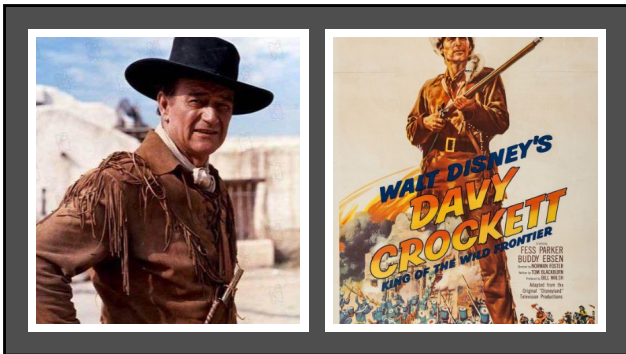




1



2



3



Probable Cause

4

State v. Gallion, 282 SE2d 305 (2022)

In the Matter of 95 Christ Ln, Brunswick, NC
CONTINUATION OF ATTACHMENT "D" IN CONTINUATION TO APPLICATION FOR SEARCH WARRANT

- On 5/23/2022 it was reported to the BCSO that throughout the day, Tuesday, Defendant had been making drives to the beach along the coast of Hilton Head, SC and was concerned for defendant's safety, and for his safety as well. An arrest warrant was issued for Defendant.
- Defendant resided in Gallion's residence, 95 Christ Lane in Brunswick, NC, via 01-23-17 to search the defendant. While there, defendant used a workshop tool during the driveway from the residence. A garage finished on the vehicle to see if Gallion was in the workshop and observed a quantity of heroin was in a bag.
- Gallion was located on Whitmore Street RD in Brunswick, NC, drove a green 1996 Dodge Ram Pickup Truck, license plate number 282-3387, and was observed driving on the highway to 402 Dillingham Rd.
- During the search, multiple officers were able to pull over the 1996 Dodge Ram Pickup Truck. Two (2) of the officers saw in the pickup truck were black plastic. Also observed the truck, some multiple boxes of marijuana. The officers were also able to observe the vehicle with the license plate of "A 111-1888-000". The information is in the report shall average to read in the vicinity of Page 4 look.
- During the search, the arresting officer observed that Defendant was intoxicated. Gallion was subsequently charged with DWI/DA, White Suspense.
- During the execution of the 1996 Dodge Ram Pickup Truck observed traffic control. The vehicle on the search, Defendant's name, and interior position of the driver's side door. Gallion also had a bag on his person.
- Defendant later advised a witness who stated that on 5/23/2022, he spoke with Gallion at the Dillingham Rd. White and advised that Gallion, Defendant's name.
- Defendant later advised a witness who stated that the same night he got behind the wheel of a 1996 Dodge Ram Pickup Truck and was driving on the highway at 402 Dillingham Rd, Brunswick, NC, where he got was found arrested on 5/23/2022.
- The witness stated Gallion observed him a prison during their conversation. The plaintiff searched the defendant's car of the items placed there in the green Dodge Ram Pickup Truck when Gallion was arrested.
- The witness stated that later in the conversation, Gallion pointed at Brunswick County Sheriff's Office patch affixed to his shirt and made the comment that the patch could get him out of trouble. At the time of Gallion's arrest, he was wearing clothing with the Brunswick County Sheriff's Office patch affixed to it.
- The witness described Gallion as being intoxicated at the time of their conversation.
- Detectives spoke with a separate witness who stated they observed Gallion driving in the direction of 402 Dillingham Rd. The time was estimated to be approximately 2:30 pm.
- The affiant knows that Gallion was charged in an incident in 2012 involving the discharge of a firearm at another person, which resulted in a conviction.

Based on my training and experience, and the facts as set forth in this affidavit, I believe that it is probable cause to believe that the defendant has committed or is committing a crime. With the information of the officers involved in this case, this affiant respectfully requests of the court that a search warrant be issued.

