

# DWI case perplexes state, judge and defense alike

One contested driving while impaired case turned out to be a legal case of what comes first, the chicken or the egg, during Dare District Court on Friday, July 2.

Judge Christopher Bean presided and Kevin Leahy prosecuted.

Sharon Marie Heinz, 43, Kill Devil Hills, pleaded not guilty to DWI, driving while license revoked and open container after consuming alcohol first.

Officer A.E. Holland of Kill Devil Hills Police Department testified that he saw Heinz drive from a house to a paint store and back to another house in April. He said he had arrested her earlier and knew she had been convicted of DWI. He said he didn't know whether she had gotten a limited privilege to drive, but even if she had, she was driving outside of it if she had been driving after drinking anything alcoholic. It turned out that she had gotten a limited privilege.

His first reason to arrest her was because he knew of her conviction, not that she showed signs of impairment. When he stopped her, Holland testified, he found a beer can and it was cold.

Complicating the matter was that Holland had not formally arrested Heinz on DWI, that charge came about as a result of his DWLR stop.

The argument kept going around and around between defense attorney Kris Felthousen and Leahy, whether Holland had probable cause to stop Heinz since he couldn't be sure whether she had a limited privilege and whether he had cause to give her an Intoxilyzer test, since she had shown no signs of impairment. Her Intoxilyzer readings were 0.09 and 0.10.

"This is probably the weakest 0.08 case I've ever tried," Bean said, finding Heinz guilty of DWLR and open container charges but not guilty of DWI.

He sentenced her to serve 120 days, suspended with 12 months of supervised probation provided she serve seven days active, pay a fine of \$500 plus costs, get an assessment and follow the recommendations made in it. She noted an appeal.

, Sunday, July 11, 1999,

David Keith Thompson, 42, Kill Devil Hills, entered a guilty plea to DWI in February of 1998, when he registered a 0.14 on a breath test. His attorney Kris Felthousen told the court that Thompson had made a "great turnaround." Felthousen said Thompson spent 21 days in a treatment program and is continuing a counseling program.

Thompson, with one prior DWI conviction, was sentenced to 21 days, active, with credit for the time in the treatment program beyond the first 24 hours, and 12 months of supervised probation. He is financially responsible for court costs, community service fee and a fine of \$300. He must perform 50 hours of community service within 100 days and report back to the area mental health agency and continue with treatment as recommended.

y, August 5, 1999,

Reginald Devern Stevens, 45, Kill Devil Hills, pleaded not guilty but conceded the state had enough evidence to convict him of driving while impaired on Dec. 14, 1998 at 2:05 a.m. He was sentenced, at level 4, to 60 days in jail, suspended for six months of supervised probation and six months of unsupervised probation. He was fined \$400 and assessed court costs. He was told to comply with treatment recommendations as contained in a substance abuse assessment and not to operate a motor vehicle until licensed to do so. In special conditions of probation, Judge Barnes told Stevens to spend six days in jail, served in one-day terms beginning Oct. 1. He was also sentenced to 30 days of house arrest. In a driving left of center charge, Stevens was found guilty and fined \$25. Defense attorney Kris Felthousen said the case would be appealed to Superior Court.