

NORTH CAROLINA
WILKES COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NOS. 10 IFS 706153-706154

STATE OF NORTH CAROLINA,
vs.
AMANDA LEA ROSE,
Defendant.

TRANSCRIPT OF HEARINGS

The above-captioned case coming on for hearing at the September 12, 2011, Criminal Session of the Superior Court of Wilkes County, Wilkesboro, North Carolina, before the Honorable Lindsay Davis, Jr., judge presiding, the following proceedings were had, to wit:

APPEARANCES

Appearing for the State:
C. Fred Bauer, Esquire
Assistant District Attorney
23rd Prosecutorial District
500 Courthouse Drive
Wilkesboro, North Carolina 28697
336.651.4410

Appearing for the Defendant:
Defendant Representing Herself

Reported by: Mildred P. Jones, CVR

1 (Proceedings begin at 12:24 p.m., Monday,
2 September 12, 2011. Mr. Bauer and Ms. Rose are present.)

3 MR. BAUER: Ms. Rose, would you come up,
4 please.

5 Your Honor, this is Ms. Rose. She has two
6 seat belt infractions that are before the Court. She was
7 contesting the jurisdiction of the Court. She has filed a
8 number of documents with the Court, and I just asked her to
9 be up here.

10 I spoke with her at the break. In terms of
11 scheduling, she did indicate that if the Court found
12 jurisdiction --

13 -- and correct me if I'm wrong, Ms. Rose --
14 -- that she would be not requesting a jury
15 trial, that she would be entering a plea to the charge, not
16 contesting the facts of it, and may appeal the Court's
17 finding of jurisdiction.

18 Is that correct, Ms. Rose?

19 MS. ROSE: I would be appealing it.

20 MR. BAUER: And I don't know if the Court
21 felt comfortable reviewing those documents at some point or
22 giving her an idea of when we need to have her back for the
23 hearing, if the Court was going to do that on the bench
24 when we called it. I just knew there was a bunch of
25 documents, as I had received copies as well, and I wanted

1 to get some direction.

2 THE COURT: Okay. Well, I mean, you-all
3 have control of what you want to call and when. If you
4 want to give me an opportunity to read during lunch, I'll
5 be glad to do that, and we can hear it at 2:00.

6 MR. BAUER: I understand. I don't know if
7 we can hear it right at 2:00, but I did want to let the
8 Court know that there were a number of documents for the
9 Court to review. If I could release her till tomorrow and
10 give the Court this afternoon and whatnot --

11 THE COURT: Okay.

12 MR. BAUER: -- depending on what time you
13 want.

14 Could you be back tomorrow morning?

15 MS. ROSE: Yes.

16 MR. BAUER: Okay.

17 (Proceedings recessed at 12:26 p.m.)

18 (Proceedings continue on the following
19 page.)

20 - - - - -

1 (Proceedings begin at 4:08 p.m., Tuesday,
2 September 13, 2011. Mr. Bauer and Ms. Rose are present.)

3 MR. BAUER: Judge, at this point does the
4 Court wish to -- ? We have one other plea or we could move
5 forward on the issue of the motion of the defendant in the
6 infraction matters as to the jurisdiction of this Court.
7 And I'll leave it in the Court's discretion, if the Court
8 wishes to start that at this time. That's the matter of
9 Amanda Rose, or if it feels that we need to start that at
10 another time.

11 THE COURT: As I say, it's your
12 prerogative, but I'm ready to go.

13 MR. BAUER: Okay. Then we will move
14 forward with that one, Your Honor. These are the matters
15 on Page 1 of the infraction white docket, item numbers 1
16 and 2, Amanda Rose.

17 THE COURT: Now, for the record, Ms. Rose
18 has appealed a determination of responsible.

19 MR. BAUER: Two of them, Your Honor.
20 That's correct.

21 THE COURT: From the District Court, and
22 has filed a motion -- what I will characterize as a motion
23 to dismiss for lack of jurisdiction.

24 MS. ROSE: Technically, Your Honor, it's
25 not a motion. It's just a challenge to jurisdiction.

1 THE COURT: You have to speak up, please.

2 MS. ROSE: It's not a motion, technically.
3 It's actually a request for a jurisdictional hearing.

4 THE COURT: Well, I will treat it as a
5 motion.

6 MS. ROSE: But it's not. And also, I would
7 like to clarify for the record that I did not plead any of
8 the District Court cases, that the plea was entered for me,
9 that I did not participate.

