

for The Defense

The Training Newsletter for the
Maricopa County Public Defender's Office

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Maricopa County Public Defender

Contents:

ADVISING CLIENTS

* Talking To Your Felony
DUI Clients About Prison Page 1

RIGHT TO COUNSEL

* Advisory Counsel And
The Pro Se Defendant Page 3

CLIENT TESTIMONY

* Putting It All On The Line Page 4

BIFURCATED TRIALS

* Bifurcated Trial On License
Suspension Granted Page 5

DISCOVERY

* Discovery Of Brady Material
In Police Personnel Files Page 5

ADVANCED REPORTS SUMMARIES

* Volumes 94 & 95 Page 9

TRAINING CALENDAR

Page 12

SEPTEMBER JURY TRIALS

Page 13

PERSONNEL PROFILES

Page 14

BULLETIN BOARD

Page 14

TALKING TO YOUR FELONY DUI CLIENTS ABOUT PRISON

By Gary Kula

They are afraid of the unknown. Most of them have spent little or no time in jail. Now, having been convicted of a felony DUI, they are facing six months in prison as a term of their probation. The only ideas they have as to what goes on behind prison walls come from late night movies starring George Raft.

Unlike the typical first-time felony offender, who walks out of the courtroom with a grant of probation, the first-time felony DUI offender is sent to prison. As their attorneys, it is important that we possess information about prison procedures, facilities and programs. Once we have a working knowledge and familiarity of what lies ahead for our clients,

we are better able to advise them as they make decisions about their cases and their futures.

This article is intended to provide information, not to downplay the hardship of prison. DUI prison inmates are held to most of the same rules and restrictions as the general population. There are, however, some very important differences in the manner DUI felony inmates are housed and treated. Our clients sentenced to prison need to be aware of where they are going, with whom they will be housed, and what lies ahead for the next six months of their lives.

Classification

After being transported from the county jail, the first stop en route to prison is reception and classification. For male inmates, this processing takes place at Alhambra. Female inmates are classified at Perryville.

The classification process begins with a committee's review of the inmate's background, presentence report, special needs, potential escape risk and criminal history. The committee focuses not only on the offense for which he was convicted, but also on the original "offense behavior" which brought about the arrest. This can be critical in the context of a DUI case where the original charge was aggravated assault as a result of an automobile accident involving alcohol and serious physical injuries. If the person is found guilty of only the lesser offense of felony DUI after trial or as a result of a plea, his classification and placement into a minimum security DUI facility may still be jeopardized because of the serious nature of the original offense.

As a general rule, felony DUI offenders are sent to specialized facilities which are set up to provide treatment. The fact that an inmate has numerous prior felonies or has been sentenced as a repetitive offender does not preclude his placement into these facilities. The only exceptions are where it is determined that the inmate is too sophisticated, too great an escape risk or has too violent a background for minimum-security placement. These minimum security facilities are Aspen and Douglas for male inmates and for female inmates, the Arizona Center For Women.

(cont. on pg. 2)

The Arizona Center for Women also offers courses in subject areas of a special interest to women. For example, there are courses designed to provide women with information about co-dependency and domestic violence, both of which are issues which must often be dealt with upon their release from prison.

Advising Clients

The best advice we can give our client as he or she enters DOC for a felony DUI is to take full advantage of the work opportunities, programs and classes which are available. As far as the alcohol programs, their degree of participation may significantly affect what happens to them upon their release. In those cases where the prison term was ordered as a term of probation, participation and successful completion of the programs may make a difference in the probation officer's perception of your client's need for treatment. In at least one case, a probationer was required to complete a residential alcohol treatment program, at his own expense, upon his release from prison. This was the result of his refusal to participate in any of the treatment programs while in prison.

Successful completion of the DOC alcohol programs may also assist your client in eventually getting his or her driving privileges restored. After the typical three-year revocation has expired, MVD requires an individual to go through a hearing process to document their sobriety. If your client has earned a certificate of completion from DOC for alcohol treatment, such documentation is looked upon very favorably during the hearing process. Earning a certificate can be especially influential if a client documents their participation in an aftercare treatment program such as AA following their release.

