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DUI NEWS

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CALLING ALL WITNESSES!

State v. David James Paul, 2025 WL 2623187 (If a police dispatch , 911 call or BOLO is part of the reasonable suspicion for a stop, some competent proof must be put on regarding the 911 call or the stop) - Case remanded for dismissal.

On July 3, 2022, Officer Jared Anderson of the Franklin PD received a BOLO from dispatch regarding the Defendant's vehicle. Within minutes of the dispatch, he received a radio call from his partner that the vehicle had been spotted at a restaurant. He arrived after the Defendant had been detained by two officers. As he arrived, the Defendant was in the driver's seat speaking to the officers who detained him. Ultimately, Officer Anderson conducted an investigation and determined that the Defendant was intoxicated. The Defendant admitted to drinking several alcoholic beverages, but he declined submitting to SFSTs. The Defendant was arrested and a grand jury indicted him of driving under the influence, among other offenses.

The Defendant filed a pre-trial motion to suppress the stop on the allegation that the officers who stopped the vehicle lacked reasonable suspicion of criminal conduct. The State, in its responsive brief to the court, appears to have argued the relevant case law at the suppression motion (including *State v. Hanning*, 296 S.W.3d 44 (Tenn. 2009), a case in which information from an anonymous informant was sufficient to allow a brief investigatory stop of a vehicle driving recklessly. However, the only *proof* put on by the state, at the hearing, was Officer Anderson's testimony, after he arrived at the scene.

At the hearing, Anderson's testimony about the BOLO was objected to as hearsay, and the court sustained the objection, letting it in only for the purposes of explaining Officer Anderson's next investigative steps (and not for the truth of the matter). Officer Anderson's testimony about his partner's radio call met the same objection, with the same result. Finally, his description of what the detaining officers told him met the same objection, with the same result. Therefore, the trial court did not let any competent proof into the hearing regarding the actual basis of the stop or about the stop and detention itself. However, at the end of the motion hearing, the court denied the Defendant's motion to suppress the stop.

After the motion, a bench trial with stipulated facts was held, and the defendant was found guilty of DUI and DUI per se (which were properly merged). Subsequently, the Defendant was sentenced to the minimum punishment for DUI first offense. The Defendant filed a timely motion for a new trial, which was denied, and he then filed a timely notice to appeal. The sole issue on appeal is whether the trial court properly denied the Defendant's motion to suppress evidence. Although the CCA defers to the trial court's findings of facts, the trial court's application of law to the facts is considered, … (Continued on page 12.)

RECENT DECISIONS

State v. Nancy Abbie Tallent, 2025 WL 1836128 (Pro Se — If no motion for new trial, arguments are waived)

On September 21, 2019, Ms. Tallent was discovered in her car, stuck in a ditch with the rear tires off the ground. She admitted that she had been drinking beer and she showed indicators of impairment. A blood sample revealed a BAC of 0.331%. Ms. Tallent proceeded pro se in the trial and on appeal. She was convicted of two counts of DUI 3rd offense. The two counts were merged and Ms. Tallent was sentenced to eleven months and twenty-nine days, to serve at 75%. While this case was pending, Ms. Tallent was convicted for DUI 3rd offense, related to a crash on January 10, 2020. That judgment was affirmed in her pro se appeal of that case. *See State v. Nancy Abbie Tallent*, No. E2023-00750-CCA-R3-CD, 2024 WL 5167716 (Tenn. Crim. App. Dec. 19, 2024), *perm. App. denied* (Tenn. May 23, 2025).

In this appeal, Ms. Tallent raised 12 separate issues on appeal. However, she failed to raise them in a motion for a new trial. *See* Tenn. R. Crim. P. 33(b). Therefore, all issues not raised in a motion for a new trial are considered waived. *State v. Bough*, 152 S.W. 3d 453, 460 (Tenn. 2004); *see* T.R.A.P. 3(e). Any argument that was not waived, was not sufficiently argued or cited to the record. The only issue that cannot be waived was her argument to challenge the court's jurisdiction. The CCA determined that the trial court had proper court jurisdiction and the judgments of the trial court were affirmed.

State v. Michael Malik Tashaw Brown, 2025 WL 2399905 (illegal marijuana v. legal hemp)

On June 29, 2022, Officer Calderon responded to a downed telephone pole. While at the scene, Mr. Brown walked up to the officer to report that his truck had just been stolen and probably caused the damage. Mr. Brown's truck was found at a church parking lot nearby. Mr. Brown was sweating, smelled of alcohol and had grass on his clothing. The truck was damaged and had dragged the telephone pole support. Found near the truck was Mr. Brown's wallet and ID. Inside of the truck was liquor, a green leafy substance, an AR-styled shotgun and ammunition. Mr. Brown was indicted for DUI, filing a false report, simple possession of marijuana, leaving the scene of an accident, and violation of the financial responsibility law. TBI agent DePew conducted a presumptive test on the substance and testified that the substance was marijuana, but she could not conclusively confirm that the substance she tested was marijuana. One of the presumptive tests indicates that the THC level is higher than the CBD level and agent DePew was not aware of any conflicting results of the test. After the jury trial, Mr. Brown was acquitted of DUI, but convicted of filing a false report, simple possession of marijuana, and leaving the scene of an accident. Mr. Brown appealed his convictions.