10 THE COURT: By the Court?

11 MS. ROSE: Uh-huh.

12 THE COURT: Very well. All right. There
13 is a jurisdictional challenge. The initial burden is on
14 the State.

15 MR. BAUER: Judge, I would tender the court
16 files to the Court. I would also, if I may approach with
17 State of North Carolina -- the Court of Appeals decision in
18 David Ray Phillips, 149 N.C. App. at 310, and an
19 unpublished opinion. That was a 2002 case. 201 N.C. App.
20 540, State of North Carolina versus Donald James Sullivan.

21 THE COURT: And what aspect of the file are
22 you tendering?

23 MR. BAUER: Your Honor, I am presenting the
24 Court with the citations that were issued to this defendant
25 in both of these matters.

1 MS. ROSE: Your Honor, if I could have time
2 to review these documents and prepare an argument?

3 THE COURT: Yes, ma'am, you certainly may.

4 MS. ROSE: That may actually take a few
5 weeks, if that's possible.

6 THE COURT: I'm sorry?

7 MS. ROSE: A few weeks to review and rebut.

8 THE COURT: Oh, no, ma'am. You'll have a
9 few minutes here to read over them.

10 MS. ROSE: I don't believe that that is
11 sufficient time, Your Honor, in order to be able to
12 sufficiently read them.

13 THE COURT: Do you have an education?

14 MS. ROSE: Yes, sir.

15 THE COURT: What level?

16 MS. ROSE: College.

17 THE COURT: Then you can read them here in
18 court; tell me when you are finished.

19 (Ms. Rose peruses documents.)

20 MS. ROSE: Okay. First of all, I would
21 like to state for the record my name is Amanda Rose, and I
22 am here on special appearance to challenge the jurisdiction
23 of the State.

24 Can I be assured that my constitutionally
25 protected rights will be honored here today?

1 THE COURT: Ma'am, you are not to ask
2 questions of the Court. You may present an argument when
3 it's your turn. I have indicated that it's the State's
4 initial burden --

5 MS. ROSE: Okay.

6 THE COURT: -- to show jurisdiction, and
7 that's --

8 MS. ROSE: Thank you.

9 THE COURT: -- what I'm asking the State to
10 do. The State has indicated that it relies upon the
11 citations that were issued and two cases that were handed
12 up.

13 My question of you, Mr. Bauer, is, what
14 effect does the failure of the citing officer to sign the
15 citations have upon the jurisdiction arising out --
16 purported to arise out of the issuance of the citations?

17 MR. BAUER: Judge, I don't think there is
18 any issue as to the issuance of the citation that confers
19 jurisdiction --

20 THE COURT: Well, if you would turn to
21 General Statutes 15A-302(d), you will find that where the
22 person receiving the citation fails to acknowledge receipt,
23 the officer is to sign. And I will note that in the
24 Phillips case, which you have handed up, the Court
25 specifically noted that the officer did sign it. But the

1 question is whether the failure to sign affects
2 jurisdiction.

3 MR. BAUER: Your Honor, I don't think that
4 addresses the issue of jurisdiction. I think it may be
5 another issue that could be heard before the Court for
6 noncompliance with the statutory obligation. But as to the
7 jurisdiction of the Court to -- over this defendant within
8 the confines of the General Court of Justice of North
9 Carolina, I do not believe that the lack of a signature by
10 the officer renders that citation -- or renders
11 jurisdiction null and void in this court as a result of
12 15A-302.

13 Your Honor, I believe there is a signature
14 through the electronic -- where it says charging officer
15 information, where it says signature of the officer, and
16 that is displayed within that citation, although it's
17 printed on it in an electronic format.

18 THE COURT: Well, is there a provision in
19 the statutes to which you can refer me that permits
20 electronic signature under these circumstances?

21 MR. BAUER: Your Honor, if you would look
22 at 15A-301.1, with the electronic repository.

23 THE COURT: 15A what?

24 MR. BAUER: 301.1, just above paragraph
25 (b), and paragraph (b), any criminal process may be

1 created, signed, and issued in electronic form, filed
2 electronically in the office of the Clerk of Superior
3 Court, and retained in electronic form in the electronic
4 repository. And I think that clearly contemplates the
5 electronic signature that is on the e-citation that was
6 issued in this situation.