In summary, in order to provide effective representation to a client, defense counsel must be able to answer questions and give advice as to the reality of the consequences for a felony DUI conviction. By providing information to our clients about where they will be going, what prison life is like and how they can use their time in prison to better benefit their life after release, we significantly increase the chances that our clients will be able to adjust to prison life, benefit from the treatment programs offered, and succeed in their ongoing battle with alcohol. ^

ADVISORY COUNSEL AND THE PRO SE DEFENDANT

By Jeff Fisher

Background

Rule 6.1(c) of the Arizona Rules of Criminal Procedure, provides that a defendant may waive his rights to counsel in writing, after a court determination that the waiver is knowingly, intelligently, and voluntarily made by the defendant. When the defendant waives his right to counsel, Arizona courts have consistently allowed the defendant to represent himself. *State v. Van Bogart*, 85 Ariz. 63, 331 P.2d 597 (1958); *cert. denied*, 359 U.S. 973, 79 S.Ct. 886, 3 L.Ed.2d 838 (1959); *State v. Stephens*, 107 Ariz. 565, 490 P.2d 571

(1971); *State v. Reese*, 111 Ariz. 249, 527 P.2d 508 (1974). However, it is not uncommon for the court to appoint the assigned public defender as advisory counsel. What is your role as advisory counsel when this occurs?

Guidelines

Only general guidelines have been provided by the courts on the role of advisory counsel. In *Faretta v. California*, 422 U.S. 806, 95 S.Ct 2525, 45 L.Ed. 562 (1975), the Court stated that advisory counsel was appointed "to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary." 422 U.S. at 835. Later, in *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984), the Supreme Court provided the following guidelines:

1. The pro per defendant is entitled to preserve actual control over the case presented to the jury without substantial interference by advisory counsel.
2. Advisory counsel should not be allowed to participate in the proceedings without the pro per defendant's consent.
3. Advisory counsel may participate in all proceedings outside of the presence of the jury as long as it does not infringe on the pro per's right to self-representation.

465 U.S. 178-179.

Being Prepared

Therefore, following the general guidelines provided by the Supreme Court, we should be prepared to assist the pro se defendant and, if necessary, take over the case should the pro se defendant revoke the waiver of counsel. (A defendant may withdraw a waiver of his rights to counsel at any time. Arizona Rules of Criminal Procedure, Rule 6.1(e).) This necessarily mandates being prepared and being familiar with the case in the same fashion as if we were controlling the case.

No Infringement

Advisory counsel must not interfere or participate in the proceedings before the jury. Advisory counsel must not infringe on the pro per's right to self-representation. Assist and advise when requested but allow the pro se defendant to make the decisions and presentations before the jury.

Although the defendant has a constitutional right to pro se, he does not have the right to have his case presented in court both by himself and by counsel acting alternately or at the same time (hybrid representation). *State v. Stone*, 122 Ariz. 499, 715 P.2d 752 (1986). The defendant "does not have a constitutional right to choreograph special appearances by counsel." *McKaskle v. Wiggins*, 465 U.S. at 183, 64 S.Ct. at 954. Participation by counsel can be an infringement on the constitutional right to proceed pro se. Therefore, the record must be clear prior to any participation that the defendant consents to the participation and the court will allow it.

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The final decision need not be made until the end of the trial. As a general proposition, in my opinion, the defendant should not be called unless necessary. Necessary means that you have no reasonable chance of success without such testimony. Let's face it, from the beginning of the trial the jury suspects your client is probably guilty. They may well scrutinize the client's testimony for minor inconsistencies or demeanor to confirm their suspicions. Will the jury wonder if the defendant is innocent, why he did not he take the stand? Perhaps. But assuming that the deliberations determine the verdict, it is unlikely to play a pivotal role. Discussion of a defendant's failure to testify will likely cease when a juror points out that standard RAJI 16 specifically prohibits this decision from affecting their deliberations.

Juror debriefings indicate that client testimony usually hurts more than helps. While extensive client preparation may improve testimony, few clients project as well as experienced police officers or tearful victims. If your client testifies, the prosecutors always respond with the question "who has the motive to lie?".

