

Corpus Delicti and DWI

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Vehicle crashes are an obvious risk of impaired driving. Thus, it is not unusual for impaired driving prosecutions to follow post-crash investigations, which typically include questioning of the suspected driver. When the State prosecutes impaired driving cases that follow certain types of crashes—namely single car crashes to which there are no witnesses other than the driver—it frequently encounters arguments from the defendant that the rule of *corpus delicti* renders the State's evidence insufficient to convict.

My colleague Jessie Smith wrote [here](#) about the rule of *corpus delicti*, which traditionally required evidence independent of a defendant's confession to establish the *corpus delicti* of a crime, a term defined to include proof of injury or loss and proof of criminal agency. The rule has evolved in North Carolina to permit the State, in noncapital cases, to establish a defendant's guilt based on a sufficiently corroborated confession, even absent independent proof of the *corpus delicti*. In noncapital cases, such as impaired driving, a defendant's confession may establish his guilt if supported by substantial independent evidence tending to establish the trustworthiness of the confession, including facts that the defendant had the opportunity to commit the crime. *State v. Parker*, 315 N.C. 222, 236 (1985). When there is no independent proof of the crime, strong corroboration of essential facts and circumstances in the confession is required. *Id.* Nevertheless, it is rare for the State in an impaired driving case to rely solely on the defendant's confession. Instead, the State typically relies on the defendant's statements as proof of some element of the crime (for example, driving) and produces independent evidence of the *corpus delicti*—as well as the remaining statutory elements.

North Carolina's appellate courts have applied the *corpus delicti* rule in the following impaired driving cases, concluding in each that the State's evidence was sufficient to survive the defendant's motion to dismiss.

- **State v. Trexler, 316 N.C. 528, 533 (1986).**

The trial court did not err by denying defendant's motion to dismiss on the basis that the State had failed to prove the *corpus delicti* of impaired driving. The defendant admitted that he wrecked his car a short time after drinking, that he left the scene and returned a short time later. The following independent evidence established the *corpus delicti*: (1) an overturned automobile was lying in the middle of the road and a single person was seen leaving the automobile; (2) when the defendant returned to the scene, he appeared to be impaired as a result of using alcohol; (3) the defendant later blew 0.14 on a breathalyzer; and (4) the wreck was otherwise unexplained.

- **State v. Highsmith, 173 N.C. App. 600 (2005).**

The *corpus delicti* rule was not violated where defendant's admission that he had taken a pain medication called Floricet was corroborated by expert testimony about the effects of this medication and by testimony from law enforcement officer about defendant's behavior.

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- **State v. Cruz, 173 N.C. App. 689 (2005).**

The State sufficiently corroborated the essential facts of defendant's confession that he was driving in a case in which, "[a]bsent defendant's confession, the circumstantial evidence of defendant's driving would likely not be enough to

support a conviction.” Several officers and witnesses testified to defendant's drinking and impairment. A car similar to the defendant's was seen traveling down the road near an accident involving another car and turning down a side street, just as defendant confessed to doing. The State also corroborated other aspects of the defendant's confession. The court concluded that under either the traditional or trustworthiness approach to the *corpus delicti* rule, the State offered corroborating evidence that when considered with defendant's statements is sufficient to survive defendant's motion to dismiss.

- **State v. Foye, ___ N.C. App. ___, 725 S.E.2d 73 (2012).**

The State presented sufficient evidence that the defendant drove while impaired, and the State's reliance on the defendant's admission that he had been driving after leaving a club did not violate the rule of *corpus delicti*. In addition to the defendant's admission that he drove the vehicle that an officer discovered in a ditch, the State introduced evidence that the vehicle was registered to the defendant, the defendant was found walking on a road near the scene of the accident, the defendant had injuries consistent with someone that had been in a wreck, and the defendant was impaired based on the results of a blood test administered approximately two and a half hours after the accident.

- **State v. Morvay, 731 S.E.2d 276 (N.C. App. August 21, 2012) (unpublished).**

The State presented sufficient evidence that the defendant was the driver of the vehicle. Strong corroboration of defendant's confession was not required by *corpus delicti* rule where the State presented substantial independent evidence that the defendant was the driver. The State's evidence showed that (1) the defendant was at the scene of the accident and was the only person located near the vehicle; (2) the driver's side door was open and the defendant was placed on a gurney touching the driver's side of the vehicle.

The court's determination in these cases that the State's evidence was sufficient to survive a motion to dismiss and that it comported with the rule of *corpus delicti* is not particularly surprising, given the independent evidence in each that the offense occurred. The State acquires substantial, independent evidence in most impaired driving investigations. Thus, while the defendant's confession may be important in establishing a single element of the crime, it rarely is the sole evidence of the *corpus delicti*.