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DUI Newsletter

Issue #93

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Tenn. Code Ann. § 55-10-417(h)(2)- The Violation that isn't being charged enough.

§ 55-10-417 (h) No person shall:
(1) Tamper with, or in any way attempt to circumvent, the operation of a functioning ignition interlock device that has been installed in a motor vehicle;
(2) Operate a motor vehicle that is not equipped with a functioning ignition interlock device when the person has been ordered by the court or required by statute to only operate a vehicle equipped with such an interlock device; or
(3) Operate a motor vehicle outside the geographic limitations or during restricted times when geographic or time restrictions are ordered by the court....

A person who violates subsection (f), (g), (h), or (i) commits a Class A misdemeanor.

I want to concentrate on (h)(2), because there's a lot of potential confusion about when this is appropriate to charge. Frankly, there are many instances when it can and should be charged when officers are charging (only) violations of § 55-50-504, driving while license canceled, suspended or revoked, which is a B misdemeanor. Why isn't this offense prosecuted more often? The main reason is mundane. Say a law enforcement officer runs a driver through the database, after that driver was earlier convicted of a violation of Tenn. Code Ann. § 55-10-401, and was legally required to maintain an ignition interlock device as a result of that conviction. However, the driver never turned in the SF-0680 form to the Tennessee Department of Safety and Homeland Security (that's more commonly known as a "restricted license form"), then that driver's license number will show that it is suspended or revoked for DUI, but it will not show that the driver is required to operate only a vehicle equipped with an ignition interlock device.

(Continued on Page 11)

This material was developed through a project funded by the Tennessee Highway Safety Office and the National Highway Traffic Safety Administration.

Recent Decisions

State v. Mark Ketron, 2025 WL 2938411
(Failure to properly certify a question for appeal)

On December 18, 2020, the Kingsport Police Department conducted a sobriety checkpoint. The officers would pull over vehicles where there was an obvious violation of the law and if alcohol or impairment was noticed. The driver would be investigated for impaired driving. Mr. Ketron's vehicle was stopped for a headlight being out. The odor of alcohol was detected and Mr. Ketron was asked to pull off to the side to "attempt field sobriety testing." Mr. Ketron was arrested for DUI. He brought a pretrial motion to suppress the stop, which the trial court denied.

At a later status hearing, Mr. Ketron filed a motion for interlocutory appeal, which was denied. He then plead guilty to DUI, DUI per se and violation of the light law. One of the provisions included in the plea agreement stated, "I fully understand my right to have my case reviewed by an Appellant Court, but hereby expressly and knowingly waive my right to file a motion for a new trial or otherwise appeal the conviction(s) in my case here today." Mr. Ketron was sentenced to the minimum sentence at a later date and he averred that he had preserved his right to appeal the suppression issue. He was granted an appeal bond by the trial court.

On appeal, Mr. Ketron argued the trial court erred in denying the suppression motion and that the sobriety checkpoint was unlawful. The State argued that the defendant waived his right of appeal and he did not properly reserve a certified question of law. The Court of Criminal Appeals noticed that Tennessee Rule of Criminal Procedure 37(b)(2) provides that a defendant can appeal a certified question following a guilty plea. However, pursuant to subsection (b)(2)(A)(i)-(iv), the question of law must be stated so as to clearly identify the scope and the limits of the legal issue reserved… the reasons relied upon by defendant in the trial court at the suppression hearing must be identified in the statement of the certified question of law and reviewed by the appellant courts will be limited to those passed upon by the trial judge and stated in the certified question, Absent a constitutional requirement otherwise. State v. Preston, 759 S.W.2d 647, 650 (Tenn. 1988). Mr. Ketron did not comply with the strict compliance required by Rule 37. Therefore, the CCA dismissed the appeal.

State v. Cristobal J. Quintana, 2025 WL 2938411
(Prior conviction occurred after present offense date)

On January 28, 2023, Mr. Quintana hit a parked vehicle. He had slurred speech, an odor of alcohol, he performed poorly on SFSTs and an open container was found in his vehicle. Mr. Quintana tried to claim another person was driving, but evidence indicated that he was the driver of the vehicle, which was registered to him. He was convicted of DUI 2nd offense. Mr. Quintana appealed based upon the prior DUI conviction's offense date actually occurred after this current DUI offense date. (The present DUI offense occurred on 1/28/23 and a superseding indictment alleging the prior DUI was obtained on 3/20/24. The prior DUI offense occurred on 6/1/23. He plead guilty to the 6/1/23 DUI on 12/5/23).

