

News Roundup

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With the General Assembly in session and the Supreme Court in term, each week brings a flood of interesting news. The top story this week was probably the Court's decision in [Michigan v. Bryant](#), a Confrontation Clause case in which the Court held that a mortally wounded shooting victim's statements to police about the "identification and description of the shooter and the location of the shooting were not testimonial" because they were made in connection with an ongoing emergency. I'm hoping to entice Jessie Smith into a writing a post dissecting the case. For now, I'll note that one interesting facet of the decision is that Justices Scalia and Ginsburg were the two dissenters -- not a combination you see every day.

In other news:

1. Lawyers with a federal practice will be interested in the Court's decision in [Pepper v. United States](#), in which the Court held that "[w]hen a defendant's sentence has been set aside on appeal, a district court at resentencing may consider evidence of the defendant's postsentencing rehabilitation" in determining the appropriate sentence.
2. The Court also heard oral argument in another Confrontation Clause case, *Bullcoming v. New Mexico*. One view of the oral argument is presented [here](#). The case concerns a subject that has been covered extensively on this blog -- whether and when the state can use a substitute analyst to testify about lab work. The Court's decision could significantly impact the law in that area, though several commentators have read the tea leaves to suggest that the Court will rule that substitute analysts generally can't be used, which is consistent with North Carolina case law.
3. Turning to the General Assembly, the *News and Observer* just ran an [AP story](#) about legislative efforts to change the law regarding killing fetuses, or unborn children, depending on your preferred lexicon. Here's the gist: "GOP lawmakers, some crime victims and anti-abortion groups are promoting legislation to make it a felony for an attacker to kill or injure a fetus at any stage of infant development, whether or not anyone knew about the pregnancy. The measure would repeal an existing state law that raises the criminal penalty for assaulting a woman the attacker knew was pregnant." The bill in question appears to be [HB 215](#). It would create several fetal homicide crimes, including a new noncapital Class A felony entitled "murder of an unborn child."
4. The *News and Observer* had a couple of other interesting stories this week, including [this one](#) about the tough job market for new lawyers, and [this one](#) reporting that the DEA has taken action against synthetic cannabinoids such as "Spice."
5. Regular readers of this blog know that I have a soft spot for gadgets. Naturally, I was atwitter with excitement when the iPad 2 came out this week . . . but I was equally fascinated by [this story](#) (hat tip: Crime and Consequences), which begins as follows: "The Burnsville Police Department was the first law enforcement agency in the state [of Minnesota] to use body cameras when it started equipping officers with the technology last summer. Officers credit the video tool for helping them capture a much better image of what is going on when they are out on the streets. They have also helped clear cases of allegations of police misconduct in a matter of minutes instead of several weeks." Apparently, the cameras, made by Taser, are usually worn on the officer's hat, and record to a computer worn at the officer's belt. The department in question is discontinuing in-car cameras, which are more expensive (and always seem to miss the most

important stuff, though no one said that in the story).

6. Finally, I am intrigued by [this New York Times story](#), which reports that a retired chemistry professor in Pennsylvania has been indicted federally for jury tampering, based on standing outside courthouses and distributing "pamphlets encouraging jurors to ignore the law if they disagree with it, and to render verdicts based on conscience," i.e., to engage in jury nullification. It doesn't sound like the professor has targeted any specific jury, so I find the charges troubling. (As does a thoughtful commentator [here](#).) OTOH, the professor reportedly admits that he holds a sign reading "jury info" and that jurors sometimes "think [he's] official." To the extent that he's cultivating the false impression that he's a court official, that's also concerning.