

DUI SPECIAL SERIES: Installment 6

Tuesday, 29 April 2008

Prosecutor Puzzled About DUI Case Nolle Prossed SPECIAL DUI SERIES: Sixth Installment -- The following is part of an ongoing investigative series into the drunk-driving phenomenon in Chattooga County. This week's article explores how one case quickly made its way through a Chattooga County Court system without one official's knowledge. If you are interested in becoming a part of this story contact Jason Espy at 706-857-2494 or e-mail to (sumnews@aol.com). A local prosecutor is puzzled how a Trion man's DUI was dropped 19 days after being arrested and who used a special rubber stamp to approve it. Like the magical "get out of jail for free" card in a Monopoly game, Chattooga County State Court Solicitor Tim Perry has a special rubber stamp that is similar. His ink stamp is used to dismiss (a.k.a. nolle prossed) cases. Yet on July 12, 2007 a red inked imprint from his rubber stamp mysteriously appeared on Benjamin Kyle Latta's DUI and other related charges. "I don't know anything in the world about this case," Solicitor Perry said.

Blood results and all the paperwork to process the case were still pending, but somehow Latta's case was dismissed. It was less than three weeks that the then 21-year-old Latta crashed a 2005 silver Nissan Altima into a stranger's front yard. "I don't remember Benjamin Latta. I never saw Benjamin Latta," Solicitor Perry said. The wreck resulted in three charges against Latta -- DUI, failure to maintain a single lane and violation of Georgia's Open Container law. All three charges were dismissed within 19 days after his wreck. The News showed Solicitor Perry copies of the dismissed charges Tuesday and he quickly spotted more irregularities. Not only was his special rubber stamp used, but the red imprint from the stamp was placed in an odd place. "I have never stamped a nolle prossed stamp on the back of any accusation. In fact, I didn't think you could stamp it on the back. I thought you had to put the stamp on the cover of the accusations," Solicitor Perry said. "I can tell you now that I never stamped that nolle prossed." The News searched through several cases that Perry had "nolle prossed" and his stamp was located on the front. Latta's cases, however, the stamp imprint appeared on the back. Latta's ordeal began around 1 a.m. June 23, 2007 when he lost control of his Altima and crashed into a tree at 367 India Drive, Trion. It was a spectacular crash. The Altima demolished one small tree and then warped around another large tree. County rescue workers used the Jaws of Life to saw off the car's caved-in roof so that paramedics could pull Latta from the wreckage. Among shards of glass and debris strewn across the lawn, officials allegedly found alcohol inside the car, according to reports. "While investigating the accident, I found several open beer cans. Just prior to the ambulance leaving, I observed (Latta) giving the EMTs a hard time. I could smell the aroma of an alcoholic beverage emanating from the driver as he continued to be belligerent with the EMTs," Georgia State Patrolman David G. Allen said. FLOYD MEDICAL The trooper followed the ambulance to Floyd Medical Center (FMC). While laying on a gurney and waiting to see a doctor, Trooper Allen read Latta his driving rights (Georgia's Implied Consent Law). "The driver attempted to interrupt me several times. He informed me that he was drunk but he agreed to take a blood test," Trooper Allen reported. Kristian Womack, a FMC lab technician, withdrew a sample of Latta's blood at 2:45 a.m. and immediately took it for processing. "His blood work came back and the doctor informed me that his blood work showed them a positive blood alcohol level," Trooper Allen stated. The official wreck report showed that another alcohol test was pending, in addition, perhaps, to the one at the hospital. The trooper also noted Latta's disheveled clothing and behavior that swung from crying and talkativeness to being combative and argumentative. The trooper submitted his charges to the State Court and waited for a court date. But that never came, according to The News' investigation. Ironically, the crash did not hinder Latta having another alcohol-related brush with the law. TEN DAYS Ten days after the wreck, Latta was at Mr. Clean's Car Wash, 11175 U. S. 27, when Summerville officers were looking for a motorcycle that had eluded them. The officers, outside their jurisdiction, called for county deputies when Latta would not "cooperate" and was causing a "disturbance." Deputy Kenneth Craig asked Latta to submit to a roadside breath test. Latta blew into the handheld Alcosensor and it registered .19 (over twice the legal limit), according to reports. Deputy Craig told Latta and everyone in the parking lot to disband and go home. "(Latta) stated that he did not want to leave. I advised him that he needed to go home or he would go with me. (Latta) stated that he was in the military and that he was fighting for my rights to be a deputy. At this time, I placed offender under arrest for public drunkenness and transported him to the county jail," Deputy Craig stated. The county's public drunkenness charge also got the same treatment as the State Patrol's DUI charge. But it only took nine days to have the public drunkenness case dismissed. The swiftness of this case confounded Solicitor Perry. He couldn't recall a case that has moved through the system that fast. For example, Perry was in state court Tuesday trying DUI cases that were made in December 2007 and January 2008. A normal time span for a case to make it to court would be two to three months, according to Perry. Giving this case another twist, what if Solicitor Perry was out of state the day that case was dismissed? "I want to say July 12 of last year; I might have been on vacation in Florida. . ." Perry said. During his beach vacation, Perry remembers getting a couple calls from his office about various matters. He cannot recall agreeing to Latta's dismissal. DATE The date of July 12, 2007 also struck an odd chord with the solicitor. That date was on a Thursday. "In the year and a half that I've been solicitor, we've never held state court on a Thursday," Solicitor Perry said. "We wouldn't have any kind of court going on that Thursday." The power of the solicitor's stamp is only effective if a state court judge signs it. "If I put a stamp on there, it doesn't mean a thing," Perry said. "I could stamp every case nolle prossed. But until the judge's signature is put on there, it means nothing." State Court Judge Carlton Vines' signature is on the accusations. But is that signature legitimate? The writing appears slightly different than Vines' normal signature penned on a plethora of other court documents. The News was unsuccessful contacting