Mr. Brown specifically objected to the lack of evidence regarding the THC concentration, which would exclude hemp if the concentration was more than three-tenths of one percent (0.3%), on a dry weight basis. Tenn. Code Ann. §§ 39-170-402 (16)(C), 43-27-101(3). The State argued that it is not required to offer evidence on the specific dry weight THC content of the marijuana to sustain the conviction, noting, *State v. Jones*, No. W2024-00027-CCA-R3-CD, 2025 WL 502064, at *5 (Tenn. Crim. App. Feb. 14, 2025), *perm. App. denied* (Tenn. June 20, 2025). The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *See State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *See State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011). The CCA Quoted the *Jones* case, which stated, "Furthermore, the State is not required to test the alleged substance for the defendant to be convicted of a drug offense. *See State v. Schutt*, No. M2022-00905-CCA-R3-CD, 2023 WL 6120739, at *7 (Tenn. Crim. App. Sept. 19, 2023) ("[C]hemical analysis is not a prerequisite to establish the identity of a controlled substance, and the essential elements of a drug related offense may be established circumstantially."), *no perm. app. filed*."
The judgments of the trial court were affirmed. (Continued on page 3).

RECENT DECISIONS (Continued)

State v. Ricky Lee Allen, 2025 WL 2462349 (Prolonged traffic stop)

On September 16, 2021, Mr. Allen, an off-duty Jackson Police officer, was observed driving his truck without headlights around 11:12 p.m. He was also having a problem maintaining his lane of travel. Mr. Allen gave the officer his JPD identification card, instead of his driver's license. The arresting officer contacted his JPD Supervisor, who contacted the shift supervisor, and it was decided that a THP trooper should come to the scene for an "unbiased observation." At 12:05 a.m., Trooper Fason arrived on the scene and conducted "FSTs". Based upon Mr. Allen's performance on the FSTs, he was arrested at 1:01 a.m. and charged with DUI and a violation of the implied consent law.

Mr. Allen filed a pretrial motion to suppress based upon the prolonged nature of the traffic stop. The State argued that due to the unique and "unprecedented" nature of this stop, the delay was necessary to avoid the "appearance of bias or favoritism." The delay was solely due to Mr. Allen's relationship and employment at JPD and the request for assistance from THP. The JPD diligently pursued a means of investigation, they did not divert from the stop's original purpose and they did not prolong the stop to investigate other crimes. The trial court denied the motion to suppress and Mr. Allen was later convicted of DUI, after a jury trial. Mr. Allen then filed an appeal, based upon the denial of his motion to suppress the alleged prolonged traffic stop.

The United States Supreme Court has explained that "the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'— to address the traffic violation that warranted the stop [ ] and attend to related safety concerns." *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). The CCA determined that the "record supports the trial court's finding that the officers diligently pursued the DUI investigation as the situation changed such that the delay was reasonable" (The delay was approximately 1 hour and twenty minutes). Further, "law enforcement's purpose for the delay—preserving the integrity of the investigation and avoiding the appearance of bias—is significant." The judgment of the trial court was affirmed.

State v. Samantha Louise Bledsoe, 2025 WL 2480157 (Who is the driver?/sufficiency of the evidence)

On September 2, 2018, officers were called to a a "possible fight" at a trailer park. The person who started the fight left in a red or maroon jeep. While in his vehicle, the officer saw a red jeep driving towards him. The officer turned slowed his vehicle to a stop and watched as the jeep passed him, being driven by Ms. Bledsoe. By the time the officer got his vehicle turned around, Ms. Bledsoe turned right and the officer lost sight of the jeep for ten to fifteen seconds. As the officer turned right, he almost hit the jeep, which was stopped in the middle of the road. Ms. Bledsoe was standing in front of the jeep and yelling for "Sue," who she claimed was driving and just ran away, leaving the defendant and the red jeep. Ms. Bledsoe had the odor of alcohol, performed poorly of SFSTs and a blood sample indicated a BAC of 0.171%. The State called Susan Lawson at the jury trial to state that she did drive the jeep to the trailer park, but after the altercation she drove to the Cedar Creek gas station, where she was dropped off and Ms. Bledsoe drove the jeep back to the trailer park. Mr. Bledsoe, the defendant's Husband, claimed Sue Lawson was driving the jeep, owned by the Bledsoes. After the jury convicted Ms. Bledsoe of DUI 6th offense, she appealed based upon insufficiency of the evidence that she was driving.

The trier of fact, not this Court, resolves questions concerning the credibility of the witnesses, and the weight and value to be given the evidence as well as all factual issues raised by the evidence. *State v. Tuttle*, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995). Nor may this Court reweigh or re-evaluate the evidence. *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978). On appeal, the State is entitled to the strongest legitimate view of the evidence and all inferences therefrom. *Id.* Because a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused has the burden in this Court of showing why the evidence is insufficient to support the verdict returned by the trier of fact. (Continued on page 4).