The CCA quoted two cases in which the prior DUI convictions were determined from conviction date to conviction date even though the offense dates occurred after the prior conviction dates. See State v. Bowen, 67 S.W.3d 826 (Tenn. Crim. App. 2001) and State v. Leroy Nevils, 2004 WL 367729, at *5-6 (Tenn. Crim. App. Feb. 26, 2004). Also, T.C.A. Section 55-10-411 (b)(2) focuses on the existence of a prior conviction, which must be alleged in the indictment, and does not require that the incident which forms the basis for the prior conviction predate the incident which forms the basis for the offense subject to the second-offense enhancement. Id. Mr. Quintana was not entitled to relief on this basis.

Mr. Quintana also appealed based upon insufficient evidence to support his convictions. After viewing the evidence in the light most favorable to the prosecution, the CCA determined any rational trier of fact could have found the essential elements of a crime. Trial Court judgments were affirmed. (Continue on page 3.)

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Recent Decisions

State v. Taivaun Marquise Mallory, 2025 WL 3719216
(Anonymous 911 call was sufficient R/S to stop a vehicle)

On August 12, 2022, Clarksville Police Officer Pacheco received a call for service. A complainant had called 911 to report a black male wearing a white tank top tried to shoot someone with a gun. The suspect was seen getting into a black Nissan and the license plate number and vehicle location were provided. Officer Pacheco arrived near the location four to five minutes later and passed a black Nissan Altima with the license plate being "off by one letter." Officer Pacheco initiated a stop. At the time of the stop, the Altima's windows were darkly tinted and the officer could not see inside the vehicle. Eventually a woman driver exited the vehicle and Mr. Mallory, who matched the description in the 911 call, exited the passenger side of the vehicle. As Officer Pacheco approached the vehicle she smelled marijuana and later a firearm and marijuana was located in the vehicle. Mr. Mallory was charged with unlawful possession of a firearm and possession of marijuana. He filed a motion to suppress based upon an unlawful stop. The trial court denied the motion, based upon State v. Pulley, 863 S.W.2d 29 (1993), although the complainant was an anonymous informant, the information provided was sufficiently descriptive and later verified by Officer Pacheco before the initiation of the stop.

The CCA verified that investigatory stops of vehicles can be supported by reasonable suspicion. State v. Watson, 354 S.W.3d 324, 329 Tenn. Crim. App. 2011). When an anonymous informant, "reports an incident at or near the time of its occurrence, a court can often assume that the report is first-hand, and hence reliable." Pulley, 863 S.W.2d at 32. This contemporaneity, "coupled with an officer's verification of details of the caller's observations shortly after receiving the call, can be sufficient to satisfy the basis of knowledge prong of our inquiry." State v. Hanning, 296 S.W.3d 44, 50 (Tenn. 2009)(citing Wilhoit, 962 S.W.2d at 487-88). Any concerns of reliability were allayed by Officer Pacheco's independent verification of the complainant's allegations. Judgments of the trial court were affirmed.

State v. Stanley William Havens, 2025 WL 3719698
(Court's exclusion of unredacted videotape)

On October 30, 2021, Mr. Havens was stopped for speeding around 3:15 am. The Trooper observed an odor of alcohol, slurred speech and Mr. Havens admitted drinking two to three whiskey drinks. He preformed poorly on SFSTs. Mr. Haven's BAC was 0.188 %. After a jury trial, Mr. Havens was convicted of DUI Per Se 3rd offense. He appealed, based upon a redacted video being introduced at trial and to jury instructions regarding the redacted video. At trial the state played a video that redacted the HGN SFST and Mr. Haven's admissions of having prior DUI convictions. The defense attorney initially objected to the playing of the redacted video, but stated that he actually wanted the state to play the redacted video so that he could present the defense that the state was hiding evidence. The trial court stated the state could play the redacted video and the defense could play the entire video during their defense, if they so choose. The defense never played the entire video and stated that they never intended to, they only wanted to argue that the state was hiding evidence, thereby drawing a negative inference against the state (A factually false inference). Mr. Havens also objected to the use of standard jury instructions which stated that the jury was not to speculate regarding the redacted portions of the video.

