	1	4.57
Sequatchie County	1	7.88
Sevier County	10	12.61
Shelby County	47	5.17
Smith County	4	21.45
Stewart County	1	7.71
Sullivan County	12	7.86
Sumner County	7	4.83
Tipton County	4	7.14

County	Fatalities	Rate per 100,000 Population
Trousdale County	1	13.03
Unicoi County	3	17.07
Union County	3	15.73
Van Buren County	0	0
Warren County	4	10.06
Washington County	16	14.22
Wayne County	2	11.83
Weakley County	3	8.89
White County	4	16.49
Williamson County	4	2.60
Wilson County	8	7.96

Alcohol-Related Fatalities, by County, Tennessee, 2005



Counties with ZERO fatalities:

Bledsoe, Lewis, Moore, Pickett, Van Buren

Counties with greatest number of fatalities:

Shelby	47	Davidson	34
Knox	27	Hamilton	17
Washington	16	Rutherford	14
Montgomery	13	Sullivan	12

PREPARATION FOR CROSS EXAMINATION

The trial is approaching. As a prosecutor you have decided to go with a particular theme. You know what you want to be able to say in your final closing argument. You have prepared to pick a jury with your theme in mind. You have outlined the opening statement and prepared some visual aids. You have organized your direct examination and spoken to your witnesses about questions you plan to ask. You've picked out your courtroom attire. You've spent time thinking about the language you plan to use. You are ready to go. You walk into the office of an experienced prosecutor to double check everything. Then it happens.

She asks you, "Are you ready to cross examine the defense witnesses?"

The wheels begin to turn. You decide you won't panic. You aren't even going to let her see you sweat. You laugh and respond, "that defendant won't take the stand. He's been to the big house. He knows better."

She asks, "What would he try to say if he took the stand?" You respond, "Just like everybody else, he'd say he had 2 beers and wasn't drunk or else he wasn't driving."

"So, who is going to say that for him?"

"It will be his lawyer."

"Besides him?"

"I don't know."

"Somebody is going to say it and get ready, because that somebody may be very attractive to your jury."

Now panic has set in. How can you prepare for cross examination of the defense witness or witnesses?

Assistant District Attorney **Tom Henderson** of the 30th Judicial District spoke at a conference for the DUI Training Division a couple years ago. He prepared an excellent handout concerning cross examination. Tom listed 11 points concerning the preparation phase of cross examination. In addition to these points some officers will note the presence of lay witnesses at the scene. A drunken passenger may have been allowed to call for a ride home. A drunken passenger may have been charged with public intoxication. If there was a buddy with the defendant, the buddy will commonly testify he was the driver that night. If there was a buddy present, learn about him. Don't lose your case by failing to prepare for cross examination.

Here are the 11 hints from Tom Henderson:

- 1) Our first mistake is to assume that cross-examination is completely spontaneous and cannot be planned in advance.
- 2) We frequently plan our direct examination and then give no thought to our cross at all.
- 3) As a part of the preparation for your next trial, make a copy of the Court's instructions on credibility of witnesses and impeachment of witnesses.
- 4) It is a good outline of what to try to establish on cross.
- 5) It is useful for closing argument since it is what the judge will tell the jury to consider.
- 6) In order to plan cross, it helps to know who the defense witnesses are.
- 7) It is a mistake, of course, to assume that the defense has no witnesses just because our file and witnesses say there are no other witnesses.
- 8) In addition to looking at reciprocal discovery, jail visitation lists and defense subpoenas, ask yourself what the defendant would like to have said at the trial, remembering that the defendant is not constricted by concerns for the truthfulness of his testimony.
- 9) You have to assume that the defendant MAY testify in any case, even those who have horrendous records. Look out for the defendant who speaks proudly of his long record for burglary as evidence that he would not think of doing a robbery.
- 10) In many jurisdictions, the rule on impeachment does not allow the use for impeachment of the

New U.S. Transportation Secretary Peters Urges Motorcyclists to Take Greater Responsibility for Personal Safety

MILWAUKEE, WI – Motorcyclists are key to reversing skyrocketing fatality rates, U.S. Transportation Secretary Mary E. Peters said today during a visit to Harley-Davidson in Milwaukee, her first public event since being sworn in as the nation’s 15th Secretary of Transportation.