If your client testifies, background information should be magnified and the effect of prior convictions minimized. Proper placement of this information in the context of his testimony may be as important as their existence. Your client's history as an honest, hardworking, family man serves no purpose if the jury does not listen to it and uses it to assess whether he is telling the truth. After all, it does not excuse the conduct if he is guilty, but rather permits the jury to assess the likelihood of his guilt. Once the client denies sexually assaulting the victim, the jury may want some help in deciding whether he is telling the truth. Beginning client testimony with a description of his work history or his leisure activities will carry very little interest and may appear to be your defense. Try sandwiching the background material after his initial denial but prior to the detailed specifics of the day of the offense. The ideal placement for a revelation of prior convictions is after the jury has reached a conclusion as to your client's credibility. Therefore the later the better. The often espoused theory of "drawing the sting" early to enhance the lawyer's credibility presupposes that the lawyer's credibility is more important than the client's. Once a juror believes your client is telling the truth, it is less likely that a felony conviction will cause a change of opinion. ^

BIFURCATED TRIAL ON LICENSE SUSPENSION GRANTED

By Robert W. Doyle

In several recent cases, felony DUI defendants have been granted a new form of a bifurcated trial. These cases now receive separate jury consideration of suspended license evidence only after a verdict on the drunk driving evidence.

The most significant obstacle to bifurcating the suspension issue is *State v. Geschwind*, 136 Ariz. 360, 666 P.2d 460 (1983). The first point of the following motion to bifurcate is that *Geschwind* considered a former version of the statute and found that the license suspension was an element of the offense. Applying the rules of statutory construction to the new statute, the new version is more like a statute calling for bifurcation than the statute considered in *Geschwind*. The

second point of the motion is the prejudice a defendant suffers when the jury simultaneously learns that he is accused of driving under the influence while his license was invalid. Evidence of an unexplained cancelled or suspended license is bound to make jurors speculate about prior bad driving or prior DUI's. The final point of the motion is that there is very little prejudice to the State. This minor change in the order of trial causes no serious inconvenience. Proof of the license suspension is generally done with different witnesses and exhibits than the State's case-in-chief.

This motion has been heard several times in superior court with mixed results. The State is planning to petition for special action in three cases, and public defenders plan to petition in other cases. No petitions have been filed as of October 21, 1991. A sample of the motion follows on Page 6. A sample petition for special action will be available soon. ^

DISCOVERY OF BRADY MATERIAL IN POLICE PERSONNEL FILES

By Marie D. Farney

Introduction

A recent Ninth Circuit Court of Appeals decision concerning *Brady* material contained in the personnel files of testifying police officers may assist public defenders. This case and others discussed in this article concern the duty of prosecutors to comply with defense counsels' requests to examine law enforcement personnel files and to disclose any impeachment evidence amounting to perjurious or dishonest conduct by testifying officers.

Arizona case law has not addressed this precise issue. However, existing Arizona case law on the general subject of accessing *Brady* material contained in police personnel files will be presented or cited in this article. Those cases focus on allegations of police overaggressiveness.

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The Udall court drew a key distinction between former A.R.S. §28-692.02 as discussed in Geschwind and former A.R.S. §§28-692(A) and 28-692.01(F). The Udall court noted that the plain wording of the statute in Geschwind established that a prior conviction was an element of that offense. By comparison, the Udall court noted that the offense was fully described in former A.R.S. §28-692 and that former A.R.S. §28-692.01(F) was not an element of the basic offense.

In interpreting new A.R.S. §28-692.02 as enacted in 1990, it is necessary to ascertain the intent of the legislature. See Matter of Pima County Juvenile Appeal No. 74802-2, 164 Ariz. 25, 790 P.2d 723 (1990). To find legislative intent, courts consider the context of the statute, the language used, the subject matter, the historical background, the effects and consequences, and the spirit and purpose of the law. Martin v. Martin, 156 Ariz. 452, 752 P.2d 1038 (1988). It is presumed that the legislature knows existing law when it enacts or modifies a statute. State v. Garza Rodriguez, 164 Ariz. 107, 791 P.2d 633 (1990). It is also presumed that, by amending a statute, the legislature intends to change existing law. State v. Garza Rodriguez, 164 Ariz. at 111, 791 P.2d at 637. By enacting a statutory scheme much more like the statutes in Udall than in Geschwind, the legislature created a situation calling for a bifurcated trial.

