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## State v. Money

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### Penny Wise, Pound Foolish

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Last week, the N.C. Court of Appeals issued a ruling in a case that I found to be somewhat fascinating.<sup>1</sup> It is not so much the ruling itself, which deals with one of my least favorite areas of the law: the minutiae<sup>2</sup> of Chapter 20. What fascinates me is the story behind the case, which isn't specifically spelled out in the court's opinion, but becomes clear if you've spent as much time in criminal court as I have.<sup>3</sup> So let's jump right into the story:

Our tale begins with a gentleman who we will call "James Money."<sup>4</sup> Mr. Money was stopped by Kernersville Police Officer Sawyer Highfill in April of 2018 because the officer observed him driving a pickup truck without a license plate. When the officer asked for Money's license and registration, the defendant provided the VIN number for the vehicle and replied that he "was not required to" produce a driver's license.<sup>5</sup> Officer Highfill ran the VIN and determined that the truck was registered to the defendant but that the registration and inspection were expired. He also learned that the defendant's license was revoked.

The officer issued citations for the following charges:

1. Operating a motor vehicle on a street or highway while his license was revoked (G.S. 20-28(a)).
2. Operating a motor vehicle on a street or highway without displaying thereon a current approved inspection certificate<sup>6</sup> (G.S. 20-183.8(a)(1)).<sup>7</sup>
3. Operating a motor vehicle on a street or highway while displaying an expired registration plate on the vehicle knowing the same to be expired (G.S. 20-111(2)).

Now, I did not look up any statistics on this subject, but I have decided that 98.67% of tickets like this are handled in a matter of moments in traffic courts all over this state.<sup>8</sup> Indeed, without the driving while license revoked, the vast majority of registration and inspection tickets are handled by the defendant correcting the problem and showing proof that the vehicle is registered and inspected, whereupon the prosecutor dismisses the charges. But this defendant did not wish to take the easy way out.

Mr. Money demanded a trial in District Court and he was found guilty by a judge in October of 2018. Now, of the very small percentage of traffic court defendants who believe that they have a valid defense and go through

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<sup>1</sup> Although it might only be fascinating to me because I've been driven mad by being cooped up at home or because the mask I'm wearing has cut off the circulation to my brain.

<sup>2</sup> "Minutiae:" noun. The small, precise, or trivial details of something. Lawyers love any word that ends in "ae."

<sup>3</sup> Have I mentioned that I was a prosecutor in my former job? I feel like I've mentioned that before.

<sup>4</sup> We will call him this because although this seems like it has to be a made-up alias, it surprisingly appears to be this defendant's actual name.

<sup>5</sup> More on this in a bit. Let's just say for now that this was the first of Money's, um, "legal misunderstandings." As most officers know, G.S. 20-29 requires the operator of a motor vehicle to produce his license to a uniformed officer upon request. As we shall see, Money believed that many of the state's traffic laws did not apply to him.

<sup>6</sup> A few of you will be old enough to remember inspection stickers – the big square ones in the car windshield. There was also a handle on the door that you had to turn to literally roll the window up or down. And you thought the pandemic was tough.

<sup>7</sup> The pickup truck's inspection had expired over three years before this traffic stop.

<sup>8</sup> As our story demonstrates, many people believe it is not necessary to actually find the RIGHT answer as long as the answer you come up with is the one you want to believe and choose to believe.

the process of a trial in District Court, the vast majority of those (let's say, 96.84% of them) go ahead and pay off their ticket once they are found guilty. They figure that they took their shot, they had their day in court, and now they will accept the judge's decision and move on with their lives. But this defendant was adamant that justice had not yet been served and so he appealed to the Superior Court of Forsyth County.

The next sentence of the Court of Appeals opinion reports without comment that "on 23 April 2019, Defendant represented himself in a jury trial before Judge Fox in Forsyth County Superior Court." So readers aren't told what happened in the time that passed between the District Court trial and the jury trial, but I can tell you a few things from experience. First, Forsyth County has a lot of serious cases pending all the time in their superior court from homicides to robberies to rapes and all sorts of other felonies. The last thing that a prosecutor or a judge wants to waste time trying is a misdemeanor appeal and that is 1000% more true when the misdemeanors being tried are Class 3 traffic charges. I mean, it's embarrassing to tell a panel of jurors that you've disrupted their lives and called them in to serve because you couldn't come to an agreement about whether the defendant's registration was valid. So trust me when I say that this was a jury trial that was happening as a complete last resort.<sup>9</sup>

Mr. Money was representing himself, which is not surprising and always fun, and he testified in his own defense. He told the jury that he had done some sort of legal research and determined that drivers' licenses, registration plates, and inspections were only required for commercial vehicles and he only drove his truck for personal reasons.<sup>10</sup> He testified that based on that conclusion, he had "probably" made a conscious decision to remove the license plate from his truck several years before the stop at issue.