5

State v. Gallion, 282 SE2d 305 (2022)

- "A search warrant affidavit is sufficient if it supplies reasonable cause to believe that the proposed search for evidence of the commission of the designated criminal offense will reveal the presence upon the described premises of the objects sought and that they will aid in the apprehension or conviction of the offender. A magistrate must make a practical, common-sense decision, based on the totality of the circumstances, whether there is a fair probability that contraband will be found in the place to be searched. Additionally, "a magistrate is entitled to draw reasonable inferences from the material supplied to him by an applicant for a warrant."

State v. Gallion, 2022-NCCOA-164, ¶ 33, 282 N.C. App. 305, 314, 870 S.E.2d 681, 690-91 (cleaned up).

6

State v. Tripp,
873 SE2d 298
(2022)

AFFIDAVIT ATTACHMENT "D"
Items to be searched and seized

PROPERTY TO BE SEARCHED:
The residence of 8450 US 17 Hwy North, Vanceboro NC. The residence is a single story brown brick home with a car port to the left hand side, brown/grayish shutters, and a wooden front door. There is a shoe under the car port that leads to the kitchen. The residence is occupied and appears to be under the control of Michael Devine Tripp.

To get to the residence take a right off of Maul Swamp Rd. coming from Vanceboro City limits onto US Highway 17 heading south. There will be an old gas station/service shop on the right and a lot of residences to the left. Take a left onto a dirt drive beside the line of residences and follow the path to the right around a wood line. The residence is the first one on the left and is labeled 8500 in black letters above the front door. The residence has an outside storage building on the far left rear of the property.

VEHICLES TO BE SEARCHED:
Black in color Infiniti FX45 (NC registration EJK-9056) (VIN# 2N8B80W333K01236). The vehicle is registered to Latashika Valerie Brown (Michael Tripp's spouse).
A black in color Jeep Grand Cherokee (registration unknown).
A tan in color passenger vehicle (registration unknown) parked in the front left corner of the property near the wood line.

7

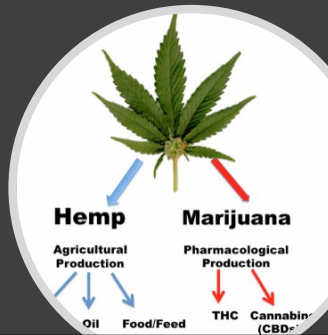
State v. Tripp,
873 SE2d 298
(2022)

- *Summers, Bailey, and Wilson*
 - Limited authority to detain occupants during search
 - Occupants includes those within immediate vicinity of premises
- "The risk of harm here was minimized by law enforcement's "unquestioned command of the situation. Because law enforcement officers are not required to ignore obvious dangers—here a drug dealer with a history of gun violence—defendant was an occupant within the immediate vicinity of his residence even though [he] was not within the lawful limits of his residence."

State v. Tripp, 2022-NCSC-78, ¶ 35, 873 S.E.2d 298, 309 (cleaned up).

8

State v. Highsmith,
2022-NCCOA-560




9

State v. Highsmith, 2022-NCCOA-560 (2022)

- "The trial court found that the officer's search revealed not only marijuana, but also additional items including a digital scale, over one thousand dollars in folds of money, ammunition, and a flip cellphone. Under the totality of the circumstances: a vacuum-sealed bag of what appeared to be marijuana, hidden under the seat and found with these items, without any evidence that Defendant claimed to the officers the substance was legal hemp, the officers' suspicions were bolstered, amounting to probable cause to believe the substance at issue was in fact illicit marijuana and not hemp. The trial court therefore did not err in concluding that Defendant's Fourth Amendment rights were not violated."

State v. Highsmith, 2022-NCCOA-560.

10



State v. Jordan, 2022 NCCOA 215

11

State v. Jordan, 2022 NCCOA 215

- "The evidence presented at the suppression hearing does not support a finding that Defendant lacked a reasonable expectation of privacy in the residence searched. Defendant was one of four persons present in the residence late at night. Officer Tom Thompson testified that Defendant opened the door from inside the residence when Thompson knocked, indicating that Defendant had some authority over who would be admitted to the residence. The evidence further suggests that Defendant owned the safe and had permission to keep it in the residence. Taken together, this evidence demonstrates that Defendant had more than a mere "legitimate presence on the premises of the place searched[.]"