Current A.R.S. §28-692.02 is much more like the statute considered in Udall than in Geschwind. Like the statute in Udall (and unlike Geschwind) the basic offense is fully described in a different and separate statute. Like the statute in Udall (and unlike Geschwind), A.R.S. §28-692.02 does not repeat the elements of driving while under the influence; it cites only to the other statute by number. Like the statute in Udall (and unlike Geschwind) the enhancement statute contains conditional language. Former A.R.S. §28-692.01(F) said in part "If a person is convicted . . ."; current A.R.S. §28-692.02 says ". . . if a person does either of the following:". These legislative changes show that, like the statutes in Udall, the license suspension issue in A.R.S. §28-692.02 is similar to the prior conviction issue in Udall and calls for a bifurcated trial.

A.R.S. §28-692.02 also requires a bifurcated trial to prevent prejudice from affecting the jury's deliberations. In State ex rel. Collins v. Superior Court, 161 Ariz. 392, 778 P.2d 1288, (App. 1989) the court made the following observations regarding the reasons for a bifurcated trial:

Third, we consider the purpose of bifurcation at trial -- to prevent the jury from being swayed by knowledge of past convictions when deciding the defendant's guilt or innocence of the present charge. We acknowledge similar potential for prejudice at the grand jury level. That is, in a close case, a grand jury informed of prior convictions might more readily find probable cause for present indictment than a grand jury not so informed.

State ex rel. Collins v. Superior Court, 161 Ariz. at 394, 778 P.2d at 1290. While State ex rel. Collins v. Superior Court was specifically describing the prejudice facing a DUI defendant with alleged prior convictions before the grand jury, the plight of a DUI defendant with an alleged license suspension before a trial jury is no better. The very words used to describe the driver's license -- suspended, cancelled, revoked or refused -- simply scream to the jury that the defendant has prior bad acts. Jurors might speculate that the license problem is connected to prior DUI convictions. Jurors might speculate that the license problem is connected to driving behavior even worse than prior DUI's. All jurors would receive a clear message -- this defendant is, for whatever reason, too dangerous to be allowed the privilege of a driver's license. It is this very kind of speculation that demonstrates the prejudice in this case and the need for a bifurcated trial.

On the other hand, the State is not prejudiced by this minor change in the order of trial. The State normally proves the driving while under the influence issue through the testimony of police officers. The State then proves the license issue through the records and employees of the Arizona Department of Transportation. As the evidence of the license issue is generally proved with separate and distinct witnesses and exhibits, the State is not prejudiced.

For the foregoing reasons, defendant request a bifurcated trial.

RESPECTFULLY SUBMITTED this ____ day of *, 1991.

DEAN TREBESCH
Maricopa County Public Defender

By _____
Deputy Public Defender ^

Arizona Case Law

The duty to inspect personnel files does not extend to allegations of police overaggressiveness in the internal affairs records of an arresting police officer unless it could lead to admissible evidence or is admissible itself. State v. Superior Court, 132 Ariz. 374, 645 P.2d 1288 (App. 1982); State v. Cano, 154 Ariz. 447, 743 P.2d 956, 958 (App. 1987) (citing State v. Superior Court, Id.).

Cano upheld the trial court's refusal to order an *in camera* inspection of Arizona Department of Correction's personnel records for one of its officers whom the defendant assaulted. Defendant claimed that he was entitled to inspect the file because he raised self-defense. Therefore, the officer's violent character trait, an essential element, may be proved by specific instances of past conduct under Rule 405(b).

The court held that "[t]o be an 'essential element', the character trait must be an operative fact which, under substantive law, determines the rights and liabilities of the parties", (quoting State v. Williams, 141 Ariz. 127, 129, 685 P.2d 764, 766 (App. 1984) which held that a victim's tendency to be violent while under the influence of alcohol was not an essential element of a homicide charge even where the defendant had raised self-defense but had failed to present a sufficient foundation to show that specific acts, which defendant sought to admit into evidence, had been personally observed by him or made known to him prior to the events which led to the victim's death).