7 THE COURT: All right.

8 MR. BAUER: Your Honor, I would further
9 argue that, pursuant to the North Carolina General Statutes
10 that were in effect and enacted by our legislature at the
11 time, the disposition is controlled by North Carolina
12 General Statute 15A-1111, the venue is within -- is defined
13 and found within 15A-1112. And then it goes on to talk
14 about the jurisdiction in 15A-1114, and, finally, how this
15 Court today has jurisdiction under N.C. General Statute
16 15A-1115, appeal from the District Court to Superior Court
17 of infractions and how they are to be handled.

18 So I would argue, pursuant to that, that
19 this Court is a proper court, this defendant having given
20 notice of appeal to the decision of the District Court, to
21 determine whether the North Carolina courts have
22 jurisdiction in these matters.

23 I would further argue that, pursuant to the
24 United States Constitution, as indicated in the opinion of
25 2009 where it refers to the Tenth Amendment of the

1 Constitution and the delegation of police powers when they
2 cite *Honeycutt versus Scheidt*, S-c-h-e-i-d-t, 254 N.C. 607.
3 It delegates to the police powers those that are not
4 specifically -- not delegated to the United States by the
5 Constitution nor prohibited by it to the States are
6 reserved for the States respectively or to the people, and
7 that is referred to as the police power.

8 I would argue that the constitutionality of
9 the citation for the offense for which the defendant was
10 issued two citations has been determined in *State versus*
11 *Swaim*, 92 N.C. App. 240, a 1988 case, indicating that that
12 is a -- that the seat belt statute clearly contributes in a
13 reasonable manner to the safety of travel on the streets
14 and highways of the state and is therefore a proper
15 exercise of the police power of the state by the General
16 Assembly, and that is *State versus Swaim*.

17 Your Honor, I would argue that this Court
18 is bound by the decisions from the 149 N.C. App. 310 in the
19 *Phillips* matter, which indicates a similar-type situation
20 involving a Chapter 20 offense where the issue of
21 jurisdiction is contested, and the determination by that
22 court also determines that the defendant's mere allegation
23 that the State provide an affidavit as to jurisdiction does
24 not divest the state of jurisdiction, and I would ask the
25 Court to follow the holdings in *Phillips* as well as the

1 arguments of counsel and as well as the decision within the
2 state of North Carolina in 92 N.C. App. 240 pursuant to the
3 Tenth Amendment of the United States Constitution
4 delegating the police powers to regulation by the State.

5 I will point out that at the time the
6 defendant was a licensed North Carolina driver and had
7 subjected herself to the jurisdiction and the laws related
8 to obtaining and --

9 THE COURT: And where is the evidence of
10 that?

11 MR. BAUER: Your Honor, it's indicated on
12 the citation, I believe, where it says that there is
13 driver's license information indicated.

14 THE COURT: It doesn't indicate whether it
15 was current or not.

16 MR. BAUER: But we can put on evidence,
17 Your Honor, that the officer did in fact check that through
18 DMV.

19 THE COURT: Well, I'm not stopping anyone
20 from doing what you feel is necessary to meet your burden.

21 MR. BAUER: But if the Court looks at the
22 citation, it specifically refers to a driver's license,
23 Number 24314307. And I would argue that to that end, Your
24 Honor, the State -- this defendant has subjected herself to
25 the jurisdiction of the Court by -- and the State by

1 getting licensed with the address that is before that. And
2 I would tender at this point to call Trooper Shouse.

3 Put your left hand on the Bible, raise your
4 right hand, and listen to the Clerk.

5 whereupon,

6 SHARI AUSTIN SHOUSE,

7 having first been duly sworn, was examined and
8 testified as follows:

9 MR. BAUER: Would you take the witness
10 stand, Trooper Shouse.

11 THE COURT: Before you begin, Mr. Bauer.

12 Ms. Rose, are you an attorney?

13 MS. ROSE: No, sir.

14 THE COURT: All right. Just a brief
15 explanation, when a witness is placed on the witness stand,
16 the witness is placed under oath or affirmation; the party
17 who calls the witness conducts what is referred to as
18 direct examination; following the direct examination, the
19 party in opposition will be given an opportunity to cross-
20 examine the witness. And under the conventions that apply
21 in our courts, witnesses are typically addressed by counsel
22 or pro se parties from a seated position at the counsel
23 table. If it's necessary to approach a witness, then
24 permission of the Court is required.