RECENT DECISIONS (Continued)

State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982). Ms. Bledsoe does not contest that fact that she was inebriated, just that she was not driving. She also claims that Ms. Lawson and the officer were not credible. However, the determination of identity is a question of fact for the jury after consideration of all competent evidence. *See Biggers v. State*, 411 S.W.2d 696, 697 (1967); *Marable v. State*, 313 S.W.2d 451 (1958); *State v. Crawford*, 635 S.W.2d 704 (Tenn. Crim. App. 1982). The jury had the opportunity to assess the credibility of the State's witnesses at trial. The jury, by its verdict, obviously accredited the testimony of the State's witness as was their prerogative. *See State v. Millsaps*, 30 S.W.3d 364, 368 (Tenn. Crim. App. 2000) (stating that "the weight and credibility of the witnesses' testimony are matters entrusted exclusively to the jury as the trier[ ] of fact"). The judgments of the trial court were affirmed.

State v. Guy Willie Toles, 2025 WL 2543138 (Defendant claims the fine was too high)

Mr. Toles was convicted of Felony Reckless Endangerment (An Attempted Vehicular Assault and a DUI charge were dismissed before trial). The trial court sentenced Mr. Toles to one and a half years, suspended to probation, after actual service of sixty days in jail. The trial court also ordered a fine at $750. Mr. Toles appealed the fine as too excessive and without the proper finding of facts. Although the defendant's ability to pay should be considered, it is not a controlling factor. *State v. Butler*, 108 S.W.3d 845, 854 (Tenn. 2003). The trial court "must also consider other factors, including prior history, potential for rehabilitation, financial means, and mitigating and enhancing factors that are relevant to an appropriate, overall sentence." *Taylor*, 70 S.W.3d at 723 (citation omitted). "The seriousness of a conviction offense may also support a punitive fine. *Id.* (citing *State v. Alvarado*, 961 S.W.2d 136, 153 (Tenn. Crim. App. 1996)). Finally, even if the trial court's decision was not entitled to a presumption of reasonableness, this court could conduct a *de novo* review and impose an appropriate fine. The judgment of the trial court is affirmed.

State v. John M. Bybee, 2025 WL 2549100 (Improper application for interlocutory appeal)

Mr. Bybee was charged with DUI and a violation of the implied consent law. After losing a motion to suppress, he filed an application for an interlocutory appeal (Tenn. R. App. P. 9(b)). During the motion to suppress the results of a blood test, Mr. Bybee argued that the magistrate failed to sign the arresting officer's affidavit in support of the application for the search warrant. Following a hearing, the trial court denied the motion, finding that the State met its burden of proof as it pertains to the extrinsic evidence requirement and that the relevant affidavit was properly sworn. The trial court then later granted Mr. Bybee's request to pursue the interlocutory appeal.

The Court of Criminal Appeals emphasized that an application for an interlocutory appeal must begin with the supreme court's caution: "[I]nterlocutory appeals to review pretrial orders or rulings, i.e., those entered before a final judgment, are 'disfavored,' *particularly in criminal cases*." *State v. Gilley*, 173 S.W.3d 1, 5 (Tenn. 2005) (emphasis added). Rule 9(b) requires a trial court to "specify: (1) the legal criteria making the order appealable, as provided in subdivision (a) of this rule; (2) the factors leading the trial court to the opinion those criteria are satisfied; and (3) any other factors leading the trial court to exercise its discretion in favor of permitting an appeal." Tenn. R. App. P. 9(b). The rule also requires a trial court to also "state in writing the specific issue or issues the court is certifying for appeal and the reasons for its opinion." Tenn. R. App. P. 9(b).

Unfortunately for Mr. Bybee, he could not articulate how he would suffer irreparable injury that cannot be reviewed on appeal after trial. Also, nothing justified interrupting the prosecution at this stage of the proceedings. Finally, it is apparent that the issue would not necessarily end the case. Having to wait for appellate review of an issue raised in a pretrial motion to suppress is common in criminal cases. App. Denied.

WHEN IS A GUILTY PLEA NOT A PLEA?

In **State v. Marcus Levon Somerville, 2025 WL 2473291 (Tenn. Crim. App. Aug. 27, 2025)**, all the parties acted upon what they believed was a proper plea of guilty, but the CCA ruled differently. On March 4, 2024, a Haywood County grand jury indicted Mr. Somerville on two counts of aggravated assault involving the display of a deadly weapon. During a series of hearings in July and August of 2024, the parties indicated that Mr. Somerville desired to enter a "blind plea" of guilt and to be sentenced by the trial court. Mr. Somerville was requesting judicial diversion. However, the trial court entered a judgment against the defendant and sentenced him to three years on each count, to be served concurrently, in TDOC.