Similarly, in Cano, the court held that defendant had not met the necessary foundational requirement. "There is no indication that appellant claimed, either before or at trial, that he knew about any other specific acts of violence committed by the officer." (Defendant and prosecutor both elicited testimony concerning one prior incident where the corrections officer threw a coffee pot at appellant.) Therefore the existence of these specific acts were not shown to have influenced his state of mind and cannot be classified as an essential element. Id.

Caveat

The Cano case held that although Rule 405(b) of the Alaska Rules of Evidence was identical in language to Arizona's Rule 405(b), Arizona courts have interpreted its version more narrowly. For example, under Alaska's Rule 405(b), specific acts are also admissible to show who was the initial aggressor, regardless of knowledge of prior incidents. Amorok v. State, 671 P.2d 882 (Alas. App. 1983). This is not the case in Arizona.

It is possible, though not likely, that the federal cases can be distinguished on the basis of independent and adequate state grounds (i.e., Arizona's interpretation of its own rules of evidence). However, the holding in United States v. Cadet, *supra*, indicates that this argument will not withstand an assertion of a violation of federal due process. ^

ARIZONA ADVANCED REPORTS

Volume 94

Gila Co. Juvenile Action No. DEL-6325 v. Duber
94 Ariz. Adv. Rep. 76, August 27, 1991 (Div. 2)

An incorrigible cannot be incarcerated under A.R.S. Section 8-241. Incarceration is not available to punish incorrigibility.

State ex rel. McDougall v. Riddel
94 Ariz. Adv. Rep. 53, September 5, 1991 (Div. 1)

Defendant was stopped and charged with driving under the influence of intoxicating liquor and driving a motor vehicle with a blood/alcohol concentration of .10 or more. Prior to trial, the trial judge suppressed statements made to the arresting officer. Without the statements, the State lacked the necessary evidence to relate his blood/alcohol concentration to the time of driving under Desmond v. Superior Court, 161 Ariz. 522 (1989). The State dismissed the .10 charge but presented expert testimony regarding the number of drinks in the defendant's system at the time of his BAC test. This evidence was properly admitted. The number of drinks is relevant to whether the defendant was impaired by alcohol while driving. Relation back evidence under Desmond is necessary only for the State to receive the statutory presumptions or to establish a prima facie case under former A.R.S. Section 28-692(B). Desmond does not affect the admissibility of expert testimony regarding the number of drinks in a defendant's system.

State ex rel. McDougall v. Superior Court
94 Ariz. Adv. Rep. 40, August 29, 1991 (Div. 1)

Defendant is stopped and cited for driving under the influence. He later blows a .22 percent. Defendant argues that there was insufficient evidence to relate back his blood/alcohol concentration to the time of driving under Desmond v. Superior Court, 161 Ariz. 522 (1989). The State made an offer of proof concerning the defendant's driving, his statement that he had too much to drink and his surrender of his car keys as sufficient evidence to satisfy the relation back requirement. It is only necessary under Desmond to provide *some* evidence relating the BAC back to the time of driving. The experts testimony relating the defendant's BAC back to the time of arrest was admissible.

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State v. Peterson
94 Ariz. Adv. Rep. 58, September 5, 1991 (Div. 1)

The police receive a report of a theft and burglary from a home. The police focus their investigation on the defendant. A warrants check reveals a five-year-old warrant on the computer. The police request an arrest warrant and serve it at defendant's home. They observe property identified in the theft report and later secure a search warrant. Later, the police find that the arrest warrant information was a computer error. Defendant moves to suppress on the grounds of the invalid arrest warrant. The State acknowledges the invalid arrest warrant, but defends the search on the grounds of technical error and good faith mistake. The trial judge denies the motion to suppress.

