

Judge Backs Up Patrolman In Search Of Automobile For Illegal Whiskey

A Sanford attorney tried a novel defense in an old situation Monday in Moore recorder's court, which, though it did not work, won a smile from the judge as if according him "E" for effort.

W. W. Staton, defending Odell Luther Douglas of Sanford Rt. 1 on charges of drunk driving, careless and reckless driving and unlawful possession and transporting, in his motion for dismissal urged that the highway patrolman's search of Douglas' car without a search warrant was illegal.

"If the officer could see inside the car from where he was standing and see the whiskey, that would be one thing, but if he couldn't see it and had to look for it, he should have had a search warrant first," the attorney maintained.

He contended that Douglas was not actually under arrest at the time Patrolman E. C. Shomaker searched the car and found the several half-gallon jars of illicit whiskey carefully stashed away. Solicitor W. Lamont Brown countered that that was neither here nor there, that Supreme Court opinions forbade only "unreasonable search and seizure" and there was nothing unreasonable in an officer's searching a car which he had stopped because of the driver's intoxicated condition.

Judge J. Vance Rowe agreed with Solicitor Brown, upholding the officer's right to search the car "if he has reason to think there is whiskey inside," admitting that "I may be wrong, but I will so hold unless and until I am reversed by a higher court." However, Douglas did not appeal from his sentence of 60 days on the roads, suspended on payment of \$100 and costs, with license revocation.

Other cases disposed of Monday:

Joe Louis McDonald, Lakeview, reckless driving, \$25 and costs.
Nelson Clarence, Southern Pines, allowing unlicensed person to drive his car, and Alpha McPherson, Southern Pines, driving without license, judgment continued for each on payment of costs.

Harvey Eli Hartsell, Route 1, West End, driving without license, improper parking without lights, \$25 including costs.

Clarence L. Salmon, Route 2, Carthage, driving without license, judgment continued on payment of costs.

George Vester Baucom, Jr., Sanford, driving without registration card, unlawful possession of seal-broken whiskey, improper passing, \$25 and costs.

Ralph Wayne Harrison, Route

1, Cameron, driving drunk, speeding in excess of 90 miles per hour, accident, damage, injury, three months on the roads.

Joseph Atlas McRae, Vass, driving without license, failing to yield right of way, accident, injury, judgment continued on payment of costs, medical expenses of the injured persons and \$20 ambulance service.

Fred Martin, Route 1, Cameron, unlawful possession, judgment continued on payment of \$25 and costs.

Harvey Lee Benymon, Addor, speeding 80, reckless driving, failing to stop, 60 days suspended for two years on payment of \$75 and costs, license revoked as provided by law.

William Boyd Overton, Jackson Springs, allowing intoxicated person to operate his auto, public drunk, \$100 and costs, license revoked.

Harold Duncan McInnis, Jackson Springs, driving drunk, leaving scene, reckless driving, amended to charge drunk driving, second offense, three months or \$200 and costs, license revoked for two years, two suspended sentences ordered into commitment to run concurrently, but if defendant pays fine in this case, he is also required to pay balance due in other two cases amounting to \$44.90.

David Hogan, Bynum, drunk driving, reckless driving resulting in accident, personal injury, 60 days or \$100 and costs, license revoked.

Donald W. Morrison, Pinehurst, speeding, accident, property damage, personal injury, 60 days or \$25 and costs, defendant to pay or cause to be paid medical expenses of the prosecuting witness, Col. Herbert Dietenhofer of Pinehurst, and his daughter,

also damages to Dietenhofer's station wagon, defendant noted an appeal, bond set at \$200.

Thurman Carver Stutts, Robbins, speeding 65, capias, bond \$35.

Julian T. Bishop, Southern Pines, failing to wear glasses as required by operator's license, \$25 including costs.

William F. Brown, driving on expired license, continued.

Dolly Page Hancock, Southern Pines, drunk driving, driving on wrong side, accident, damage, injury, judgment continued on payment of \$100 and costs, also costs of repairing Henry Threadgill's auto (about \$62).

James Richard Voncanon, West End, reckless driving, \$25 and costs.

David Leo Patterson, McCain, unlawful possession, failing to heed officers' signal, 30 days on roads or \$25 and costs.

William Curtis Garner, Gastonia, improper registration, judgment continued on payment of costs.

Obitt Couch and Kenneth L. Hodges, Fort Bragg, unlawful possession, 30 days on roads or

\$25 and costs. R. E. Davis, Robbins, bad check for \$23.25, 30 days on roads or costs.

Bud Toomer and John Henry Toomer, West End, forcible trespass, assault on female, three months, suspended for two years on payment of \$25 and costs

each, costs of repairing the Downes' door, and good behavior conditions.

Pauling Shirer Steward, Savannah, Ga., and Chapel Hill, speeding 70, improper passing, \$35 and costs.

Nellie Louise Ward, Southern Pines, speeding 60 in 45-mile

zone, improper passing, \$5 and costs.

Mattie McNeil, Southern Pines, and George Johnson, Fort Bragg, bedding and cohabiting, costs only (defendants have since been married).

Tommie William Ling, Vass, (Continued on Page 12)

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