The CCA was not impressed with Mr. Haven's argument that he was not allowed to present a defense regarding the unredacted video. Not only did the trial court allow the defense to play the entire video, it became clear that the defense never intended to play the unredacted video. The defense only wanted to argue a false impression that the state was hiding evidence. The CCA stated, "Insofar as these issues are raised, Defendant is not entitled to relief. See State v. Hester, 324 S.W.3d 1, 80 (Tenn. 2010) ("A reviewing court may deem an issue waived when a party fails to develop an argument in support of its contention or merely constructs a skeletal argument."). The CCA also pointed out in footnote #7 that, "Defendant sought to imply to the jury, contrary to the facts, that the redactions were favorable to Defendant, but counsel was under a duty not to allude to matters unsupported by facts. Tenn. Sup. Ct. R. 8, RPC 3.4(e)(1). " Accordingly, the judgments of the trial court were affirmed.

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STATE V. WHALEY – WRIT OF ERROR CORAM NOBIS

State v. Justin David Whaley, 2025 WL 3541414 (Tenn. Crim. App. December 10, 2025)

At 5:39 a.m. on July 3, 2018, Justin Whaley killed James Patrick Brumlow, when Mr. Whaley struck the victim head-on, while driving down the wrong side of a divided highway, in Hamilton County, Tennessee. Prior to the crash, Mr. Whaley crossed over to the wrong-side of the highway where he killed Mr. Brumlow, by executing a U-turn in the middle of another highway, where the two highways involved in the collision merged. Mr. Whaley had engaged in a bourbon whiskey tasting at his friend's house the night before the collision, which lasted from about 9:00 p.m. on July 2, until about 1:00 a.m. on July 3. He then slept on his friend's couch, and left at around 5:25 a.m. on July 3, 2018. Then Mr. Whaley called 911, after the collision, and told the dispatcher that he had caused the collision by driving on the wrong-side of the highway. A search warrant was obtained for Mr. Whaley's blood, which was drawn approximately four hours after the crash (at approximately 9:40 a.m.), and the result from the TBI lab revealed a BAC of .020 %. Some of the witnesses who interacted with Mr. Whaley on the scene smelled alcohol on him, and others did not. On the scene, the people who interacted with Mr. Whaley did not notice overt signs of intoxication. At the time of the collision, according to Dr. Kenneth Ferslew, the State's toxicology expert, Mr. Whaley's BAC would have been between .056 and .120 % (The per se BAC level in Tennessee is .08%).

Dr. Ferslew also testified that at the ethanol levels, described above, at the time of the collision, that Mr. Whaley would have been experiencing adverse effects of alcohol at that time of the collision. The Dr. Ferslew established the BAC range using the Widmark formula which is for use in cases where the BAC is .020 % or higher and agreed that the Michaelis-Menton formula would be used for BAC levels below .020 %. The TDOT traffic operations manager for that area gave additional information about the signage and lighting present on the highway at the time of the offense, and another TDOT official introduced information about the traffic volume of the road at the time of the collision. The jury was allowed to visit the scene, under the court's supervision, during the trial of the case.

Mr. Whaley introduced four witnesses at trial, one law enforcement officer, one EMS worker and two experts. Both fact witnesses testified that the defendant seemed okay to them on the scene and that they were aware of numerous incidents involving people driving on the wrong side of the roadway in the area. The defendant had the defense expert Jimmy Valentine testify about the State's retrograde extrapolation. Mr. Valentine opined that Widmark was unreliable for a case involving a BAC of .020 % and that Michaelis-Menten should have been used. It is noteworthy that even the defendant's expert admitted that most in the scientific community only insist on Michaelis-Menten at BACs below .020 %, and that impairment for most people begins at a BAC of approximately .05 %. Mr. Whaley hired a crash reconstructionist that testified that Mr. Whaley's mistake in making a U-turn into oncoming lanes was the result of poor lighting and signage and that, but for that mistake, Mr. Whaley's driving, and even his attempt to avoid the oncoming vehicle, was appropriate, under the circumstances.

At trial, in October of 2023, the jury convicted Mr. Whaley of Vehicular Homicide by Intoxication, Vehicular Homicide by Recklessness, DUI, Reckless Driving, Driving on the Wrong Side of a Divided Highway, Speeding and Failure to Maintain Lane. The trial court sentenced Mr. Whaley to serve 9 years in TDOC custody, at 30% release eligibility for Vehicular Homicide by Intoxication and issued judgments on the other counts without providing sentences. Mr. Whaley appealed his conviction and sentence to the CCA.