The good faith mistake and technical error statute does not cure the invalid arrest warrant. Under A.R.S. Section 13-3925, there was no evidence to show that the warrant was issued due to some reasonable judgmental error of fact. The officers had no information which would provide a good faith belief in the arrest warrant's validity. Erroneous computer information does not meet the statutory definitions of "good faith mistake" or "technical error". The State bears the burden to prove the good faith exception and failed to carry that burden here.

The State also claims the "good faith" exception found in United States v. Leon, 468 U.S. 897 (1984). The exclusionary rule is designed to deter police misconduct, not to punish the errors of judges. In this case, there was no erroneous judicial conduct on which police officers reasonably relied. Leon does not apply to this case.

State v. Rios
94 Ariz. Adv. Rep. 72, August 22, 1991 (Div. 2)

Defendant pled guilty to solicitation to commit third degree burglary. In exchange, the State dismissed the allegations of prior convictions and that the defendant committed this offense while on parole. At sentencing, the judge ordered that defendant serve this sentence consecutive to any additional parole revocation time. Defendant did not object at the time of sentencing. Defendant now argues that a judge cannot order that a sentence that has not yet been imposed, citing State v. King, 166 Ariz. 342 (App. 1990). Division Two distinguishes King because the sentence on the parole case had been imposed long ago. The uncertainty of whether parole will indeed be revoked is not the kind of uncertainty that concerned the court in King. No fundamental error occurred.

Volume 95

State v. Jannamon
95 Ariz. Adv. Rep. 50, September 12, 1991 (Div. 1)

Defendant was convicted of three counts of public sexual indecency to a minor. The charges arose from the defendant's masturbating in a movie theater while sitting next to three young girls. Victim #1 definitely saw defendant

masturbating. Victim #2 saw the defendant rubbing something and thought he had a peach-colored umbrella. She realized that the defendant had been rubbing his penis when she saw him leave without an umbrella. Victim #3 saw the defendant fumbling around and moving, but did not see any masturbation. Defendant argues that the evidence did not establish that either Victims 2 or 3 were "present" while the sexual acts were being committed. A.R.S. Section 13-1403(A) requires the presence of another person. All three victims were present within the meaning of the statute. The statute contains no requirement that the victims be cognizant of what truly was happening.

Defendant claims that there should only be one count of public sexual indecency because only one act was committed. By exposing himself to three victims, the defendant was guilty of three separate offenses. He was properly charged with multiple offenses arising out of a single act.

Defendant claims that the State failed to establish that Victim #3 was less than 15 at the time of the offense. The State concedes the evidence was deficient, but claims that it is only a technical error. Conviction for a crime where the evidence does not support conviction is fundamental error. There was no evidence before the jury that Victim #3 was under 15. The conviction on that count is reversed.

Defendant argues that the \$8 time payment fee was improperly imposed because the statute was not in effect at the time he committed the offense. The time payment fee statute is procedural in nature and not an ex post facto law. [Defendant represented on appeal by MCPD James L. Edgar.]

State v. Oliver
95 Ariz. Adv. Rep. 38, September 10, 1991 (Div. 1)

Defendant was convicted of three felony offenses with four prior convictions and was sentenced to three consecutive life sentences. The defendant broke into a home and stabbed two women. The police initially suspected a third resident of the home. The police arrested the other resident but later released him after consulting the victims. Defendant was allowed to elicit facts connecting the third resident to the crime but was precluded from introducing evidence regarding police suspicions and his arrest. A defendant can always show that some other person committed the crime. However, the fact of arrest was not probative of the third resident's culpability because a mere arrest is not evidence of guilt. The police's subjective reasons for suspecting and arresting the third resident were not issues before the jury. The defendant was allowed to present all of his objective evidence of the third resident's culpability. The trial court did not abuse its discretion in refusing this evidence.

During voir dire, one juror told the judge that they had their own notions and might not follow the instructions. The juror also said they would try to follow the law as given in the instructions. The trial judge refused to strike the juror for cause. Defense counsel used a preemptory strike to remove the juror. It is within the trial court's discretion to strike a juror for cause. The challenged juror stated that they would try to put aside their preconceived notions and follow the law. No abuse of discretion appears.

