

**TRAFFIC LAW NEWSLETTER
December, 2006**

**MERRY CHRISTMAS
& HAPPY NEW YEAR**



2006 REVIEW

The Roman god Janus was depicted as being two-faced, with one face looking back and the other face looking forward. The month of January is named after the god Janus. As we enter January it is always appropriate to look back before looking forward. 2006 was fairly uneventful as far as legislation involving traffic laws. The Georgia appeals courts were not very favorable, with really only 2 cases in favor of the citizen:



BEST DUI CASES 2006

- St. v. Dixon: Officer cannot stop a car solely because a check of the driver's tag revealed an "unknown status" of insurance.
- Peters v. St: Jury conviction of a DUI per se was reversed, because the State presented no evidence as to when Peter's driving or control of vehicle ended, not did State submit evidence of when Peter's blood was drawn.

WORST DUI CASES 2006

There were several Georgia cases in which the Georgia appellate courts routinely held that ANY rules or regulations involving breath testing did not necessarily have to be followed.

(continued...)

WORST DUI CASES 2006 (continued)

Another case (Rackoff) held that a person does not have the right to speak with an attorney before making a decision on whether to submit to a state breath test; Nor does the defendant have a "right" to exclude from evidence at trial the "certificates of inspection" performed on the State breath test machine even though the inspector never shows for court. (Rackoff)

The Georgia Supreme Court, on November 30, in Zigan v. State, held that a defendant can waive his right to a jury trial, but cannot "demand" a bench trial unless the Government agrees.

And finally, in Dozier v. Jackson, The Court of Appeals finds that under 40-5-63(a), a conviction for DUI and for DUI/Child Endangerment (40-6-391(l)) are separate convictions for purposes of driver's license suspension, even if they happened in the same incident. This means that a person who is charged with a DUI, and has 2 children in the car, and then is convicted of DUI and the 2 DUI/child endangerment charges will automatically become a habitual violator and lose their license for 5 years!

INDIVIDUAL CASES

2006 was a good year personally in terms of winning cases. Early in the year, a Fulton County jury found my client NOT GUILTY of vehicular homicide.

Then later this year, a Gwinnett jury was out only 30 minutes and returned verdicts of not guilty for DUI less safe and above a .08 (client blew a .096 on the test); also, one of the .07 DUI cases mentioned in the last newsletter was dismissed just last week.

I did have a client who was found guilty DUI/Drugs by a Dekalb State Court Judge, mainly because the client was obviously impaired on the video due to some type of drug; the client was found NOT GUILTY of DUI less safe however. So, overall the 2006 record was: 46W 1L 20P

ANYONE CAN BE ARRESTED FOR A DUI

Look at who received DUI arrests in 2006: Mel Gibson, John Montgomery (of country music Montgomery and Gentry fame), Nicole Ritchie, and one of Gov Perdue's staff members.



LOOKING FORWARD

Looking to the future, I think the Ga. Legislature, prompted by the Prosecutors Council, will once again attempt to make the refusal to take a State breath test a separate crime; and perhaps the Legislature will pass a law making it a crime for a teenager to drive while talking on a cell phone.

As I enter my 27th year of practicing law, I want to thank all of you who have blessed me with your referrals and more importantly with your friendship. Because of you, I am able to truly practice the type of law I love, and my promise to you for the coming year is that I will continue to aggressively defend citizens accused of committing crimes in this State.



MY 4 SIMPLE RULES IF YOU ARE STOPPED BY POLICE

1. DON'T ADMIT DRINKING (OR ANYTHING ELSE)
2. DON'T DO ANYTHING ON SIDE OF ROAD
3. DO TAKE BREATH TEST IF YOU'VE REALLY HAD 2 DRINKS
4. DON'T TAKE TEST IF MORE THAN 2 DRINKS*



* Refusing to take the State test (at jail or hospital) could result in losing your license for a full year; the only way of getting the license back earlier is to win the DUI; on the other hand, if the officer does not try to suspend the license because of a refusal, the State does not have a blood alcohol level to use against you!

MY 1 SIMPLE RULE FOR PARENTS OF CHILDREN UNDER AGE 21

If your child gets a traffic ticket, regardless of how minor you may think it is, **DO NOT PAY TICKET WITHOUT CALLING ME!!!**

WHAT DO I DO IF STOPPED BY THE POLICE??

For the answer, [see my page on "your legal rights"](#) and [print out a copy](#) to keep in your car!



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Practice dedicated exclusively to defense of those accused of DUI, serious traffic offenses, and drug offenses.

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