

Evidence

DWI Cases

State v. Patterson, __ N.C. App. __, __ S.E.2d __ (Mar. 1, 2011)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC01MzgtMS5wZGY>). In a second-degree murder case based on impaired driving, the trial court did not commit plain error under Rule 403 by admitting the results of a chemical analysis of the defendant's blood. The defendant had argued that because the blood sample was taken approximately three hours after the accident, it was not taken "at any relevant time after the driving" as required by G.S. 20-138.1(a)(2). The court noted that the evidence suggested that the defendant did not consume any alcohol between the time of the accident and when the blood sample was drawn and that he did not allege that the test was improperly administered. The time interval between the defendant's operation of the vehicle and the taking of the sample goes to weight, not admissibility.

Criminal Offenses

Motor Vehicle Offenses

State v. Patterson, __ N.C. App. __, __ S.E.2d __ (Mar. 1, 2011)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC01MzgtMS5wZGY>). The trial court did not err by denying the defendant's motion to dismiss charges of second-degree murder, felony serious injury by vehicle, and impaired driving. The evidence showed that the defendant was under the influence of an impairing substance at the time of the accident. A chemical analysis of blood taken from the defendant after the accident showed a BAC of 0.14 and the State's expert estimated that his BAC was 0.19 at the time of the accident. The defendant admitted having consumed 5 or 6 beers that day. Four witnesses testified that they detected a strong odor of alcohol emanating from the defendant immediately after the accident. The defendant had bloodshot eyes and was combative with emergency personnel immediately after the accident. Finally, the defendant's speed exceeded 100 miles per hour and he failed to use his brakes or make any attempt to avoid the collision.