Transportations Secretary Mary E. Peters

Peters, an avid motorcyclist, said riders should take safety classes, ensure they have the proper license, and wear their helmets. “Motorcyclists have the power to reduce this alarming trend,” Peters added.

The Secretary said she was concerned by the fact that motorcycle fatalities have increased 115 percent during the past 8 years, from 2,116 in 1997 to 4,553 in 2005. She added that although motorcycles account for only 2 percent of all vehicles on the road, they now represent more than 10 percent of all traffic-related fatalities.

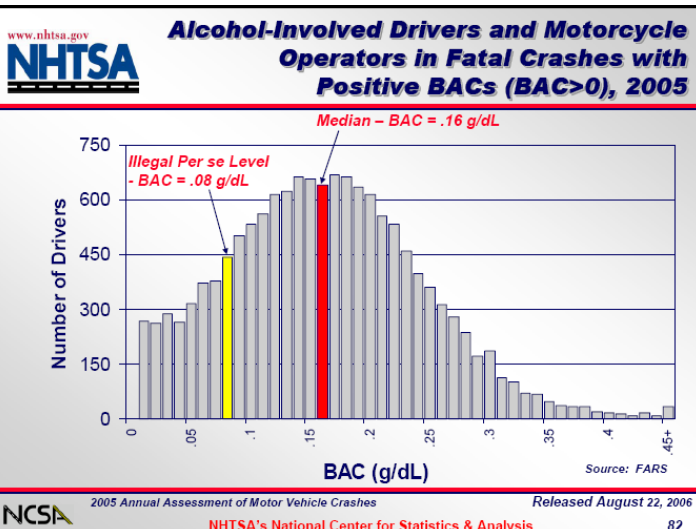
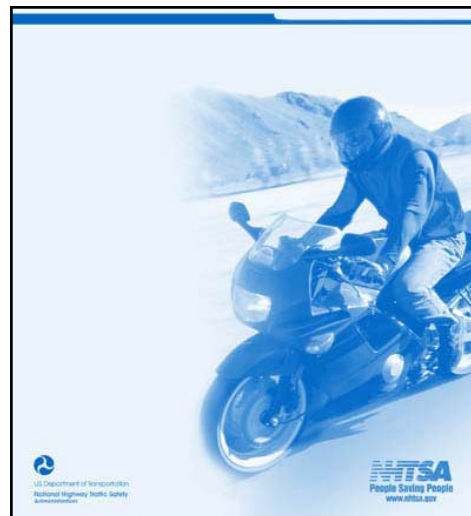
Saying more must be done about motorcycle safety, Peters noted the Department is working with the transportation community, including state and local governments, to find new ways to make our roads as safe as possible and, for the first time, has awarded millions of dollars in grants to help riders navigate more safely and to make other motorists on the road more aware.

The Secretary urged motorcyclists to obtain proper licenses, to drive sober, and to know how to ride safely when other vehicles are around. She added that other motorists also needed to do a better job being aware of motorcyclists. And she praised companies like Harley-Davidson for their leadership in motorcycle safety and education programming and their effort to make sure bikes are properly maintained.

Peters said riders also should wear a helmet, noting that if every rider did, over 700 lives would be saved every year. Peters, who always wears a helmet, told reporters she refuses “to ride with anyone who doesn’t”, adding that only 58 percent of Americans who ride motorcycles wear helmets today, which is down 13 percent from 2000.

Total Versus Motorcycle Rider Fatalities by Year, 1997-2004

Fatalities	Year							
	1997	1998	1999	2000	2001	2002	2003	2004
Total	42,013	41,501	41,717	41,945	42,196	43,005	42,884	42,636
Change	--	-512	+216	+228	+251	+809	-121	-248
Motorcycle Riders	2,116	2,294	2,483	2,897	3,197	3,270	3,714	4,008
Change	--	+178	+189	+414	+300	+73	+444	+294
Percent of all Fatalities	5.00%	5.50%	6.00%	6.90%	7.60%	7.60%	8.70%	9.40%