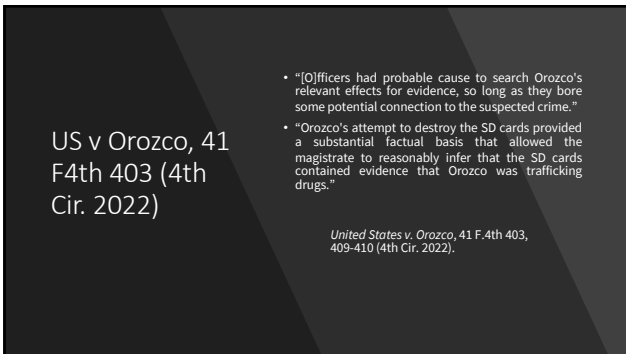
*State v. Jordan, 2022-NCCOA-215, * 23, 872 S.E.2d 76, 84 (cleaned up).*

12



US v Orozco,
41 F3d 403
(2022)

13



US v Orozco, 41
F4th 403 (4th
Cir. 2022)

- “[O]fficers had probable cause to search Orozco’s relevant effects for evidence, so long as they bore some potential connection to the suspected crime.”
- “Orozco’s attempt to destroy the SD cards provided a substantial factual basis that allowed the magistrate to reasonably infer that the SD cards contained evidence that Orozco was trafficking drugs.”

United States v. Orozco, 41 F.4th 403, 409-410 (4th Cir. 2022).

14



Multiple
Charges

15

State v. Robinson, 381 NC 207 (2022)

12 MS. MERCE: Your Honor, this occurred on May the
13 28th, 2019. Officers responded just after midnight that
14 morning, Your Honor, to 57 Madison Drive, a residential
15 Drive in Candler, North Carolina. The caller was Ms. Leslie
16 Wilson who is present today, Your Honor. She stated that
17 she'd been held captive by the defendant for three days and
18 there was an active 911 in place.

1 were consistent with the altercation, as well as bruising
2 around her neck. Ms. Wilson describes that during the
3 strangulation she was unable to breathe and felt like she
4 was going to pass out. She had tenderness about her neck
5 for a few days after. Additionally, she was unable to eat
6 food properly for about six weeks after the assault due to
7 the condition of her jaw, Your Honor. Thankfully, thanks to
8 health insurance, she was not out-of-pocket any money for
9 restitution which is why we're not seeking restitution in
10 this case.

16

State v. Robinson, 381 NC 207 (2022)

• [T]he facts provided at the hearing fail to establish evidence of a distinct interruption in the assault to support multiple assault convictions and sentences. Neither the prosecutor's factual summary nor Wilson's statement note an intervening event, a lapse of time in which a reasonable person may calm down, an interruption in the momentum of the attack, a change in location, or some other clear break delineating the end of one assault and the beginning of another. Instead, the factual statements as given describe a confined and continuous attack in which defendant choked and punched Wilson in rapid succession and without pause or interruption.

State v. Robinson, 381 N.C. 207 (2022) (cleaned up).

17



18

State v. Oldroyd, 380 NC 613 (2022)

STATE OF NORTH CAROLINA
 Yadkin County
 191A560
 In The General Court Of Justice
 Superior Court Division

STATE VERSUS
 Marc Penrose Oldroyd

INDICTMENT

This is a responding indictment.

Offense(s)	Date Of Offense Date Range Of Offense	G.S. No.	CL.
I. Conspiracy to Commit Robbery with a Dangerous Weapon	10/05/1996	14-2.4	B
II.			

I. The Jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did
 did conspire with Scott Vincent Sica and Brian Keith Whitaker to commit the felony of robbery with a dangerous weapon, G.S. 14-87, against employees of the Truckee Home located in Jowersville, North Carolina.

19

State v. Oldroyd,
 380 NC 613
 (2022)

- Defendant's stance, however, does not take into account the relaxation of the erstwhile common law criminal pleadings and the codification of amendments to N.C.G.S. § 15A-924 by the pertinent portion of the Criminal Procedure Act of 1975 which statutorily modernizes the requirements of a valid indictment.

State v. Oldroyd, 380 N.C. 613, 619, 869 S.E.2d 193, 198.