On July 8, 2024, the trial court judge advised "everybody in the courtroom who would be pleading guilty," of their rights. The judge then asked Mr. Somerville directly, if he understood those rights. Mr. Somerville responded that he did understand and he had no further questions. The case was continued for a pre-sentence report. At the next hearing, it was confirmed that the defendant had not plead yet. The judge was concerned that a plan to deal with the defendant's mental health issues had not been made and the case was continued again. In August, a treatment plan for after custody was presented. The trial judge then sentenced Mr. Somerville to three years in custody. Mr. Somerville never addressed the court. A form entitled "Plea of Guilty and Waiver of Rights" was signed by the State and the trial court (Mr. Somerville and defense counsel did not sign this form). A uniform judgment form was also signed by the State and the trial court, with a notation that the defendant pled guilty. Mr. Somerville appealed the denial of alternative sentencing.

The CCA stated, "A guilty plea must be voluntarily, understandingly, and knowingly entered," and trial courts must question defendants on the record to establish this before accepting a guilty plea. *Howell v. State*, 185 S.W.3d 319, 330-31 (Tenn. 2006) (citing *Boykin*, 395 U.S. at 242). Additionally, in Tennessee, every "plea of guilty ... shall be reduced to writing and signed by the defendant." Tenn. R. Crim. P. 11(e). Unfortunately, there was nothing resembling a written guilty plea or waiver of rights signed by Mr. Somerville in the record, per Tenn. R. Crim. P. 11(e). Moreover, the CCA was not persuaded by the State's assertion that the "pled guilty" notations on the judgment forms suffice to prove that the Defendant affirmatively entered a plea of guilty in accordance with the applicable rules of law. *See Howell*, 185 S.W.3d at 330-32. The transcripts of the proceedings in this case establish the opposite. At all three hearings, the parties and the trial court repeatedly confirmed that the Defendant had not yet entered a guilty plea and no plea occurred thereafter. Since no plea occurred, the trial court lacked jurisdiction to enter the judgments of conviction. Therefore, the judgments of the trial court were vacated and the case was remanded for further proceedings consistent with this opinion.

The Traffic Safety Resource Prosecutors presented their Protecting Lives, Saving Futures seminar on August 26-28, 2025. This seminar was a joint training exercise with prosecutors and law enforcement officers learning about the specific aspects of investigating and prosecuting a drugged driving case. The seminar was hosted at the Hyatt Nashville Airport Hotel. The classes included a wet lab and presentations by a Drug Recognition Expert and a Toxicology Expert. This is one of the seminars that is offered every year by the District Attorneys General Conference's Training Department. Please look for next year's date in April, 2026 and plan now to attend this great training opportunity.

UPCOMING TRAINING

THE UPCOMING TNDAGC DUI TRAINING SCHEDULE

TNDAGC Fall Conference - October 15-17, 2025, Knoxville, TN
The DUI training department will offer a DUI training session on October 14, 2025, before the District Attorney's Fall Conference, a Tuesday afternoon session. The classes will cover 2025 legislation and case updates and Drug Trends in DUI cases.

Cops in Court - October 22, 2025, THP Training Center, Nashville, TN
This course teaches law enforcement officers the challenges and difficulties associated with impaired driving cases. It also includes a mock trial presentation in which each officer experiences a direct and cross examination. Prosecutors are encouraged to assist in the mock trial presentation from 1 p.m. to 4 p.m.

Victim Issues in DUI Cases - December 17, 2025, Virtual 12:30 p.m. — 3 p.m. CST
The DUI training department will offer 2.5 hours of training focused on victim issues in DUI cases. This training will cover victim issues and DUI specific cases. This training will be provided for prosecutors, DUI Coordinators, and Victim-Witness Coordinators.

Cops in Court - January 12, 2026, Smithville, TN
This course teaches law enforcement officers the challenges and difficulties associated with impaired driving cases. It also includes a mock trial presentation in which each officer experiences a direct and cross examination. Prosecutors are encouraged to assist in the mock trial presentation from 1 p.m. to 4 p.m.

20/20 Medical Foundation of Eye Movements & Impairment - March 10-11, 2026, Memphis, TN
This seminar will be located at the Southern College of Optometry in Memphis, TN and it will be taught by faculty members and professors of optometry. The legal and physiological aspects of eye movement and the detection of impairment will be covered. Registration is open to prosecutors, drug recognition officers, TBI analysts, and SFST instructors. Officers will receive training needed to be qualified as an expert on HGN.

TENNESSEE HIGHWAY SAFETY OFFICE TRAINING CLASSES

DUI Detection & Standardized Field Sobriety Testing
October 27-29, 2025, Bolivar, TN
October 27-29, 2025, Knoxville, TN
November 3-5, 2025, Murfreesboro, TN

Advanced Roadside Impaired driving Enforcement (ARIDE)
October 7-8, 2025, Murfreesboro, TN
October 14-15, 2025, Bristol, TN
October 28-29, 2025, Greenbrier, TN
November 3-4, 2025, Murfreesboro, TN
November 6-7, 2025, Jacksboro, TN
December 18-19, 2025, Greeneville, TN

Drug Recognition Expert School (DRE)
October 20-30, 2025, Brentwood, TN

DUI TRACKER (THIS QUARTER)

The results below were taken from the Tennessee Integrated Traffic Analysis Network (TITAN) from July 1, 2025, through September 30, 2025, and reflect the DUI Tracker conviction report for all judicial districts in the State of Tennessee. These numbers include the Circuit Courts, Criminal Courts, General Sessions Courts, and Municipal Courts. The total number of dispositions for the period from July 1, 2025, through September 30, 2025, since the last quarter was 2,242 (These numbers only reflect the cases that were entered into the Tracker software. Many DUI cases are handled in jurisdictions that do not have access to the DUI Tracker).