While the direct appeal was pending, the defendant filed a writ of error coram nobis, alleging that newly discovered evidence might have led to a different outcome at trial. . (Continued on page #5)

STATE V. WHALEY (Continued)

The so-called "new evidence," was a disclosure made by the prosecution on May 20, 2024, that one of the state's witnesses at trial, an Officer of the Soddy Daisy Police Department, had been untruthful to an investigating Lieutenant in an internal affairs investigation in May of 2023. The investigation involved questionable behavior that the officer was alleged to have engaged in with a juvenile at a gym in 2018 (showing a naked picture); the investigating lieutenant had concluded that the officer had engaged in the conduct and had been untruthful during the investigation, and his conclusions appeared in a July 6, 2023 SDPD report. It is worth noting that no one contests that the state did not actually possess this report before the October, 2023 trial.

The defendant's allegation was that the material from the SDPD report could have been used to impeach the officer's testimony in the October 2023 trial, had it been available, given that a key pre-trial motion was heard on suppressing the blood evidence obtained by that officer (who prepared the blood search warrant in the case), at which he was the key witness. Mr. Whaley's writ alleged that the entire outcome of the case could have been different. Hearings were held in front of the trial court. At these hearings, the internal affairs investigators testified about the officer's untruthfulness, during their investigation, and they testified that they had approached the SDPD Chief about needing to disclose this information prior to the October 2023 trial. The SDPD Chief testified that he believed that the underlying allegations against the officer, about showing the picture at the gym in 2018 were unfounded, and he disagreed with the investigators about whether the officer had been untruthful.

The trial court agreed that the results of the internal investigation of the officer would have been impeachment evidence for his trial testimony, but found that the Chief's decision not to credit the results or to disclose them was somehow "rational [ly] expla[ined]" by the Chief's testimony, declining to find any of the mutually contradictory witnesses non-credible. In the trial court's analysis of whether the defense's failure to have that evidence at trial changed the jury's verdict, the trial court admitted that much of the officer's testimony was actually in the Mr. Whaley's favor, and that nothing the officer testified to or that was in the officer's warrant application, wasn't also corroborated by other state's witnesses. Also, even if the officer's observations were removed from the probable cause affidavit, there would still be probable cause to issue the search warrant for Mr. Whaley's blood.

In spite of all of the above findings that weighed against the impeachment evidence impacting the verdict, the trial court still decided that the officer's credibility could have affected the juries' view of the chain of custody testimony regarding the blood evidence in the case, resulting in a different verdict for those counts that involved that evidence. The trial court then vacated the convictions for Vehicular Homicide by Intoxication and for DUI, granting a new trial on those counts. The State appealed the trial court's grant of the writ of error coram nobis on those two counts. The defendant challenged the failure to grant the writ on the remaining counts. The Court of Criminal Appeals consolidated the error coram nobis issues with Mr. Whaley's original appeal of the verdict in the original case. The CCA addressed the defendant's issues on direct appeal first, and the error coram nobis issue second.

Sufficient evidence of impairment: Mr. Whaley challenged whether there was sufficient evidence of impairment at trial to sustain his convictions for DUI and Vehicular Homicide by Intoxication. The CCA stated that the evidence presented at trial, that the defendant had been out the prior night drinking bourbon with a friend, made a U-turn in an incorrect place, drove on the wrong side of a divided highway while speeding and then steered into rather than away from the victim's vehicle, ...

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STATE V. WHALEY (Continued)

along with the smell of alcohol and the evidence that the defendant was between .056 and .120 % BAC at the time of the wreck was sufficient evidence from which a jury could conclude that Mr. Whaley was too intoxicated to safely operate a vehicle. The CCA pointed out that what needed to be proven about intoxication, in either a DUI or a Vehicular Homicide case, was NOT that the driver had a certain BAC, but only that the driver was sufficiently intoxicated to "depriv[e] him of the clearness of mind and control of himself that he would otherwise possess" to negatively affect safe operation of a vehicle (Id. at *15).

Denial of motions to suppress blood obtained from the search warrant: Mr. Whaley asserted that there was insufficient probable cause established in the search warrant affidavit to justify a search and that the affidavit contained false statements or "omitted material information" that would have refuted probable cause. The CCA affirmed the trial court's denial of the motion to suppress. The affidavit in the application indicated what day the crash occurred on, indicated that the defendant was traveling on the wrong side of a divided highway, and indicated that the defendant admitted to consuming alcohol the night prior to the crash and smelled of an intoxicant. Finally, Mr. Whaley alleged that, because the affidavit omitted facts about how he acted at the crash scene, the affidavit contained a falsehood and therefore, the blood had to be suppressed in accordance with Franks v. Delaware, 438 U.S. 154 (1978).