20

State v. Guin,
 282 NC App
 160 (2022)

STATE OF NORTH CAROLINA
 Johnston County
 191A560
 In The General Court Of Justice
 Superior Court Division

STATE VERSUS
 CHARLES ROSE GUIN, JR.
 1231 W ALABAMA STREET
 BELMA, NC 27804
 191A560
 10/05/1996

INDICTMENT

This is a responding indictment.

Offense(s)	Date Of Offense Date Range Of Offense	G.S. No.	CL.
I. FIRST DEGREE BURGLARY	09/20/2016 through 09/20/2016	14-30	B
II. FIRST DEGREE BURGLARY	09/20/2016 through 09/20/2016	14-30	C

I. The Jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did
 entered Charles Rose Guin, a person who has attained the age of 16 years or more by unlawfully entering the vehicle without the consent of the victim and for the purpose of taking serious bodily injury to Charles Rose Guin, Charles Rose Guin was seriously injured.

21

State v. Guin, 282 NC App 160 (2022)

• "At some point, Defendant ran over to the blinds[,] and he was trying to hang them back up so nobody could see what was going on inside. [The victim] ran for the door of her bedroom, was almost out[,] and he grabbed [her] by [her] hair and he pulled [her] back in and started beating [her] some more. The evidence allowed a reasonable inference that Defendant chose to close the blinds and to wholly confine Ms. Gaster to her apartment to prevent her from seeking aid... Essentially, at this time, Defendant had ceased assaulting [the victim], could have let her leave the apartment, and had an opportunity to not begin assaulting her once more. [The victim] was specifically prevented from leaving her apartment and denied the opportunity to reach safety, subjecting her to further abuse. The trial court did not err in denying Defendant's motion to dismiss the charge of first-degree kidnapping."

State v. Guin, 282 N.C. App. 160, 177, 870 S.E.2d 285, 297, review denied, 876 S.E.2d 281 (N.C. 2022) (cleaned up).

22

State v. Lancaster, 2022-NCCOA-495 (2022)

STATE OF NORTH CAROLINA

CRAYON County

STATE VERSUS

DAMARIS CIBREIN LANCASTER
300 BISHMAN RD
HAYLOCK NC 28033

INDICTMENT

Offense(s)	Date of Offense (See page 2 of return)	G.S. No.	CL.
I. GOING ARMED TO THE TERROR OF THE PUBLIC	05/05/2019	COMBACH LAW	1
II. GOING ARMED TO THE TERROR OF THE PUBLIC	05/05/2019	COMBACH LAW	1

1. The Jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did go armed to the terror of the public by carrying a dangerous and waving a firearm armed in the parking lot of 210 Shippen Road Apartments, Haverlock, North Carolina.

2. And the Jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did go armed to the terror of the public by carrying a dangerous and waving a firearm armed in the parking lot of 210 McCutcher Blvd Apartments, Haverlock, North Carolina.

Report of Prosecutor: *[Signature]*

23

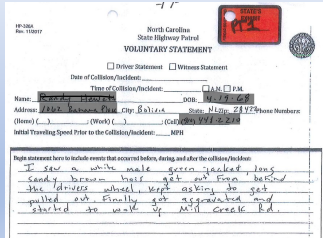
State v. Lancaster, 2022-NCCOA-495

- Elements of the offense are "(1) armed with unusual and dangerous weapons, (2) for the unlawful purpose of terrorizing the people of the named county, (3) by going about the public highways of the county, (4) in a manner to cause terror to the people."
- "For at least six and a half centuries, courts (including our Supreme Court) understood that a defendant could commit the crime of 'going armed to the terror of the public' in any location that the public is likely to be exposed to his acts, even if committed on privately-owned property."
- "We conclude that the private parking lot of an apartment complex – the location alleged in the indictment in this case – does not constitute a 'public highway' for purposes of charging Defendant with going armed to the terror of the public."

State v. Lancaster, 2022-NCCOA-495, ¶ 16, 876 S.E.2d 101, 105, writ allowed, 876 S.E.2d 561 (N.C. 2022).