In his closing argument to the jury, the defendant made the following logical contentions. First, as to the charge of driving while license revoked, he did not "have a driver's license to actually be suspended in the first place," and "it's kind of hard to suspend something you don't have." As to the inspection charge, the defendant told the jury that he maintained the vehicle himself and ensured that it was safe. Finally, for the registration charge, Money stated, "There's no plate on there to actually be expired in the first place. It's not there." The jury convicted on all charges. Judge Fox gave a suspended sentence with unsupervised probation along with a fine of \$662.50 and the costs of court.<sup>11</sup>

True to form till the end, the defendant appealed to the N.C. Court of Appeals where this time, he was represented by the appellate defender's office. On appeal, the defendant did not dispute the revoked license charge, however, he argued that the registration and inspection charges should have been dismissed. For the inspection charge, even though the officer's charge (and the judge's instruction to the jury) mentioned the "display" of a valid inspection certificate, the actual statute (G.S. 20-183.8(a)(1)) prohibits operation when the vehicle has not been inspected "as evidenced by the vehicle's lack of a current electronic inspection authorization or otherwise." Therefore, the court found sufficient evidence of this offense and upheld the conviction.

The registration conviction, on the other hand, was set aside. Some of you astute readers probably already noticed the problem with this charge when I set it out on page one. It seems the defendant's third argument to the jury was a winner: he could not be convicted of displaying an expired tag if there was no tag on the vehicle to start with. Where the officer charged a violation of G.S. 20-111(2) which prohibits the willful display of an expired tag, he should have charged a violation of G.S. 20-111(1) which prohibits the driving of a vehicle that is not registered or does not display a current registration plate.<sup>12</sup>

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<sup>9</sup> I don't know this, but my educated guess is that Mr. Money had been charged multiple times for these violations and would not plead guilty to anything.

<sup>10</sup> The court never mentions that Mr. Money had any kind of law degree and I feel like they would have noted that detail if it were true. It takes a special kind of hubris to believe that, without any formal training, you have stumbled across a loophole that all of the lawyers and judges that have practiced in traffic court (after actually earning a law school degree and passing a state bar test) have inexplicably missed for all of these years. And then to believe that you are NOT wrong even when every person with a law degree (and probably several officers and others along the way) have told you that you ARE wrong.

<sup>11</sup> As it turned out, Judge Fox could only legally give a fine and court costs for these convictions so the case would have to be sent back for resentencing anyway.

<sup>12</sup> The fine details of Chapter 20 snatch defeat from the jaws of victory once again!

Now, frankly, I wrote this legal update simply because I wanted to share Mr. Money's story with you. But to justify the fact that you have read it all the way through, let me draw out both a specific principle and a general principle for you to apply in your every day policework. The specific lesson to learn from this case is that there are two different registration statute sections and you need to make sure that you charge the right one when writing a citation for an expired tag.

More generally, the tale of Mr. Money demonstrates that you never know what cases are going to go to trial or wind up in the N.C. Court of Appeals. You have no way of knowing what aspect of your investigation or procedure is going to be challenged in a particular case. This doesn't mean that you should treat every traffic charge as seriously as a murder investigation. It should mean, however, that you strive to learn all you can about how to do your job correctly and then are careful to apply that knowledge every time despite the case being somewhat less important in the grand scheme of things. If it is worth doing, it is worth doing correctly.<sup>13</sup>

Stay safe and healthy!

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**ABOUT THE AUTHOR: Brian Beasley is the Legal Advisor for the High Point Police Department. This legal update is provided free of charge to the SR Webpage in the hopes that officers across the state would be able to benefit from it. Brian is not an attorney with Smith Rodgers, PLLC but he thinks they're pretty cool guys.**



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<sup>13</sup> I could also maybe say something based on this case like “leave the lawyering to the actual lawyers!” but that would be pretty hypocritical considering all of the medical “expertise” I’ve been throwing around lately concerning the COVID virus to anyone who would listen.