25 If there is any cross-examination, I will

1 permit a redirect examination, limited in scope to the
2 material covered on the cross-examination; and if there is
3 redirect, I will permit a recross, limited in scope to the
4 material covered on the redirect. Absent extraordinary
5 circumstances, the witness will then be done.

6 All right.

7 MR. BAUER: Thank you, Your Honor.

8 DIRECT EXAMINATION BY MR. BAUER:

9 Q. Trooper, would you state your name for Judge
10 Davis, please.

11 A. My name is Shari Austin Shouse.

12 Q. How are you currently employed?

13 A. I am a trooper with the North Carolina State
14 Highway Patrol.

15 Q. And were you so employed on the 21st of October,
16 2010, at approximately 10:30 in the morning?

17 A. Yes.

18 Q. How long have you been a trooper?

19 A. I was sworn in as a trooper in August of 1997.

20 Q. And how long have you been assigned to the
21 Wilkes County area?

22 A. I have been assigned to Wilkes, with the
23 exception of seven months, for my entire career.

24 Q. And on the jurisdiction of the authority of your
25 arrest powers, what are they contained within?

1 A. The State of North Carolina.

2 Q. On the 21st of October of 2010, about 10:00 in
3 the morning, what were you doing?

4 A. Myself and Trooper Dean were conducting a
5 checking station on the southbound ramp of 421, 16-18 exit.

6 Q. And where is that located in?

7 A. That is in Wilkesboro. Actually, it's in the
8 city limits.

9 Q. And is that within -- ? What county is that
10 within?

11 A. Wilkes County.

12 Q. On that occasion did you have an opportunity to
13 observe this defendant pass through that checking station?

14 A. Yes.

15 Q. Would you tell Judge Davis how you came in
16 contact with this individual, Ms. Rose?

17 A. She pulled up to the -- she's the operator of a
18 champagne Chevrolet Ventura. She drove to the checkpoint,
19 and she was not wearing her seat belt.

20 Q. Did you approach that vehicle?

21 A. Yes.

22 Q. Did you ask her to produce a driver's license?

23 A. Yes.

24 Q. What did she produce when asked?

25 A. Her driver's license.

1 Q. And was it in form and substance to which you're
2 familiar with and recognized as a North Carolina driver's
3 license?

4 A. Yes.

5 Q. Did it identify the driver of that vehicle?

6 A. Yes.

7 Q. And who was that that was identified in that
8 North Carolina driver's license?

9 A. Amanda Lea Rose.

10 Q. At that time were you utilizing an electronic
11 citation form?

12 A. Yes.

13 Q. And if you would, explain to Judge Davis how
14 information is gathered to be entered into this electronic
15 citation.

16 A. You just enter the -- you can manually enter the
17 information or you can do a search of the information if
18 you have coverage.

19 Q. And did she identify herself as Ms. Amanda Lea
20 Rose?

21 A. Yes.

22 Q. Did you confirm the address that was on the
23 driver's license as to the address that is also with her,
24 if you recall?

25 A. I don't really recall her exact address.

1 Q. And did you, in the process of your --
2 conducting your citation as well as your investigation as
3 to the no seat belt, did you query the North Carolina
4 Division of Motor Vehicles to see if in fact the license
5 was a valid license?

6 A. Yes.

7 Q. Did you get information confirming that?

8 A. Yes.

9 Q. And did it have an expiration date --

10 A. Yes.

11 Q. -- on the license?

12 I'm sorry?

13 A. Yes, sir.

14 Q. And was there anything about that expiration
15 date at that time, in October of 2010, that caused you to
16 take enforcement action about her driving a vehicle and
17 that driver's license?

18 A. I don't understand.

19 Q. Okay. Were you able to ascertain if she was
20 lawfully, pursuant to that driver's license, driving --
21 operating a vehicle on the street or highways, absent the
22 seat belt?

