

CONTEMPT

Contempt--Criminal--Public Intoxication in Court for Driving While Impaired Charge

State v. Ford, 164 N.C. App. 566 (2004)

The superior court erred in its de novo review of an appeal from a summary finding of contempt in district court arising from defendant's public intoxication in court for a driving while impaired charge by failing to sufficiently find that the facts upon which the judgment was based were established beyond a reasonable doubt, because: (1) neither the district court's findings in the summary proceeding, nor the superior court's findings in their de novo plenary proceeding, specifically indicate that the "beyond a reasonable doubt" standard of proof required by N.C.G.S. § 5A-14 for summary proceedings or N.C.G.S. § 5A-15(f) for plenary proceedings was actually applied; (2) at best, the transcript indicates the judgment may or may not have applied the proper standard, and there is no indication of the standard applied by the district court; and (3) failure of the superior court to indicate that the reasonable doubt standard of proof was applied is fatally defective unless the proceeding is of a limited instance where there were no factual determinations for the court to make.

Evidence--Results of Alco-Sensor Test--Alcohol Cause of Impairment

State v. Ford, 164 N.C. App. 566 (2004)

The trial court erred in a criminal contempt proceeding arising from defendant's public intoxication in court for a driving while impaired charge by admitting the results of defendant's alcosensor test, because: (1) N.C.G.S. § 20-16.3(d) provides that the only instance in which the results can be used for substantive evidence is to determine whether a person's alleged impairment is caused by an impairing substance other than alcohol; and (2) the test in this case was used to show that alcohol was in fact the cause of her impairment and that she was impaired.

Contempt--refusal to stand in court--summary hearing required

State v. Randell, 152 NCA 469 (2002)

A contempt order was reversed where a defendant who refused to stand when a recess was called was not given the statutorily required summary hearing before being found in contempt. Giving defendant the opportunity to explain himself after the fact is not sufficient. It was noted that defendant's actions were contemptuous and that judges must be allowed to maintain order, respect and proper function in their courtrooms.