To learn more about the costs of motorcycle injuries go to:

THE PROSECUTOR'S GUIDE TO PERFECTING A DIRECT APPEAL

(Cont. from Page 1)

When you contact the Attorney General's office, be prepared to explain the facts, the grounds for the motion, the ruling of the trial court, and the reasons you believe an appeal is warranted. If the Attorney General's office agrees with your assessment of the case, the appeal will be taken.² At that time, the notice of appeal should be filed.³

If you have questions concerning the proper form of the notice, refer to Rule 3(f) and Appendix A, Form 1, for guidance. The notice of appeal must be served on the defendant and his counsel within seven days of being filed. Tenn. R. App. P. 5(a) and (b). Additionally, familiarize yourself with Rule 8(b) of the Rules of Appellate Procedure: When the State pursues a direct appeal, the defendant cannot be held in jail or required to make bail absent "compelling reasons."

The next step in perfecting an appeal is the preparation of the appellate record. Initially, it is important to note that it is the appellant's responsibility to ensure that the appellate record is prepared. See *State v. Beech*, 744 S.W.2d 585, 588 (Tenn. Crim. App. 1987). The failure to prepare an adequate appellate record can result in a waiver of the appeal and a presumption that the trial court ruled correctly. See Tenn. R. App. P. 13(c) (appellate court can only consider facts set forth in the record); Tenn. R. Ct. Crim. App. 10(b) (failure to cite to the record results in waiver of the issue); *State v. Oody*, 823 S.W.2d 554, 559 (Tenn. Crim. App. 1991) (when the appellate record is inadequate the appellate court is precluded from considering the issue and the trial court's ruling is presumed correct).

The appellate record is adequate if it conveys a "fair, accurate, and complete account" of what transpired in the trial court. See Tenn. R. App. P. 24. Rule 24(a) establishes the contents of the record unless the full record is not needed for appellate review of the issue. See Tenn. R. App. P. 24(a). The full record is not necessary when an appeal is limited to review of a suppression order. In such a case, a designation of appellate record should be filed within 15 days of the filing of the notice of appeal, specifying the parts of the trial court record to be included in the appellate record and the issue being appealed. *Id.* (third paragraph). The appellate record should include the indictment, the defendant's motion to suppress, the State's response, the trial court's order granting the motion, the notice of appeal, the transcript of the motion hearing, and any exhibits introduced.

The preparation and filing of the transcript are governed by Rule 24(b). See Tenn. R. App. P. 24(b). When the State appeals, the State has the responsibility to request preparation of a transcript. The transcript must convey a "fair, accurate, and complete account" of what happened in the trial court with respect to the issue being appealed. The transcript must be ordered from the court reporter, in a written request, within 15 days of the notice of appeal. *Id.* (second paragraph). A copy of the transcript request must be filed in the trial court clerk's office.

The transcript itself must be filed with the trial court clerk within 90 days after the notice of appeal is filed and it must be certified by the court reporter or the prosecuting attorney. *Id.* (first paragraph). It is the appellant's responsibility to ensure that the transcript is filed and to notify the defendant's counsel of the filing. It is important to keep the defendant's counsel notified at each stage of the appeal because the defendant has a right to designate additional parts of the record for inclusion in the appellate record and to raise objections to the accuracy of the transcript. See Tenn. R. App. P. 24 (e) (correction or modification of the record). Additionally, the failure to follow this procedure could result in dismissal of the appeal under Rule 26(b) of the Rules of Appellate Procedure.

After the transcript is filed with the trial court clerk, your job in perfecting the appeal is done. From that point, the trial judge may approve the record or it may be deemed approved. Tenn. R. App. P. 24(f). Then the trial court clerk is required to complete and transmit the appellate record to the clerk of the appellate court. Tenn. R. App. P. 25. When the record is filed in the appellate court, the Attorney

TRAINING NOTICE

NEW PROSECUTORS TRAINING ACADEMY

February 26 - March 2, 2007

Embassy Suites, Nashville Airport

The Academy is a five day lecture based introduction to prosecution. Sessions include: The Ethical Role of the District Attorney; Protecting the Record; Meeting General Defenses; Jury Trial Basics; Juvenile Court Issues; Sessions Court Docket Management; Search and Seizure; Domestic Violence; DUI Prosecution and Ethics.