23 A. Yes, she was.

24 Q. Did you have some conversation with her
25 regarding the seat belt?

1 A. Yes, sir.

2 Q. And what was that conversation?

3 A. I asked her why she was not wearing her seat
4 belt.

5 Q. And what did the defendant, Ms. Rose, tell you?

6 A. She said that she was an adult.

7 Q. What happened from there?

8 A. I issued the citation, reapproached the vehicle,
9 explained the citation. I advised her to put her seat belt
10 on prior to pulling back onto the roadway.

11 She stated that she was not going to put
12 her seat belt back on, that she had all day. My response
13 was I had all day too.

14 She then proceeded to pull back onto the
15 roadway without her seat belt on. She crossed the bridge
16 over 421. I hit my siren, had my blue lights on already.
17 She pulled onto the northbound on-ramp of 421 and stopped.
18 And I --

19 Q. Did you reapproach the vehicle at that point?

20 A. I did.

21 Q. And did you identify the driver at that time?

22 A. I did.

23 Q. Was that the same person that you had previously
24 had the interaction at the checking station at the other --
25 just up the road?

1 A. Yes.

2 Q. Amanda Rose?

3 A. Yes.

4 Q. And did she again hand you her driver's license?

5 A. I didn't need them.

6 Q. Okay. Did you have conversation with her again
7 at that point?

8 A. Yes.

9 Q. And what was that conversation at the second
10 stop, just down the road?

11 A. I explained to her that every time she pulled
12 onto the roadway without her seat belt on, I would issue
13 her a ticket for not wearing her seat belt.

14 Q. And at some point -- you didn't have to issue
15 her another seat belt ticket that day, did you?

16 A. No. I issued two; the first one, and then the
17 second one.

18 Q. The one where she came through the checking
19 station without her seat belt on, and then when she drove
20 off from the checking station without her seat belt on?

21 A. Yes.

22 Q. Okay. At the second stop or the -- the second
23 encounter -- let's use that term -- did she have some
24 conversation, after you and she had engaged in the
25 discussion that she had all day and you had all day as

1 well, with your supervisor?

2 A. When I stopped her the second time, I contacted
3 my supervisor, and he requested that I put her on my cell
4 phone. I gave her my cell phone so he could speak with
5 her.

6 Q. Okay. And you didn't hear what was spoken to by
7 your supervisor and --

8 A. No.

9 Q. -- this defendant; is that correct?

10 A. That is correct.

11 Q. At that point, when she left after you were
12 finished -- well, before we get to that, Did you then issue
13 another citation for another seat belt violation?

14 A. For the second time, yes, sir.

15 Q. Okay. Once the citation had been generated in
16 your vehicle, what did you do?

17 A. I issued the second citation to her.

18 Q. Did you then -- ? Was she free then to leave?

19 A. Yes. She put her seat belt on.

20 Q. The information that you entered into the -- for
21 the citation, you entered a driver's license number. Is
22 that the driver's license number consistent with what you
23 received from this defendant?

24 A. Yes.

25 Q. Is that 24314307?

1 A. Yes.

2 Q. And is that the number that you queried through
3 the North Carolina Division of Motor Vehicles?

4 A. Yes.

5 Q. And that's the -- you received information that
6 that was a valid license at that point?

7 A. Yes.

8 Q. And the address that's on the citation is also
9 indicative of the information contained within her driver's
10 license; is that correct?

11 A. Yes.

12 Q. And you charged her for the failure to wear a
13 seat belt under 20-135.2(a); is that -- as well?

14 A. Yes.

15 Q. All right. And then that signature that is
16 generated, is that generated when you hit the print button
17 on your in-car computer?

18 A. Yes.

19 Q. And that's your electronic signature; is that
20 correct?

21 A. Yes.

22 Q. And you are in fact the individual who had these
23 two contacts with this defendant that day in October of
24 2010, approximately 10:30 and 10:40 in the morning?

25 A. Yes.

1 Q. On the citation, as it indicates, it is then
2 electronically transmitted at some point during the day to
3 the Clerk's office; is that also correct?