24

State v. Rouse, 2022-NCCOA-496



25

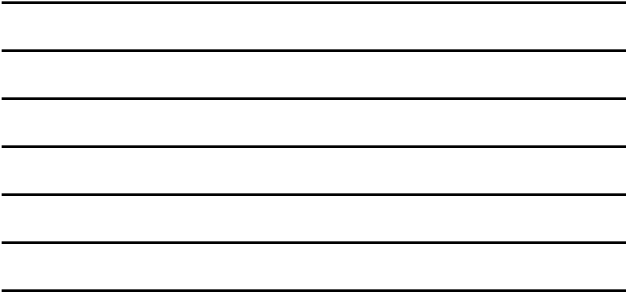


State v. Rouse, 2022-NCCOA-496

“Viewing the evidence in the light most favorable to the State after *de novo* review, the State presented sufficient circumstantial evidence for us to conclude Defendant was driving the vehicle. Hewett testified he came running from behind the house when he heard the crash, arrived within a minute or so, and found Defendant sitting with a bloody nose in the driver’s seat of his own truck, the front of which rested in a ditch, with no one else nearby except Hewett’s family members who were at the house before the crash. Thus, similar to *Burris*, a truck registered to Defendant was in a spot where vehicles are not normally parked, i.e., in a ditch by the side of the road, unless they have been driven there recently. As in *Clowers*, a witness saw Defendant and only Defendant near the vehicle in the immediate aftermath of a crash. Defendant also asked Hewett for assistance in removing his truck from the ditch, indicating his continued intent to possess and control his truck and, one could certainly infer, to avoid interaction with law enforcement related to any investigation of the accident.”

State v. Rouse, 2022-NCCOA-496, 876 S.E.2d 107, 120 (cleaned up).

26



State v. Ingram, 2022 NCCOA-264

27



State v. Ingram, 2022 NCCOA-264

* "No witness testified to seeing Defendant in physical control of the moped while it was in motion or its engine was running. Nonetheless, the State presented sufficient circumstantial evidence to establish that Defendant drove the moped. Two first responders testified that Defendant was found alone, wearing a helmet, lying on the double yellow line in the middle of a road and mounted on the seat of the fallen moped while it rested on top of one of his legs. There was no testimony that any other person who might have driven the moped was at the scene of the accident. Viewing this evidence in the light most favorable to the State and giving the State the benefit of every reasonable inference, as we must, this evidence is sufficient to establish that Defendant was in actual physical control of the moped while it was in motion or had the engine running."

State v. Ingram, 2022-NCCOA-264, 872 S.E.2d 148, 151.

28

State v. Williamson, 2022-NCCOA-265

```
4 Q (By Mr. Adams) Utilizing that number of the .169 from the
5 hospital conversion, can you walk us through how you utilized
6 that information and the time period you described earlier to do
7 the retrograde extrapolation?
8 A I used the rate of .0165 bac per hour and multiplied
9 that times 1.9 hours, gave me a loss of .031. That was then
10 added to the hospital conversion value. That value is then
11 truncated to give me a final calculated value of 0.138 at the time
12 of the crash.
13 Q And so when you say at the time of the crash the BAC,
14 blood alcohol concentration, would be .20?
15 A That's correct.
```

29

State v. Williamson, 2022-NCCOA-265

"Defendant drove after consuming alcohol and while he consumed alcohol over the course of several hours and that he was impaired. At one point while driving, Defendant engaged the emergency break, locking the back tires and causing the car to swerve. Defendant was driving at the time the vehicle veered off the road and crashed. Before the crash, Defendant fell asleep at the wheel as the car approached a bend in the road, drifted off the curve, suddenly woke, overcorrected, and crashed the vehicle."

Defendant's blood-alcohol level was 0.16 when police tested him after the crash, and an expert witness testified that based on the time lapse before testing, it could have been as high as 0.20 at the time of the crash. . . . Defendant knowingly consumed alcohol before and while driving beyond the point of impairment, drove recklessly, and had knowledge of the potentially fatal consequences of his driving, particularly in light of his history of impaired driving convictions."

State v. Williamson, 2022-NCCOA-265, 872 S.E.2d 388, 392.