The CCA noted that "we can appropriately recognize certain driving behaviors as sound indicia of drunk driving." (Id. at *14, quoting State v. Kroese, No. M2022-01180-CCA-R3-CD, 2024 WL 2034366, at *14.) According to the court, driving on the wrong side of the road is one of those behaviors. That conduct, combined with the odor and Mr. Whaley's admissions, is sufficient for probable cause. Additionally, the CCA declined to agree with Mr. Whaley that leaving details out amounts to a false statement under Franks, pointing out, instead, that even if the information whose omission Mr. Whaley complains of had been included, probable cause would still have existed, in this case (Id. at *21).

Denial of Defendant's motion to exclude Dr. Ferslew's testimony for the State and his testimony regarding retrograde extrapolation: Mr. Whaley claimed that the four-hour delay in drawing his blood rendered the TBI test of it unreliable and that the State's expert's testimony regarding retrograde extrapolation was likewise unreliable. The CCA began its analysis with a re-hashing of the extensive multi-session pre-trial hearings held by the trial court regarding the BAC result and the State's retrograde extrapolation, at which the State and Mr. Whaley both presented extensive expert testimony. The CCA noted approvingly that the trial court made many extensive findings, based on the rules of evidence, in allowing the expert testimony that it allowed, even including an order limiting the retrograde extrapolation testimony of the State's expert to a range (rather than just reporting an average), and that Dr. Ferslew fully complied with the court's limiting instructions, concluding "that the trial court did not abuse its discretion in admitting Dr. Ferslew's limited testimony" (Id. at *29). The trial court allowed testimony from both side's witnesses. The trier of fact determines which theory to accredit.

Denial of defendant's motion to exclude the opinion evidence of the TDOT employee: Mr. Whaley asserted that the evidence and opinions presented to the jury by the TDOT employee, Mr. Smith, had to be excluded, because Mr. Smith was not an expert. Mr. Smith, of the Tennessee Department of Transportation, introduced evidence about the signage and markings present on the roadways involved in this case at the time of the crash, including the preparation of photographic exhibits showing the same. The trial court allowed this evidence to be introduced as permissible lay witness testimony to assist the trier of fact. The CCA agreed with the trial court, noting that evidence like the evidence that Mr. Smith introduced was standard lay witness evidence and lay witness opinion evidence, and the trial court did not abuse its discretion by admitting it. The CCA further held that the admission of the evidence would at worst have been harmless error, anyway, since other evidence showed that the defendant had made the U-turn in question and was driving the wrong way on a divided highway.

(Continued on page #7)

STATE V. WHALEY (Continued)

Jury visit to the scene: Mr. Whaley argued that the trial court erred when it granted a State's motion to allow the jury to view the defendant's driving route and the crash scene, even though the conditions under which the jury viewed those locations were not the same as the conditions at the time of the crash. Initially, the viewing was dealt with in a pre-trial motion, at which the court agreed to the jury field trip requested by the State, with the proviso that the viewing time would be picked in such a way as to mimic the conditions at the time of the crash. On the day of the field trip, the court notified the parties that there wasn't enough law enforcement to eliminate traffic on BOTH sides of the highway (like it would have appeared at the time of the crash); over defense objection, the court decided to continue with the jury field trip anyway and to cure any differences in viewing conditions with a limiting instruction. The trial court, in fact, gave the jurors extensive limiting jury instructions with respect to the field trip viewing. The CCA upheld the trial court's decision, holding that it did not abuse its discretion, given the extensive limiting instructions issued by the trial court.

Jury instructions: Mr. Whaley complained that the court added the Tennessee pattern instruction on voluntary intoxication (as not creating a defense to culpable mental states) to the defense-requested pattern instruction on mistake of a fact as a defense. In essence, the CCA not only upheld the trial court's decision to instruct the jury as it did, but it also noted that the resulting instruction produces a correct description of Tennessee law. The CCA held that, without the addition of the voluntary intoxication instruction where it occurs, i.e., if the trial court had stuck with the defendant's desired instructions, the jury would have been left with an incorrect description of Tennessee law that "would effectively allow an end run around the prohibition of the use of voluntary intoxication to negate recklessness" (Id. at *34)

Cumulative error: Mr. Whaley finally argued that, even if none of the trial court's errors warrants overturning the verdict, there are enough cumulative errors to warrant reversal. The CCA noted that it didn't find any errors, much less multiple errors, to accumulate. Thus, the CCA rejected this argument, upholding the trial court's decisions and the jury's verdicts.