4 A. Yes.

5 Q. And you indicated where she is to appear and
6 when?

7 A. Yes.

8 Q. And a citation number as well?

9 A. Yes.

10 Q. The citation -- what county was she to appear
11 in?

12 A. Wilkes County.

13 Q. And does it tell her where to -- where she is to
14 appear, and the directions are on the citation as well?

15 A. It tells her where to appear, the court date,
16 the date, time, location, courtroom.

17 MR. BAUER: Your Honor, I would tender the
18 witness for cross-examination.

19 THE COURT: All right. Ms. Rose, you may
20 cross-examine the witness.

21 MS. ROSE: Your Honor, my understanding is
22 that we are in trial with regard to -- in jurisdiction; is
23 that correct?

24 THE COURT: I'm sorry?

25 MS. ROSE: Are we at trial?

1 THE COURT: No, ma'am.

2 MS. ROSE: Okay. I think right now I'm
3 going to object to the calling of the witness because my
4 jurisdictional argument is -- has not been really addressed
5 by the prosecution.

6 My jurisdictional argument is based on the
7 Reconstruction Acts and whether or not they were lawful and
8 constitutional and violated due process of law, and I have
9 explained that very clearly in my memorandum of law. And
10 as such, I am -- I am -- well, it's a historical fact that
11 the original state of North Carolina under the Constitution
12 of 1776 was put into abeyance, and then the Constitution of
13 1868 created --

14 THE COURT: The question now is whether you
15 wish to ask any questions of this witness.

16 MS. ROSE: No, sir.

17 THE COURT: The witness may step down.

18 THE WITNESS: Thank you, Your Honor.

19 (Witness is excused.)

20 THE COURT: Further evidence for the State?

21 MR. BAUER: Your Honor, that would be the
22 evidence from the stand?

23 THE COURT: All right.

24 MR. BAUER: We would move to introduce and
25 have the Court take judicial notice of the North Carolina

1 General Statutes and their relevant portions, 15A as well
2 as 7A-253 and 7A-271(d), which gives the Court jurisdiction
3 of this Court over -- jurisdiction over infractions that
4 are transactionally related. The General Statute and the
5 cases that I have cited by our courts, including 20-
6 135.2(a) and the decision of the Court of Appeals in State
7 versus Swaim, 92 N.C. App. 240.

8 THE COURT: Did you hand up those cases?

9 MR. BAUER: I did not hand up that last
10 case, Your Honor. I can get that, State versus Swaim, as
11 to constitutionality --

12 THE COURT: Okay.

13 MR. BAUER: I don't know if it's behind the
14 court in the versions of the Court of Appeals' decisions or
15 in the volumes there in the courtroom. I'll get the volume
16 with that decision.

17 THE COURT: All right. Well, you don't
18 need to do it right now.

19 MR. BAUER: Oh. Okay. I'm sorry. I
20 thought you were asking me to --

21 THE COURT: All right. At this point then
22 I will hear arguments whether the State has met its burden
23 of showing jurisdiction exists. I will give the
24 respondent, Ms. Rose, the first argument and a rebuttal.

25 MS. ROSE: First of all, Your Honor --

1 THE COURT: Before you start, I will tell
2 you that I have read all of the materials that have been
3 presented to me in the file, which includes a notice of
4 void judgment, a copy of what purports to be a proclamation
5 signed by Charles -- John Charles Ainsworth.

6 MS. ROSE: Okay.

7 THE COURT: A copy of a paperwriting --

8 MS. ROSE: That is a letter of surrender
9 from the Governor, Governor Jonathan Worth.

10 THE COURT: -- which does not appear to
11 have a signature. In any event, I'll hold it up. It
12 appears to be something you have presented.

13 MS. ROSE: That is a surrender letter from
14 Governor Jonathan Worth.

15 THE COURT: Okay. A declaration of re-
16 establishment of the North-Carolina American Republic; a
17 memorandum of law in support of challenge to jurisdiction,
18 and attachments thereto.

19 MS. ROSE: All this paperwork, Your Honor,
20 is evidence to support that I am a state citizen under the
21 re-established de-jure state of North Carolina, which was
22 re-established, as you saw, on December 1st of 1997, and as
23 such, I have moved my points of contact from the defacto
24 state which was created by the constitution of 1868.

25 Also, from what I am gathering by the

1 avoidance of the actual issue from the State, is that they
2 are suggesting that the Reconstruction Acts were lawful and
3 constitutional. They did not violate any aspect of due
4 process of law, that the original intention of Article IV,
5 Section 4, in the Constitution was to delegate to Congress
6 the authority to annul existing states and to create new
7 states at its own pleasure and new body politics.

