

Police officer's don't like the rain either

I represented a young man who was stopped for speeding and was charged with driving while impaired.

When the police officer stopped him it was raining. When the officer approached my clients vehicle, my client cracked his window and handed the officer his license and registration.

He talked to the officer through the crack. The officer did not notice anything unusual and left to write my client a citation for speeding.

When the officer returned, my client rolled his window down completely because it was only drizzling at that point. The police officer testified that he handed my client the ticket and my client held the ticket outside of the window in the drizzling rain for a period of time longer than the police officer thought was appropriate.

That made the officer suspicious and he began to ask my client questions in regards to his drinking.

The officer then asked my client to come to his vehicle, gave him a portable breath test, determined that he was over the limit, and arrested him for driving while impaired.

I moved to suppress all of the evidence gathered after he took my client back to his vehicle based on a line of cases starting with State v. Fisher and State v. Falana. In those cases, the North Carolina Court of Appeals ruled that the police can not stop a vehicle for one crime and then hold the defendant to investigate a new crime without some additional evidence.

I do not think the Judge believed the police officers description of the events. My client told me that he immediately took the citation into the car in front of his steering wheel to look over the citation as the officer was explaining how to handle it.

Based on this argument, the Judge found my client innocent.