Contact Mary Tom Hudgens at 615-253-5684 to register.

DUI TRIAL ADVOCACY

March 12-15, 2007

Sheraton Read House, Chattanooga.

This course combines informational presentations with hands on opportunities to polish skills. It provides an opportunity to perform all aspects of a jury trial and receive critiques from state and national experts. The objectives of the course are:

- Describe the magnitude of the problem of alcohol and drug impaired driving concerning deaths, injuries and violations
- Describe the effects of alcohol on the body and mind
- Communicate more effectively with law enforcement officers in preparation of trial or settlement hearings
- Understand the role of the officer in the detection and arrest of impaired drivers
- Recognize and interpret evidence of DUI
- Prepare for effective courtroom presentations at trial or in hearings

FOOTNOTES, The Prosecutors Guide to Filing a Direct Appeal

FN 1 The State can also appeal from entry of a judgment of acquittal, an order arresting the judgment, an order granting or refusing to revoke probation, and a final order in a habeas corpus, extradition, or post-conviction proceeding. See Tenn. R. App. P. 3(c). Other issues must be pursued via a petition for writ of certiorari. See, e.g., *State v. Leath*, 977 S.W.2d 132 (Tenn. Crim. App. 1998) (review of erroneous grant of pre-trial jail credits is via certiorari review).

FN 2 However, the Attorney General's decision is contingent upon the appellate record supporting the State's position. If the facts are not sufficiently developed in the record or the trial court made credibility determinations adverse to the State's position, the appeal may be dismissed. See Tenn. R. App. P. 15 (voluntary dismissal of appeal); *State v. Morris*, 24 S.W.3d 788, 795 (Tenn. 2000) (All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact, not the appellate courts).

FN3 On occasion, you may find yourself facing the deadline for filing the notice of appeal without having had the opportunity to contact the Criminal Justice Division. If that happens, you should file a timely notice of appeal to preserve the issue and then contact the Attorney General's office. If the Attorney General's office decides not to pursue the appeal, the appeal can be dismissed. See Tenn. R. App. P. 15. Also, the notice of appeal is not jurisdictional and the requirement of timeliness may be waived by the appellate court. See Tenn. R. App. P. 4(a). Nevertheless, the notice of appeal should be filed in a timely manner except in extraordinary circumstances.

Mark Fulks, an Assistant Attorney General for seven years, currently serves as an appellate team leader in the Criminal Justice Division where he is responsible for training new attorneys in appellate practice and procedure. He recently served as the Attorney General's representative on the Governor's DUI Task Force. He has previously published articles on a variety of legal subjects and has lectured on search and seizure, extradition, criminal law, and criminal procedure. The opinions he has expressed are his own and not necessarily those of the Attorney Gen-

New life in U.S. cut short by drunken driver

Theresa Laurence, Tennessee Register
Reprinted with permission

Sixteen months ago, Congolese immigrant Antoine “Kennedy” Bumvu arrived in Nashville to join his wife Josephine and toddler son Eddy. Less than a year later, Josephine gave birth to the couple’s second child, Tony. The parents were eager to build a bright future for their two young sons in Nashville.

But like the president who was assassinated the year he was born, Antoine “Kennedy” Bumvu’s life also met a tragic end. Two weeks ago Antoine and Eddy were killed by a drunken driver. Josephine and Tony, who were also in the car, were injured and are recovering. On Wednesday she underwent facial surgery due to injuries from the wreck. Antoine’s father-in-law Alphonse Londa-Sasa said that his family, many of whom live in Nashville, have faith in the justice system that the man who struck and killed his son-in-law and grandson would be punished. “There is no vengeance from us,” he said.

Metro police have charged Nashville resident Jonathan Narvaez-Pena with two counts of vehicular homicide by intoxication. He was arrested and jailed in lieu of a \$2 million bond for allegedly causing a collision of six vehicles that resulted in the Bumvus’ deaths.