8 So if he would speak to that matter, I
9 would appreciate some paperwork to back that up and proof
10 in writing so that I could review that as well.

11 THE COURT: The State has rested its case.

12 MS. ROSE: Can I have cites and proof to
13 that?

14 THE COURT: I'm sorry?

15 MS. ROSE: I'm sorry. Of that case, of
16 that particular matter?

17 THE COURT: No, ma'am. They have rested
18 their case. Whatever they have presented, they have
19 presented.

20 MS. ROSE: Okay. So they pretty much have
21 not addressed the entire issue that I have addressed here.

22 THE COURT: Well, that may be your opinion.

23 MS. ROSE: Well, that's exactly the
24 paperwork that I have submitted in challenging their
25 position.

1 THE COURT: I'm not going to argue with
2 you. That's not my job. I'm here to listen.

3 MS. ROSE: I'm just saying it on record,
4 sir.

5 And so until the State can prove
6 jurisdiction in that regard, then there is no cause before
7 the Court, Your Honor.

8 THE COURT: All right.

9 MR. BAUER: Your Honor, we have followed
10 the jurisprudence as set forth by our courts and our
11 legislature and that with which we operate under, the North
12 Carolina General Statutes as they have been enacted in how
13 the citizens of North Carolina are to compose themselves
14 and conduct themselves, the laws of which they are to
15 follow and how they are to follow. And when it is
16 challenged or there is an alleged violation, how we are
17 supposed to deal with them.

18 I would argue, Your Honor, that the state
19 of North Carolina lawfully has enacted Chapter 20, that
20 this Court is bound by the decisions of the Court of
21 Appeals that have been presented to this Court, and this
22 Court is, under the authority granted to it through the
23 General Assembly and the separation of powers within here
24 -- of North Carolina, this Court has jurisdiction and venue
25 over this matter pursuant to 15A -- North Carolina General

1 Statute 15A-1115 on an appeal from the District Court to
2 the Superior Court of this infraction.

3 Your Honor, you have heard evidence from a
4 trooper with the North Carolina State Highway Patrol, who
5 has statewide jurisdiction and arrest authority to enforce
6 the laws of this state, before this court.

7 She testified that on the date of the
8 alleged offenses she was on duty as a trooper. The
9 offenses occurred here in Wilkes County, where this Court
10 is holding court; how she comported with the requirements
11 of the issuance of a citation alleging a crime that was
12 charged, the date and location of that, the identification
13 of the officer issuing the citation and where the defendant
14 was supposed to report to court, at the time and the date.

15 I would further argue that you have heard
16 evidence that this defendant has submitted herself to the
17 jurisdiction of the Court by obtaining a privilege license
18 through the state of North Carolina, that being the
19 privilege to operate a motor vehicle, and that she was
20 lawfully -- had obtained that privilege license and
21 subjected herself to the jurisdiction, I would argue to the
22 Court, with that privilege license, which in North Carolina
23 was also known as North Carolina driver's license.

24 Your Honor, these cases at the level of
25 this Court, this Court and decisions of the Appellate

1 Courts within the court system as defined by our
2 legislature, has the jurisdiction over this defendant who
3 was found in the state of North Carolina, within the county
4 of Wilkes, operating a vehicle in violation of a general
5 statute that has been found to be a proper authority of the
6 police powers that has been delegated by the Constitution
7 of the United States to North Carolina to regulate. And I
8 would argue that the state has shown jurisdiction as
9 required for this Court to dispose of these matters
10 pursuant to the General Statutes of North Carolina.

11 THE COURT: All right. Ma'am, you have a
12 chance for rebuttal.

13 MS. ROSE: Thank you. Once again, I'm
14 actually disputing the State's -- let me think how I want
15 to best word this.

16 I am disputing the fact, and with evidence
17 supported in my memorandum, that the State was not lawfully
18 created in 1868 under the body politic that created the
19 Constitution of 1776, and therefore, it's unconstitutional
20 in its very nature.

21 The prosecution is arguing for subject-
22 matter jurisdiction. I'm actually arguing in personam and
23 territorial jurisdiction. So, as in my memorandum, it's
24 the burden of the State to prove that they have territorial
25 jurisdiction over the soil by proving an unbroken chain of

1 custody through that -- to that means.