This quarter's total number is up from the previous quarter by 434. From looking at these numbers, we can see that the trend in DUI related dispositions in Tennessee has been rising. We have had a busy quarter with all Judicial Districts working to prosecute impaired driving cases. Our DUI prosecutors have continued to be vigilant in the prosecution of impaired driving cases and in the protection of their citizens within their districts. The total number of guilty dispositions during this same period of July 1, 2025 through September 30, 2025 was 1,718. Across the State of Tennessee, 76.63% of all arrests for DUI related charges were actually convicted as charged. This percentage is moderately higher than the last quarter, ending on June 30, 2025. Also, during this same period of time, only 279 of the total DUI cases disposed of were to different or lesser charges. Therefore, only 12.44% of the total cases were disposed of to another charge. We must continue to contribute when and where we can within this process. Impaired driving is a harmful, but preventable crime.

Fatal Crashes this 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 interstates, highways and roadways, from July 1, 2025 through September 30, 2025. During this period, there were a total of 281 fatalities, involving 256 crashes, which is an increase from the previous quarter. Out of the total of 281 fatalities, 43 fatalities involved the presence of alcohol, signifying that 15.30% of all fatalities this quarter had some involvement with alcohol. This percentage is lower than the previous quarter. Further, there were a total of 35 fatalities involving the presence of drugs, signifying that 12.45% of all fatalities this quarter involved some form of drugs.

The year-to-date total number of fatalities on Tennessee roads and highways is 775. This is down by 125 fatalities from the 900 fatalities incurred last year at this same time. For most of the year, we have experienced a significant decrease from last year in the number of fatalities on our roadways. Also, during the summer months, the fatality rate slightly increased. Currently, the number of Tennessee drivers on our roadways is higher than last year and the number of fatalities is significantly lower. Speed is always a factor in the increasing the number of fatalities in our state and it is important to drive safely and at safe speeds to arrive safely to your destination. Combined with an impairing substance, speed has a synergistic effect on the fatality rates of involved crashes. With the increase of polydrug use (multiple drugs and/or alcohol combined), we are experiencing a greater potential of crashes and fatalities on our roads and highways. It is only with a united effort between law enforcement, prosecutors and other community leaders that will we be able to lower Tennessee's fatality crashes. Please slow down, drive responsibly and arrive home safely.

THOROUGHLY WRITE SEARCH WARRANTS

The case of *State v. Robert Lawrence Ryder*, 2025 WL 2536352 (Tenn. Crim. App. Sep. 4, 2025) reminds us of the need to be careful when writing affidavits for search warrants. Recent caselaw reminded us of the need to always list the date and time of the traffic stop to support probable cause that evidence is still possibly in the blood stream of the defendant. In the *Ryder* case, the issue was where was the information in the affidavit coming from and the reliability of the information.

In the early morning hours, July 30, 2022, Robert Lawrence Ryder was driving his black, 2017 Toyota Tundra on Memorial Boulevard in Murfreesboro, Tennessee at, what Murfreesboro Police Department Officer Brent Collins described, as a high rate of speed, when Ryder t-boned Brittany Cole's white 2007 Saturn near the intersection with Clark, killing her. The officer who saw the truck pass him prior to the collision conveyed this information to officers on the scene. Officer Jason Ayers, who arrived at the scene at 2:35 a.m. noted the decedent's Saturn with severe driver-side intrusion and Mr. Ryder next to his overturned black truck speaking to another officer. Officer Ayers remembers the officer speaking to Ryder telling him that Mr. Ryder might've been impaired, but Ayers himself was only in Ryder's vicinity for seconds. However, he remembers conveying what information he had to Officer Reed.

Officer Kyle Ferree was the first MPD Officer on the scene. When he went to the overturned truck he remembered Ryder walking from behind the truck and letting him know that he was the driver. He asked Ryder to sit down because he was bleeding, disheveled, "stumbling" around, and "out of it." Rutherford County EMT Kristina Yovino also interacted with Mr. Ryder, noting a case of beer next to the overturned truck, apparent signs of a head injury on Mr. Ryder, and Mr. Ryder's unusually calm affect, given the severity of the crash. Daniel Klintworth, the Rutherford County paramedic who treated Ryder, noted he was disoriented, complaining of neck pain and was engaging in repeated questioning. Ryder told Klintworth that he had two beers approximately two hours before the crash. Mr. Klintworth passed all of this information on to the hospital staff.