Writ of Error Coram Nobis: Regarding Mr. Whaley's argument that he is entitled to complete relief on all of the counts of conviction , resting on the newly discovered impeachment evidence, the CCA sided with the State, reinstating all of Mr. Whaley's convictions. In order for a defendant to prevail on a writ of error coram nobis in Tennessee, it is not enough that newly discovered evidence relating to a case is discovered or becomes available Because the writ is an "extraordinary" procedural remedy, it is also essential that the party asking for the relief demonstrate a reasonable basis for thinking that the admission of the newly discovered information might have led to a different result at trial, which it did not. Also, it has been "repeatedly" held in Tennessee courts that the "writ… cannot be used to relitigate a suppression motion" (see *36, quoting Hughes-Mabry v. Lee, No. E2017-01652-CCA-R3-ECN, 2018 WL 1445984 at *4).

Finally, the CCA looked at the trial court's determination that the impeachment evidence could've impacted the chain of custody of the blood sample introduced in the case. This was the trial court's basis for vacating the defendant's convictions for DUI and Vehicular Homicide. Upon examining that issue, the CCA noted that the defendant never asserted this particular line of reasoning for why the impeachment evidence might have impacted the verdict. The trial court came up with this rationale on its own. Also weighing against impact on the verdict is the fact that chain of custody was never called into question during the trial, and the remaining evidence of intoxication was strong. Because the defendant failed to argue the chain of custody issue, the CCA held that the trial court abused its discretion in granting relief to the defendant on that basis. Accordingly, the CCA reversed the trial court's partial grant of error coram nobis relief to Mr. Whaley and re-instated the convictions for DUI and vehicular homicide. The case was sent back to the trial court to sentence Mr. Whaley on all of the counts for which he was convicted. The trial court initially only sentenced Mr. Whaley to 9 years for the Vehicular Homicide by Intoxication, even though it was required to provide a determinate sentence for the lesser includeds.

Upcoming Training

TENNESSEE DISTRICT ATTORNEYS GENERAL CONFERENCE

Cops in Court - February 6, 2026, ROCIC - Nashville, TN
This course teaches law enforcement officers the challenges and difficulties associated with impaired driving cases. It also includes a mock trail presentation in which each officer experiences a direct and cross examination. Prosecutors are encouraged to participate in the mock trial presentation.

Cops in Court - February 17, 2026, 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 trail presentation in which each officer experiences a direct and cross examination. Prosecutors are encouraged to participate in the mock trial presentation.

20/20 Medical Foundation of Eye Movements & Impairment - March 10-12, 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.

Protecting Lives, Saving Futures - April 7-9, 2026, Chattanooga, TN
This three-day seminar is designed to jointly train law enforcement officers and prosecutors in all aspects of prosecuting drugged driving cases. The agenda includes a brief overview of the investigation technique involved in the detection of drug impaired drivers, how to understand and present impairment evidence in court, and how to develop and improve courtroom skills and strategies. A wet-lab will be included.

TENNESSEE HIGHWAY SAFETY OFFICE TRAINING CLASSES:

DUI Detection & Standardized Field Sobriety Testing
March 9-11, 2026, Bristol, TN
March 16-18, 2026, Murfreesboro, TN
March 23-25, 2026, Greenfield, TN
April 6-10, 2026, Nashville, TN
April 13-15, 2026, Livingston, TN
April 20-22, 2026, Sevierville, TN
May 4-8, 2026. Memphis, TN

Advanced Roadside Impaired Driving Enforcement
February 9-10, 2026, Bolivar, TN
February 18-19, 2026, Waverly, TN
March 2-3, 2026, Winchester, TN
March 23-24, 2026, Brownsville, TN

Drug Recognition Expert (DRE) School
March 23-April 2, 2026, Knoxville, TN

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DUI Tracker

DUI Tracker this last quarter

The results below were taken from the Tennessee Integrated Traffic Analysis Network (TITAN) from October 1, 2025, through December 31, 2025, and reflect the DUI Tracker conviction report for all judicial districts within 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 October 1, 2025, through December 31, 2025, since the last quarter were 2,124. This number is slightly down from the previous quarter by 118. (These numbers only reflect the cases that were entered into the TITAN network. Many DUI cases are handled in jurisdictions that do not have access to the TITAN network).