Judge Vines Wednesday to authenticate whether it was his signature. Whether the signature is legitimate or not, Perry says it's his responsibility to keep up with it. "I did not put that stamp on there. That stamp has my name on it and I'm responsible for that stamp. It is in here under my care," Perry said. Latta's signature never appeared on the accusation. Perry says Latta's signature was supposed to be on the back of the accusations. That normally would come during arraignment when the accused have to plea guilty or profess their innocence. "I find it completely strange to me. He has never been arraigned. He has never signed it or documented whether if he's pleading guilty or not," Perry said.

HOMEOWNERS The court solicitor is not the only person unhappy with how this case was handled. The India Drive homeowners where Latta crashed never received an apology or restitution. "That is kind of one of the reasons I've been disturbed by this whole thing is because he got off free," homeowner Kelly Railey said. The crash not only damaged their yard, but it also has Kelly and her husband Doug thinking about moving. The night of the crash Doug was the only one at home. Kelly and her 22-month-old were not at home. "The place where the car came to rest was about 15 feet or so from our toddler's bedroom. I will tell you that since that day, he's not slept in his room one single time. We moved his crib out. I just don't feel safe. And the chances of it happening again are very small. . . ." Mrs. Railey said. "It was by the grace of God that I wasn't at home." The crash broke one tree into four pieces and damaged the other large tree in the yard. Small pieces of glass from the car's windshield flew into the air and landed all over the lawn where the toddler plays. "We are planning to move. It's just not safe and the little one plays in the front yard. That is his main play area. It's not safe. People speed on that road. Whether they are intoxicated or not, they speed," Mrs. Railey said. "I'm not from the area . . . I guess this is how things maybe work in a small town, but it shouldn't be that way. Everyone kept telling me, "oh, he will get off. He'll get off. Just wait and see and he won't get anything." Sure enough he did." Hearing rumors that Latta would go free from the charges made her interested in tracking the case through the court system. She called a court official and was told the case would be heard on Sept. 10, 2007. That date rolled around and she discovered that it had been dismissed two months earlier. "I was given the date of Sept. 10. He was supposed to go before Judge Vines. I had planned to go to the court hearing," Railey said. "I thought he surely would get something. But no. I also heard that he was planning to go into the military. But I don't know if that was just made up." Solicitor Perry also says he heard that Latta went into the military after the crash. Despite the dismissal, Mrs. Railey wonders if the crash taught Latta any lessons. She also discovered Latta's mix up with the law at Mr. Clean's Car Wash days after the wreck. "He learned nothing from this incident," Mrs. Railey said. "I thought what in the world. I mean at the very heart of all of this he learned nothing. He was lucky to have gotten away with his life." Mrs. Railey says she wasn't concerned about seeing Latta going to jail or getting a big fine, but she would like an apology. "I felt like an apology was in order. . . I felt like he owed us an apology just because he infringed upon our safety and livelihood . . .," Railey said.