Officer Reed, an investigator on the Fatal Accident Crash Team, took over the investigation a few minutes after everything began. He measured the crash, surveyed the scene, and interviewed on-scene officers. He learned from observations of the scene about the violence of the crash and the case of beer next to the truck and from on-scene first responders about Ryder's admissions to drinking and that he was the driver of the at-fault truck. Upon arriving at the hospital to interview Mr. Ryder, he found him to be uncooperative and to have bloodshot and watery eyes. Due to Mr. Ryder's obvious head injury and to his being treated, Officer Reed decided not to perform SFSTs. Officer Reed felt that he had enough DUI-related probable cause necessary to read Ryder the implied consent advisement and to request a blood sample. Mr. Ryder declined to provide one, or to sign the form, instead requesting to consult with an attorney. At this point, Officer Reed left to prepare a search warrant for Ryder's blood.

The magistrate issued the search warrant, and Ryder's BAC was 0.186. Ryder filed a motion to suppress the blood draw on the basis of the fact that the search warrant affidavit contained recklessly false information. The reasoning behind this claim seems to be that Officer Reed's affidavit included the defendant's admission to drinking as part of its probable cause, but didn't indicate that the information about the defendant's admission came from other first responders. (It is worth noting that the affidavit neither said nor implied that Officer Reed himself heard the defendant's admission - it was mute as to the source of his knowledge about the admissions.) The Defendant also alleged that there was insufficient probable cause in the search warrant and that the defendant's statements should be suppressed because *Miranda* was not read. On July 1, 2024, the trial Court denied the Defendant's motion to suppress. (Continued on page 9.)

THOROUGHLY WRITE SEARCH WARRANTS (Continued)

The Defendant filed a motion for the court to reconsider its denial of the suppression motion, claiming the court failed to address Officer Reed's failure to specifically identify the sources of his information that the defendant admitted to drinking in his arrest affidavit, thereby requiring the court to ignore the admissions and eliminate them from its consideration of whether the affidavit's probable cause was sufficient. The defendant also alleged that the court considered the case of beer next to the truck as part of Officer Reed's probable cause, even though that information was omitted from the affidavit in the search warrant application. This time, the court granted the defendant's motion to suppress the blood. In its October 14, 2024, order suppressing the blood, the court characterized the claim that the defendant "stated he had consumed alcohol prior in the night," as unreliable hearsay that could not be relied upon, because the affidavit did not specifically identify the source of that admission. After discounting that information, the court reasoned that there was insufficient remaining information in the officer's affidavit for a finding of probable cause.

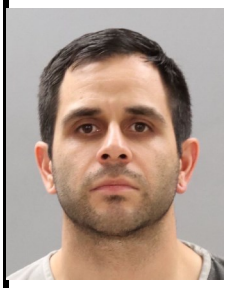
The State requested an interlocutory appeal of the trial court's ruling, which the trial court granted. The State asserted that the trial court should not have concluded that the hearsay in the affidavit was unreliable because no proof was put on regarding its unreliability, so the defendant's hearsay admissions should contribute to the probable cause determination, yielding a determination that there was sufficient probable cause in the affidavit, and in the alternative, that the affidavit established probable cause for a search even without that information. "Unlike proof at trial, an affidavit may include information that would not be admissible as evidence in a criminal trial." *Brinegar v. United States*, 338 U.S. 160, 172-73 (1949). "As relevant to this appeal, an affidavit does not need to reflect the direct personal observations of the affiant." *State v. Henning*, 975 S.W.2d 290, 294 (Tenn. 1998); *State v. Jacumin*, 778 S.W.2d 430, 432 (Tenn. 1989). "The reliability of hearsay information included in an affidavit is evaluated differently, however, depending upon its source." *State v. Williams*, 193 S.W.3d 502, 507 (Tenn. 2006). "If the source of the information is a law enforcement officer, '[n]o special showing of reliability is necessary.'" *State v. Smotherman*, 201 S.W.3d 657, 663 (Tenn. 2006) (citing *United States v. Ventresca*, 380 U.S. 102, 111 (1965)). But this presumption of reliability applies only if the affidavit states that the "information [was] provided by other officers." *Id.* (citing *United States v. Kirk*, 781 F.2d 1498, 1505 (11th Cir. 1986)).

The Court of Criminal Appeals noted that, under the standards established in *Franks v. Delaware*, 438 U.S. 154 (1978), and followed in various Tennessee cases, a defendant must make a substantial showing that there were either **deliberately false statements** in the affidavit for a search warrant application or that there were **material false statements recklessly made by the affiant**. Analyzing the proof put on in *Ryder*, the CCA noted that the statement at issue in the affidavit, that the defendant admitted to drinking alcohol, isn't actually a false statement. Additionally, the court noted that the burden in a *Franks* hearing is the defendant's, and no proof was put on that the allegedly false claim was recklessly made. Therefore, the court concludes that the trial court was wrong, and the defendant's admission to drinking can stand as part of Officer Reed's affidavit supporting the search warrant.

