

Beer demonstration helps convince jury of innocence

Two driving while impaired cases dominated Dare County Superior Court proceedings for the week of September 23.

Long, tedious testimony was heard by Judge Richard Parker and a jury in two separate cases for defendants with prior DWI convictions. This testimony took up two and a half days of the session. Prosecutors were Robert Trivette and Mark Warren.

A break in the monotony of the testimony came on Thursday when court appointed attorney Kris Felthousen made his closing statement to the jury using a bag filled with 25 cans of beer that he placed one at a time in front of his client, George Wynegar, 32, of Kill Devil Hills.

Testimony from North Carolina State Trooper Charlie Edwards, the officer who arrested Wynegar in the early morning hours of July 2, 1995, clearly indicated that he thought Wynegar was extremely impaired when the officer found him standing near the rear of a 1983 Chevy Van that was pulled onto the shoulder of the road on the west side of the William B. Ulmstead Bridge in Manns Harbor. Trooper Edwards told how the defendant admitted to consuming more than 25 beers on that night at the Manns Harbor Marina bar. He testified to Wynegar's admission that he had "finally caught up with him after two years" and described his inability to walk without staggering and talk coherently. The Intoxilyzer reading was 0.20 and in an unusual cross examination, Felthousen had Trooper Edwards acknowledge that it was the lower of two readings, the first being a 0.21.

Trooper Edwards testified that he had originally been responding to a report of an accident on the bridge and observed that something indeed had made contact on the right side and the left side of the bridge. Trooper Edwards followed marks in the roadway leading up to a tire completely off the rim and continuous marks from that point on leading up to the van belonging the Wynegar.

Felthousen's cross examination reemphasized that the van had certainly been driven across the bridge and most assuredly had been involved in a wreck. He then went on to establish that it was only circumstantial evidence presented by Trooper Edwards that placed Wynegar as the driver of the vehicle.

Felthousen then followed up these points in his final argument that included the graphic demonstration in an attempt to convince the jury that anyone who had consumed 25 beers could not be capable of walking, let alone driving and maneuvering a van with a missing tire across the Baum Bridge. The defendant and Felthousen had looks of astonishment as the clerk read the not guilty verdict delivered by the jury in less than 30 minutes.

The prosecution fared better in the case of state verses Mary Elizabeth Horne, 28, of Kill Devil Hills. Ms. Horne was found guilty of driving while impaired. She was sentenced on level two with a prior DWI conviction in 1991, to a minimum of 12 months and a maximum of 12 months suspended with supervised probation for a period of two years, she was fined \$300 plus costs and ordered to spend 10 days in jail immediately.

Ms. Horne's attorney Irvin Aldridge noted an appeal and bond was set at \$2000 secured.

The case that took most of two days to be heard in front of a jury, took less than 30 minutes to be decided after testimony from the defense failed to convince the jurors that Ms. Horne had not been drinking to a level of intoxication. The Intoxilyzer reading was 0.14 and there was some aspersion cast as to the reliability of the instrument by the defense.

Trooper Gibb Harrison of the North Carolina Highway Patrol arrested Ms. Horne on November 5, 1994 at 2:20 a.m. She was returning to her home with her roommates, traveling south on U.S. 158. She was stopped on Wrightsville Ave. where Trooper Harrison determined she had con-

sumed a sufficient level of alcohol to be impaired.

In other court business, Jacqueline P. Diaz, who pleaded guilty to charges earlier in the week, had her active time set to begin on February 3, 1997 and her house arrest to begin immediately.

Two add-on pleas were heard on Friday.

Billy Twerwilliger, a co-defendant in an armed robbery, pleaded guilty and was sentenced to 17-30 months active time.

Frank Austin, 17, pleaded guilty to hit and run received probation with several conditions. His probation was transferred to Tennessee.

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