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March, 1992 (Date to be Announced)

"DUI 1992: Changes in DUI Law" Annual DUI seminar sponsored by the Maricopa County Public Defender's Office. ^

SEPTEMBER JURY TRIALS

September 03

Terry L. Bublik: Client charged with child molestation. Trial before Judge Martin. Defendant found guilty. Prosecutor V. Imbordino.

John F. Movroydis: Client charged with felony DUI. Trial before Judge Gottsfield. Defendant found guilty. Prosecutor M. Ainley.

September 05

Daphne Budge: Client charged with trafficking in stolen property and possession of stolen property. Trial before Judge Ryan. Defendant found guilty. Prosecutor M. Daiza.

Daniel B. Patterson: Client charged with theft, aggravated assault and resisting arrest. Trial before Judge Sheldon ended September 11. Defendant found guilty. Prosecutor H. Zettler.

September 09

Robert F. Ellig: Client charged with aggravated DUI. Trial before Judge Dougherty ended September 12. Defendant found guilty. Prosecutor P. Howe.

Andrea L. Kever: Client charged with aggravated DUI. Trial before Judge Hotham ended September 11. Defendant found guilty. Prosecutor S. Hennessy.

Bruce F. Peterson: Client charged with possession of narcotic drugs with 2 priors. Trial before Judge Gerst ended September 13. Defendant found guilty. Prosecutor L. Ruiz.

Jeffrey A. Williams: Client charged with theft, burglary and trafficking in stolen property. Trial before Judge Dann. Court entered judgment of acquittal on burglary charge September 09. Defendant found not guilty of theft and trafficking. Prosecutor S. Sherwin.

September 10

Andrew J. DeFusco: Client charged with aggravated DUI. Trial before Judge Hendrix ended September 12. Defendant found guilty of lesser included offense, driving with a suspended license, a class 1 misdemeanor. Prosecutor T. McCauley.

Christine M. Funckes: Client charged with child molestation (2 counts) and sexual conduct with a minor (2 counts). Trial before Judge Ryan. Defendant found not guilty and guilty, respectively. Prosecutor B. Jorgenson.

Peg Green: Client charged with theft. Trial before Judge Dougherty ended September 12. Defendant found guilty. Prosecutor B. Amato.

September 11

Daniel G. Sheperd: Client charged with trafficking in stolen property. Trial before Judge Seidel. Defendant found guilty. Prosecutor M. Barsickow.

Roland J. Steinle: Client charged with manslaughter. Trial before Judge Katz ended September 19. Defendant found guilty. Prosecutor Miller.

September 13

William A. Peterson: Client charged with sale of narcotic drugs. Trial before Judge Ryan. Defendant found guilty. Prosecutor E. Cathcart.

September 16

Grant R. Bashore: Client charged with aggravated assault. Trial before Judge Campbell ended September 24. Defendant found not guilty. Prosecutor L. Tinsley.

Barry J. Handler: Client charged with aggravated DUI. Trial before Commissioner Bayham-Lesselyong ended with a hung jury September 19. Prosecutor R. Notwehr.

William A. Peterson: Client charged with burglary. Trial before Judge Ryan. Defendant found guilty. Prosecutor J. Charnell.

Joseph A. Stazzone: Client charged with sexual abuse (2 counts). Trial before Judge Seidel ended September 19. Defendant found not guilty. Prosecutor B. Jorgenson.

Thomas M. Timmer: Client charged with burglary and attempted sexual assault. Trial before Judge Coulter ended with a hung jury on attempted sexual assault charge September 20. Defendant found guilty of burglary. Prosecutor L. Reckart.

Charles N. Vogel: Client charged with fraudulent schemes and theft. Trial before Judge Cole. Defendant found not guilty and guilty, respectively. Prosecutor M. Breeze.

September 17

Daniel R. Raynak and Lisa A. Gilels: Client charged with aggravated assault (dangerous). Trial before Judge Dougherty ended September 27. Defendant found not guilty. Prosecutor Rodriguez.

Jeffrey A. Williams: Client charged with aggravated assault with priors. Trial before Judge D'Angelo ended September 24. Defendant found guilty (priors dismissed). Prosecutor D. Bash.

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