Finally, the court concludes that the facts described by Officer Reed in the affidavit portion of his search warrant application are sufficient to establish that there is probable cause to search the defendant's blood for intoxicants. (The court does not reach the issue of whether the facts contained therein would've been sufficient without the defendant's admissions. However, past cases by the Tennessee Supreme Court would indicate that bad driving, blood shot, watery eyes, and the odor of an intoxicant would be sufficient probable cause to support a search warrant for a blood sample. See, *State v. Reynolds*, 504 S.W.3d 283, 300 (Tenn. 2016) and *State v. Bell*, 429 S.W.3d 524 (Tenn. 2014)).

VEHICULAR HOMICIDE MURDERER'S ROW

State v. Eduardo DeAvila, 2025 Knox County Case (Wrong way driver/claimed victims at fault for crash)



On November 18, 2022, around 1:30 a.m., Knoxville Police Department officers responded to a multi-vehicle wreck and 911 calls regarding a Honda Accord driving the wrong way on Pellissippi Parkway. The investigation revealed that Mr. DeAvila drove the wrong way down Pellissippi Parkway for over five miles. He also was driving without a driver's license and without insurance. During that time, he nearly struck two vehicles. Mr. DeAvila did eventually hit an Uber driver, Stephen Traub, 59, killing him and seriously injuring his passenger, Heidi Carroll. As a result of the collision, Mr. Traub vehicle struck and ended up on top of another vehicle being driven by James "Bubba" Wilson, 49, who was also killed. Mr. DeAvila was taken to the hospital where analysis of his blood showed the presence of cocaine and a blood alcohol content of .212%, more than twice the Per Se limit of .08%.

During a four-day trial, Assistant District Attorneys, Mitch Eisenberg and Caleb Smothers were able to convict Mr. DeAvila of two counts of Vehicular Homicide, one count of Vehicular Assault, one count of Aggravated Assault, and two counts of Reckless Endangerment. The defense claimed that the victims were the at-fault drivers, but the jury found Mr. DeAvila guilty after deliberating for only an hour. Judge Hector Sanchez, sentenced DeAvila to serve twenty-seven years in the Tennessee Department of Correction. At the sentencing hearing, prosecutors argued that the sentences should be served consecutive to each other to hold DeAvila accountable for what he did to each of the victims in this case. DeAvila will not be eligible for parole until he serves over twenty years of his sentence.

State v. Saul A. Carrera, 2025 Sullivan County Case #S7725(Commercial truck driver/hit and run)

On March 26, 2023, at around 7 p.m., Mr. Carrera, 60, of New York was driving a Peterbilt tractor-trailer southbound on interstate 81 on a quiet Sunday morning. Earlier, a white Chevrolet Express van had stopped on the shoulder of I-81 to repair a flat tire. Three adult males and two 17-year-old boys were outside of the van, while three adult males stayed in the van. Mr. Carrera's truck veered onto the shoulder of the interstate and sideswiped the van , immediately killing the three adults and one of the minors that were outside of the van, and critically injuring the other minor. The three adults inside of the van were not injured. Mr. Carrera did not stop, but continued south on the interstate before jack-knifing and overturning his 18-wheeler. A blood sample from Mr. Carrera indicated a BAC of .117%.

Carrera was charged with four counts of vehicular homicide by intoxication as well as reckless aggravated assault, felony reckless endangerment, driving under the influence in a commercial vehicle, and failure to exercise due care. The case was prosecuted by Alex Griffith and Alexis Staubus and after a multiday trial in April of 2025, the jury found Mr. Carrera guilty of all fifteen counts. This case was one of the most tragic Vehicular Homicide cases that has occurred in Sullivan County and it resonated across state lines, claiming victims from multiple states. On June 20, 2025, the trial court sentenced Mr. Carrera to 43 years in custody in the Tennessee Department of Corrections. Forty-years for the four counts of Vehicular Homicide by Intoxication, to be served at 100%, and three additional years, to be served at 30%, but consecutive to the forty-year sentence. It is extremely dangerous to drive a commercial vehicle while impaired as the impact of the crash is more severe.

VEHICULAR HOMICIDE MURDERER'S ROW

State v. Robert Lawrence Ryder, 2025 WL 2536352 (Tenn. Crim. App. Sep. 4, 2025)

(This case is discussed more in depth on pages 8 & 9). On July 30, 2022, Robert Lawrence Ryder was driving his black, 2017 Toyota Tundra on Memorial Boulevard in Murfreesboro, TN, at what Officer Collins described as a high rate of speed. Officer Collins was assisting a fellow officer change a flat tire when Ryder sped by and the engine was very loud. A short while later, Mr. Ryder t-boned Brittany Cole's white 2007 Saturn, killing her. Officer Jason Ayers, who arrived at the scene shortly thereafter, noted the decedent's Saturn with severe driver-side intrusion and Mr. Ryder next to his overturned black truck speaking to another officer. Mr. Ryder showed signs of impairment and a case of beer was located near his truck. A blood sample was obtained and Mr. Ryder's BAC was 0.186%. Due to injuries, no SFSTs were performed. Mr Ryder was indicted for Vehicular Homicide by Intoxication, Vehicular Homicide, Reckless Endangerment with a deadly weapon, DUI, DUI Per Se, Open Container and Violation of Implied Consent.