Fatal Crashes this last 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 October 1, 2025 through December 31, 2025. During this period, there were a total of 268 fatalities, involving 257 crashes, which is a decrease from the previous quarter and a decrease over this same time last year. Out of the total of 268 fatalities, 53 fatalities involved the presence of alcohol, signifying that 19.77% of all fatalities this quarter had some involvement with alcohol. This percentage is higher than the previous quarter. Further, there were a total of 33 fatalities involving the presence of drugs, signifying that 12.31% of all fatalities this quarter involved some form of drugs.

The year-to-date total number of fatalities on Tennessee roads and highways is 1,046. This is down by 186 from the 1,232 fatalities incurred last year at this same time. For most of the year, we experienced a consistent decrease from last year, in the number of fatalities on our roads. This is the second consecutive year in that the number of fatalities has decreased. Let's make impaired driving enforcement a priority for 2026. Impaired driving is preventable and more lives can be saved!

Please support our community agencies as they work towards stopping impaired driving.

Cops In Court Seminar:

On October 22, 2025, the DUI training staff, in partnership with the Tennessee Highway Patrol Training Center, held a Cops in Court Seminar in Nashville, TN. 11 Lateral Cadets participated in the seminar and acquired information about the importance of communication, court procedure, evidence collection and evidence presentation in impaired driving related cases.

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Vehicular Homicide – Murderer's Row

State v. Jessie Rose Hodge, 2025 WL 2828436 (Diversion denied for criminally negligent homicide)

(Editor's note: Although this case did not involve an impaired driver, it did involve a vehicle crash in which a victim, Dwight Woods, was killed. Ms. Hodge plead guilty to one count of Criminally Negligent Homicide, which is eligible for judicial diversion. Occasionally, an impaired driving case will result in a conviction on charges that are eligible for diversion. This case discusses diversion issues when a death is involved.)

On September 4, 2021, Ms. Hodge was driving her BMW Westbound on I-40 at approximately 3:40 a.m. She was travelling at over 100 mph when her BMW struck a motorcycle being driven by Dwight Woods. The BMW came to a rest "against the median wall," with the motorcycle "wedged" in front of it. The BMW's airbags had deployed. A trucker discovered the crash and called 911. Ms. Hodge left the scene of the crash and Mr. Woods lay deceased on the interstate. Ms. Hodge eventually returned to the scene of the crash. The investigating officers found no evidence of impairment being involved. Data from the BMW indicated a speed of 102 mph at the time of the crash, but there was no other evidence of how the crash occurred. Ms. Hodge plead guilty to one count of Criminally Negligent Homicide and a sentencing hearing was held to determine her eligibility for judicial diversion.

During the sentencing hearing, the trial court considered the "Parker and Electroplating" factors which must be considered when evaluating a grant of judicial diversion. See State v. Electroplating, 990 S.W.2d 211, 229 (Tenn. Crim. App. 1998) (first citing State v. Parker, 932 S.W.2d 945, 958 (Tenn. Crim. App. 1996); and then State v. Bonestel, 871 S.W.2d 163, 168 (Tenn. Crim. App. 1993)). The trial court "must weigh the factors against each other and place an explanation of its ruling on the record." State v. King, 432 S.W.3d 316, 326 (Tenn. 2014)(citing Electroplating, 990 S.W.2d at 229). After the hearing, the trial court denied the judicial diversion and Ms. Hodge appealed.

Since the trial court applied the above factors, "the appellate court must apply a presumption of reasonableness and uphold the grant or denial so long as there is any substantial evidence to support the trial court's decision." King at 327. Although Ms. Hodge had many factors favorable to judicial diversion, the circumstances of the offense weighed heavily against the grant of diversion. The trial court found that the grant of diversion was not appropriate given that the court had recently dealt with other cases involving car-versus-motorcycle related deaths and the need for deterrence to others was required. Also, the grant of diversion does not serve the interests of the public or the defendant when it depreciates the seriousness of the offense or where the collateral consequences of a conviction would protect the public. State v. Sheets, 2023 WL 2908652, *12.

Because the trial court properly considered the Parker and Electroplating factors in its decision to deny diversion and substantial evidence supports its decision, the trial court did not abuse its discretion. "Its decision is presumed reasonable, and we will not second-guess its determination." Judgment of the trial court is affirmed.