30

State v.
Grimes,
2022-
NCCOA-416

STATE OF NORTH CAROLINA In the General Court of Justice Superior Court Division BEAUFORT County		File No. 20 CRS 50770
State of North Carolina		Film No.
- versus -		
Defendant CHRISTOPHER DEMOND GRIMES		INDICTMENT
Race Black	Sex Male	I. ASSAULT ON A FEMALE
Date of Offense June 7, 2020	§ 14-39	II. FIRST DEGREE KIDNAPPING

I. The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above, the defendant named above unlawfully, willfully did assault and strike Colby Harding a female person, by striking her and pulling her. The defendant is a male person and was at least 18 years of age when the assault and striking occurred.

II. The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above, the defendant named above unlawfully, willfully and feloniously did kidnap Colby Harding, a person who had attained the age of 16 years by unlawfully removing her from one place to another without the consent of the victim, and for the purpose of removing her and/or cause her serious bodily injury. Colby Harding was not released by the defendant in a safe place.

31

State v. Grimes, 2022-NCCOA-416

* Pursuant to N.C. Gen. Stat. § 14-39(a)(3), a person is guilty of kidnapping if they unlawfully confine, restrain, or remove from one place to another, any other person 16 years of age or over without the consent of such person ... for the purpose of ... [d]oing serious bodily harm to or terrorizing the person so confined, restrained or removed or any other person[.] In the context of kidnapping, serious bodily harm means physical injury [that] causes great pain or suffering. Terrorizing is defined as more than just putting another in fear. It means putting that person in some high degree of fear, a state of intense fright or apprehension."

State v. Grimes, 2022-NCCOA-416, ¶ 12, 874 S.E.2d 647, 651 (cleaned up).

32

State v. Darr, 2022-NCCOA-296

STATE OF NORTH CAROLINA HARRIS County		File No. 19CR00220
STATE VERDICT		INDICTMENT
Name: STANLEY JASON DARR 4704 DARR RD EXT		
TRINITY NC 27710		<input type="checkbox"/> This is a responding indictment.
Race: W Sex: M Date of Birth: 05/26/1982		
Offense(s)		Date of Offense 14-27-20X1
I. STATUTORY RAPE OF CHILD -14-1		14-27-20X1
II. STATUTORY RAPE OF CHILD -14-1		14-27-20X1

I. The jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did engage in vaginal intercourse with [REDACTED] a person who at the time of the offense was 15 years of age or younger. At the time of the offense, the defendant was at least 12 years old and six years older than the victim and was not lawfully married to the victim.

II. And the jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully did engage in vaginal intercourse with [REDACTED] a person who at the time of the offense was 13 years of age or younger. At the time of the offense, the defendant was at least 12 years old and six years older than the victim and was not lawfully married to the victim.

33

State v. Darr, 2022-NCCOA-296

- The date given in an indictment for statutory rape “is not an essential element of the crime charged...” *State v. Norris*, 101 N.C. App. 144, 151, 398 S.E.2d 652, 656 (1990).
- “A victim’s testimony of sexual intercourse is enough to uphold a trial court’s denial of a motion to dismiss.”

State v. Darr, 2022-NCCOA-296, ¶ 26, 872 S.E.2d 608, 615.

34



State v.
Bowen, 2022
NCCOA 213

35

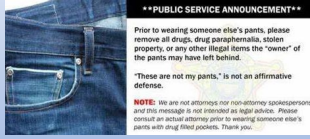
State v. Bowen, 2022 NCCOA 213

- “[T]he crime of extortion does not require a ‘true threat’ under the First Amendment.”

State v. Bowen, 2022-NCCOA-213, ¶ 30, 871 S.E.2d 547, 555.

36

State v. Bradley, 2022-NCCOA-163



37

State v. Bradley, 2022-NCCOA-163

- "In addition to Defendant being in 'close proximity to the controlled substance' and exhibiting "behavior suggesting a fear of discovery[.]" Defendant also showed obvious signs of impairment."

State v. Bradley, 2022-NCCOA-163, ¶ 19, 282 N.C. App. 292, 297, 870 S.E.2d 297, 302.

38

Questions?

Phil Berger, Jr.
Supreme Court of North Carolina

39