This case was recently remanded to the trial court, by the CCA, after granting an interlocutory appeal, which was filed by the State. We will update you of any future developments.

NATIONAL FATALITIES ARE DOWN FOR 2025

The National Highway Traffic Safety Administration and the U.S. Department of Transportation have released the current motor vehicle fatality rates for the first six months of 2025. (Please see DOT HS 813 756, *A Brief Statistical Summary*, September 2025, ***Early Estimate of Motor Vehicle Traffic Fatalities For the First Half (January–June) of 2025.***)

"A statistical projection of traffic fatalities for the first half of 2025 shows an estimated 17,140 people died in motor vehicle traffic crashes, a decrease of about 8.2 percent compared to the 18,680 fatalities projected for the first half of 2024 (Early Estimate of Motor Vehicle Traffic Fatalities in 2024, Report No. DOT HS 813 710), as shown in Table 1. The second quarter of 2025 represents the 13th consecutive quarterly decline in fatalities beginning with the second quarter of 2022. Preliminary data reported by the Federal Highway Administration (FHWA) shows that vehicle miles traveled (VMT) in the first half of 2025 increased by about 12.1 billion miles, or about a 0.8-percent increase. Also shown in Table 1 are the fatality rates per 100 million VMT, by quarter. The fatality rate for the first half of 2025 decreased to 1.06 fatalities per 100 million VMT, down from the projected rate of 1.16 fatalities per 100 million VMT in the first half of 2024. For the NHTSA regional differences, all 10 NHTSA regions are projected to have decreases in fatalities and fatality rate per 100 million VMT in the first half of 2025 as compared to the first half of 2024. Also, 38 States, the District of Columbia, and Puerto Rico are projected to have decreases in fatalities. The fatality counts for 2024 and 2025 and the ensuing percentage change from 2024 to 2025 will be further revised when the Fatality Analysis Reporting System (FARS) Annual Reporting File (ARF) for 2024 is available later this year, as well as when the Final File for 2024 and the ARF for 2025 are available next year. These estimates will be further refined when the projections for the first 9 months of 2025 are released in late December." (This study indicates that Tennessee's fatality rates have decreased 5.1% for the first six months of 2025, as compared to 2024.) Please don't drive impaired.

CALLING ALL WITNESSES! (Continued)

de novo, affording no presumption of correctness. *State v. Henry*, 539 S.W.3d 223, 232 (Tenn. Crim. App. 2017) (citing *State v. Montgomery*, 462, S.W.3d 482, 486 (Tenn. 2015). The Defendant argued that the State failed to establish reasonable suspicion for the initial seizure because the officers that detained him did not testify, leaving the record without proof of the circumstances justifying the seizure. Specifically, Officer Anderson did not make the initial stop. The Court of Criminal Appeals agreed with the Defendant.

A "BOLO may provide an officer with the reasonable suspicion necessary to justify an investigatory stop." *State v. Theus*, 2017 WL 2972231, at *6 (Tenn. Crim. App. July 12, 2017). However, the State must still prove that its source had a reasonable suspicion of criminal activity supported by specific and articulable facts. *State v. Moore*, 775 S.W.2d 372, 376 (Tenn. Crim. App. 1989); *State v. Moore*, 2020 WL 4941978, at *5 (Tenn. Crim. App. Aug. 25, 2020). This can be done by playing the 911 tape or by the testimony of the initial caller.

In over-turning the conviction, the CCA makes four observations about the case:

> "First, the State relied on limited witness proof…. Because Officer Anderson arrived after the Defendant had already been detained, he had no personal knowledge of the facts that prompted the seizure and, therefore, could not testify to the circumstances that might have justified it.
>
> Second, the substantive value of Officer Anderson's testimony was restricted by sustained objections by the trial court…. Accordingly, because the BOLO information and other officers' observations are not part of the substantive evidentiary record, this evidence cannot support the trial court's findings.
>
> Third, the record contains no evidence from the sources of the BOLO. The citizen complainant who made the 911 call did not testify. The dispatcher who issued the BOLO did not testify….
>
> Finally, the only admissible evidence in the case relates to Officer Anderson's interaction with the Defendant after the seizure had already occurred…. These facts may support probable cause for the arrest itself, but they cannot retroactively justify the earlier seizure by other officers."

The CCA distinguished *Hanning*, because in this case, the officers who made the stop never testified, so they never gave proof on the record that the BOLO was the basis of their detention of the Defendant. In essence, here, the State completely failed of its evidentiary burden to put on competent proof about the basis of the stop that the court could then analyze. The court firmly stressed the importance of putting on competent proof to establish an appellate record that can support the essentials necessary for a conviction: "'knowing' is not proving, and briefing is not evidence." The judgements of the trial court were reversed, vacated, and the case was dismissed. (Additionally, the parties failed to get a written waiver of the Defendant's right to a jury, claiming it was not needed. Respectfully, that belief was incorrect. *See* Tenn. R. Crim. P. 23(b)(2)(A)).

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