Londa-Sasa described his son-in-law Antoine as a humble man whom “anybody would like.” Londa-Sasa and his wife resettled in Nashville 11 years ago with the help of World Relief; some of his 12 children have joined him over the years with the help of World Relief and Catholic Charities. Londa-Sasa, speaking in French as his son Claude Londa-Sasa translated, said that Antoine loved to read and had been working on his master’s degree in administration in Strasbourg, France, where his brother lived, before coming to the U.S.

Antoine stayed home with Eddy and Tony while Josephine worked, but recently had begun looking for a job. “They were deciding how they could both work and take care of the kids,” Londa-Sasa said. “They didn’t want to put them in day care.” Londa-Sasa said Antoine was a very devoted family man and would readily cook and wash dishes for his wife and baby-sit for their children. “He loved his kids,” Londa-Sasa said.

Londa-Sasa is perhaps most saddened that his grandson Tony will have no memory of his father and will grow up without his support. Extended family and friends are raising money to open a bank account for Tony’s educational costs. They are also pitching in as Josephine recovers from the physical injuries she sustained in the wreck, and as she grieves for her lost husband and son.

“In African families, the father is very important,” Londa-Sasa said. “He is like the head of the train, pulling all the wagons. But now the head is gone.”

Congolese immigrant Antoine “Kennedy” Bumvu and his two-year-old son Eddy were killed two weeks ago by a drunk driver. His wife Josephine and six-month-old son Tony survived the crash. Josephine’s parents and many of her 12 siblings, some of whom were resettled here by Catholic Charities, live in Nashville.



The suspect,
Jonathan Narvaez-
Pena

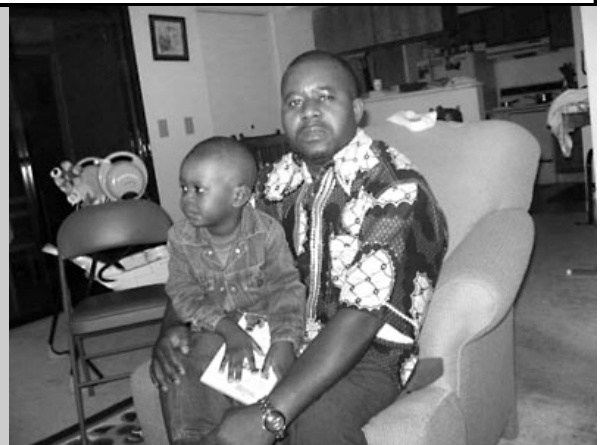
How You Can Help

If you would like to help the Bumvu family,
Please send a check made out to:

Catholic Charities
10 South 6th St.
Nashville, TN 37206

Please note the family’s name on the
check.

Catholic Charities will ensure that



Antoine Kennedy Bumvu and Eddy
Rest in Peace

**VEHICULAR HOMICIDE
MURDERERS ROW**



John Dupree

On Saturday, October 30, 2004 at 4:20pm, the Metro Police Department arrested this defendant, John Dupree, for vehicular homicide due the defendant running over Stanley Masek at Summer and Elmore Rd in Memphis. The defendant, while driving his car hit the victim, who was operating a motorized wheel chair on the side of the road. The officers noticed signs of impairment, and the defendant admitted to taking Advant, Vicodin, and Paxil. The victim later died at the Regional Medical Center.

On Thursday, March 24, 2005 at 8:30am, the MPD arrested Dupree for DUI after a crash at 2282 Union. The defendant slammed into the rear of a vehicle at a red light. The officers noticed signs of impairment. The defendant submitted to a urine screen - positive for Paroxetine.

On November 9, 2005, the Judge increased his bond to \$10,000. Included in the bond increase, the Judge ordered the defendant to a drug rehabilitation program and to wear the SCRAM bracelet for the duration of the case (at \$12:00 per day). The defendant had a prior DUI conviction on September 21, 1993.