2 THE COURT: All right. The Court finds
3 that on October 21, 2010, a duly sworn officer of the North
4 Carolina State Highway Patrol issued citations to Amanda
5 Lea Rose, two in number, for failure to operate her vehicle
6 with a safety or seat belt secured. The citations
7 specially meet the requirements of G.S. 15A-302(d). The
8 citations were delivered to Ms. Rose and are sufficient for
9 the State to acquire jurisdiction over her person.

10 MS. ROSE: I object, Your Honor.

11 THE COURT: The Court will entertain from
12 the State a proposed order containing more detailed
13 findings of fact and conclusions of law, which I direct to
14 be submitted within 14 days. A copy should be submitted to
15 Ms. Rose before presentation to the Court.

16 I will reserve my authority to enter such
17 additional findings and conclusions as the Court deems
18 appropriate after receipt of that proposed order.

19 All right. Thank you all.

20 MR. BAUER: Your Honor, for the Court's
21 purposes, this being a two-week term, would the Court -- ?

22 Ms. Rose, is there a phone number that I
23 can get up with you?

24 MS. ROSE: Yes. I'll provide that for you.

25 MR. BAUER: If I have the opportunity to

1 get a proposed order together for Monday, I will try and
2 have one prepared for the Court's review on Monday during
3 this session of court, and I will let her know and have her
4 back on that Monday morning so if she wishes to --

5 THE COURT: Okay.

6 MR. BAUER: -- confer further, if that's
7 okay with the Court.

8 THE COURT: Okay.

9 (Proceedings recessed at 4:56 p.m.)

10 (Proceedings continue on the following
11 page.)

12

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1 (Proceedings begin at 11:05 a.m., Thursday,
2 September 22, 2011. Mr. Bauer and Ms. Rose are present.)

3 MR. BAUER: Your Honor, if we could turn
4 back to the Amanda Lea Rose matter that the Court directed
5 the State to draft a proposed order. I have e-mailed that
6 to Ms. Rose. I e-mailed it to her yesterday afternoon with
7 anticipation that the Court would have time this morning.

8 She has -- I don't know if she has filed
9 it, but she has dropped off an answer to the proposed
10 order, and I can present those to the Court at this time if
11 the Court wishes to review those. She is present in the
12 courtroom.

13 THE COURT: Okay.

14 MR. BAUER: If I may approach.

15 THE COURT: You may.

16 (Brief Pause.)

17 THE COURT: All right. Thank you for the
18 proposed order. I will review it. I will review what has
19 been submitted by Ms. Rose. And I will prepare an order.

20 MR. BAUER: Yes, sir. Do you want her
21 released until next term then, Your Honor, or is it
22 something we could possibly have for later this term?

23 THE COURT: I would prefer to get the order
24 entered before. Why don't you bring her in next term.

25 MR. BAUER: I didn't hear the last part.

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THE COURT: Bring her in next term.

MR. BAUER: Okay. would you like a copy of what the proposed -- what I drafted in electronic format with the caption on it already?

THE COURT: Not necessary.

MR. BAUER: November 7.

MS. ROSE: And I need to be here at 10:00?

MR. BAUER: Yes.

(Proceedings recessed at 11:10 a.m.)

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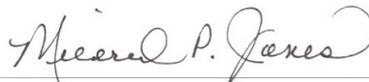
1 NORTH CAROLINA

2 COUNTY OF WILKES

3 **CERTIFICATE**

4 I, Mildred P. Jones, the officer before whom the
5 foregoing proceeding was taken, do hereby certify that said
6 hearing, Pages 1 through 32, is a true, correct, and
7 verbatim transcript of said proceeding.

8 I further certify that I am neither counsel for,
9 related to, nor employed by any of the parties to the
10 action in which this proceeding was heard; and, further,
11 that I am not a relative or employee of any attorney or
12 counsel employed by the parties thereto, and am not
13 financially or otherwise interested in the outcome of the
14 action.

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16
17
18
19 

20 Mildred P. Jones, CVR

21 Official Court Reporter

22 23rd Judicial District

23 P.O. Box 219

24 Sparta, NC 28675

25 336.657.1721