Tenn. Code Ann. § 55-10-417(h)(2)- The Violation that isn't being charged enough.

As a result, the officer will charge the driver with a violation of § 55-50-504, and the officer might even note the revocation is due to DUI (which at least carries an enhanced punishment of 2 days jail time on the B misdemeanor), but the officer will fail to charge the driver with violating § 55-10-417(h). If the DUI conviction for which the driver's license was suspended or revoked occurred after July 1, 2017, it is extremely likely that the driver is guilty of violating the ignition interlock law, because the salient element of this offense is not only triggered when the driver has been ordered by the court to only operate a vehicle equipped with the ignition interlock device, but is also triggered when the driver is required by **statute** to only operate a vehicle so-equipped. Additionally, where prosecutors prepare the plea paperwork/judgment forms, it is usually the case that, under special conditions, the prosecutor has written "must only operate a vehicle equipped with an ignition interlock device" or "eligible for a restricted license with (or "only with") an ignition interlock device" or words to that effect (because that is a best-practice) on the judgment form. In those circumstances, the judge-signed form has the force of a court order. But without the SF-0680, the requirement is still not listed in the drivers history.

Since July 1, 2017, operating a vehicle with an ignition interlock device for (at least) 365 continuous days has been a prerequisite to any driver convicted of a violation of § 55-10-401, before getting his or her full license reinstated, except in DUIs that: involve no alcohol, involve no minor passengers, involve no wreck, or are committed by persons with no prior DUI convictions within 10 years of the offense. Since that time, the ignition interlock has been a requirement for every DUI conviction that does not fall into the narrow category of the DUIs that meet all of those conditions. Also, since July 1, 2017, the failure to get and maintain an ignition interlock device for a continuous 365 days (or more) has been the number one reason why drivers convicted of DUIs have failed to get their drivers licenses reinstated.

Now, if the stop is within 10 days of the conviction of DUI, and the driver has the form signed by the judge that is necessary to obtain the interlock device (which form the driver is required to carry on his/her person while driving), the driver is not (yet) guilty of a violation of this law (and the driver is not actually driving on a suspended or revoked license (yet)). However, if you have a case in which the law enforcement officer stops a driver, runs that driver's license history, and sees that the license is suspended or revoked for DUI, but does not show that the license has been reinstated (and the revocation is from July 1, 2017 or later), the driver is almost certainly guilty of a violation of Tenn. Code Ann. § 55-10-417(h) and should be charged accordingly. Whether the revocation period is still active or has long passed (without a reinstatement), the driver is almost always required to have an interlock.

If the violation isn't charged on the original warrant or citation, prosecutors should keep an eye out for correcting the issue before resolving the case. If in doubt in a particular case, it is reasonably easy to verify, during business hours, that the person is statutorily required to have the interlock, by checking with the clerk's office or DA's office in the county of conviction (a copy of the affidavit or of the plea paperwork often clears it up). Honestly, in jurisdictions with lower populations, the prosecutor's own office is likely familiar with the prior conviction. Certainly, if a case somehow goes from general sessions to circuit court, the prosecutor should be double-checking any charge of § 55-50-504 (of course, these will usually be going up with DUI-with priors, a vehicular assault, or some other charge like a drug possession).

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Tenn. Code Ann. § 55-10-417(h)(2)- The Violation that isn't being charged enough.

(h) is just a small part of Tenn. Code Ann. § 55-10-417 that prosecutors and law enforcement officers are missing out on. I heartily recommend that prosecutors and law enforcement officers familiarize themselves with this entire code section. Many individuals who show (only) a violation of the implied consent law on their license history are, of course, likewise required to operate only a vehicle equipped with an ignition interlock device. (This is an entire additional class of drivers who might fall afoul of this law.) Consider the other violations included in § 55-10-417:

"(f) A person prohibited under this part from operating a motor vehicle that is not equipped with a functioning ignition interlock device shall not solicit or have another person attempt to start or start a motor vehicle equipped with such a device.

(g) A person shall not attempt to start or start a motor vehicle equipped with a functioning ignition interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with a functioning ignition interlock device….

(i) A person shall not knowingly provide a motor vehicle not equipped with a functioning ignition interlock device to another person who the provider of the vehicle knows or should know is prohibited from operating a motor vehicle not equipped with a functioning ignition interlock device."

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