On August 3, 2006, Dupree pled guilty and was sentenced by Judge Otis Higgs to Vehicular Homicide by Recklessness and to a separate DUI. The defendant pled to a negotiated plea of 3 years on the C Felony of Vehicular Homicide and to 11-29 days for DUI. After a sentencing hearing,

State v Belcher, 2006 Tenn. Crim. App. Lexis 279

24 years for career offender



Micheal W Belcher

Defendant's convictions for two counts of aggravated assault by reckless conduct arose from a vehicle crash that occurred when he was driving a hotel guest to the airport, as part of his duties as a hotel bellman. On appeal, defendant argued that the evidence introduced at trial was insufficient to

support his convictions because the State merely proved that he fell asleep while driving and did not consciously drive into the wrong lane of traffic. An analysis of defendant's blood revealed the presence of 0.07 micrograms per milliliter of cocaine and 0.05 micrograms per milliliter of ecgonine methyl

ester, which indicated that defendant was "crashing" from his prolonged cocaine use. Because defendant admitted that the accident resulted from his falling asleep while operating the hotel's shuttle van, and because the evidence attributed his drowsiness to the voluntary use of illegal narcotics, the

appellate court held that the jury could have reasonably concluded that defendant's ingestion of cocaine was the proximate cause of the accident which resulted in the convictions at issue. Spe-



Sharfyne L'Nell White

State v White, 2006 Tenn. Crim. App. Lexis 225

SHARFYNE L'NELL WHITE aka White Pool Table was displeased with his 33 year sentence and asked the Court of Criminal Appeals to change it. He had no luck. This vice lord gang member is

eligible for parole in October of 2010. His sentence will expire in 2033.

White robbed a Texaco on May 25, 2002 at gunpoint; another Texaco May 28th, and 31st, 2002; and a Fairfield Inn on June 7, 2002. A BOLO was put out when the clerk called in a description of his get away car. As a direct result, a patrol car carrying two Clarksville officers, David Scott



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Buzz Lightyear
May take
offense, but the
message is
simple. Feeling a
buzz; thinking like
Buzz, don't drive.



Drunkenness, in its most common usage, is the state of being intoxicated by consumption of ethyl alcohol to a degree that mental and physical facilities are noticeably impaired. Common symptoms may include slurred speech, impaired balance, poor coordination, flushed face, reddened eyes and uncharacteristic behavior. Without being inebriated, a drinking person may be described as "buzzed" or "tipsy" while experiencing these symptoms to a lesser degree.

(From Wikipedia, the free Encyclopedia.)

Ad Council and U.S. Department of Transportation Expand Focus of Drunk Driving Campaign to Buzzed Driving

PSAs feature new slogan –

“Buzzed Driving is Drunk Driving”

NEW YORK and WASHINGTON, D.C., December 28, 2005 – After more than twenty years of the highly successful “Friends Don’t Let Friends Drive Drunk” campaign, The Advertising Council and the U.S. Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) have expanded the focus of their Drunk Driving Prevention campaign to target “buzzed driving.” The new public service advertising (PSA) campaign is launching today to coincide with the holiday season, a time when drunk driving fatalities are at their highest.

Since the 1983 inception of the Drunk Driving Prevention campaign, and its recognizable tagline "Friends Don't Let Friends Drive Drunk," the annual number of alcohol-related traffic fatalities has dropped significantly. However, according to NHTSA, driving while impaired remains one of the most frequently committed crimes in the United States, killing one person every thirty minutes and affecting one in three Americans. In 2004, over 15,000 people died in crashes where a driver or motorcycle operator had a .01 BAC or higher and, of those, nearly 13,000 involved crashes where the driver had an illegal BAC level of .08 or above.

In continuing their efforts to prevent drunk driving, NHTSA and the Ad Council have evaluated ways to extend the reach of the campaign, which has been accomplished by focusing on individual responsibility in an effort to reduce impaired driving. The “buzzed driver” is one who drinks too much and drives, but does not consider himself a hazard on the roadway or a drunk driver because he believes his drinking is “moderate.” The expanded campaign is designed to correct that perception, by instilling the notion that if you are “buzzed,” you’re too impaired to drive safely. It will inspire a dialogue about and recognition of the dangers of “buzzed” driving and, subsequently, motivate people to stop driving “buzzed.”

FATALITY FACTS 2005	
USA	
43,443	killed in traffic accidents.
16,885	killed in crashes involving alcohol.

TENNESSEE	
1,270	died in traffic crashes.
464	or 35.5% were in-