

Page Printed From:

<https://www.law.com/dailyreportonline/2022/08/31/metro-atlanta-firm-scores-defense-wins-in-3-criminal-cases/>

NOT FOR REPRINT

NEWS

## Metro Atlanta Firm Scores Defense Wins in 3 Criminal Cases

"It was a huge relief because [Bradley Jones Minish] has four children with this woman and was very close to his children," said his lawyer, Amy Carter. He was literally facing a life sentence. If he was convicted, he was not going to see his children again."

August 31, 2022 at 04:21 PM

Criminal Law

Everett Catts

A metro Atlanta law firm recently successfully defended three clients in criminal cases where, if convicted, the defendants faced a range of sentences from losing their own business to life in prison.

Partners at Banks Stubbs & McFarland in Cumming represented the accused in the three cases before juries, with Rafe Banks III serving on behalf of a man in a DUI case, Amy Carter representing a man accused of rape, and Jacob Stidham serving on behalf of a man accused of sexual assault.

### DUI case

In the DUI case, Banks' client, who is not being identified due to the nature of the case, was arrested in January 2019 after the police clocked him driving 91 mph in a 65 mph zone on Ga. 400 in Forsyth County. He was charged with two counts of DUI (per se and less safe), speeding and failure to maintain his lane.

The man had already been convicted of DUI once, and because it was his second DUI arrest in five years, a second conviction would mean he could lose his license and work permit, along with going to jail for a year. As someone who's self-employed, losing his work permit would kill his business, Banks said.

The man blew a blood alcohol level of 0.17 in his breathalyzer test, just over twice the legal limit, his lawyer added. But because the Forsyth County Sheriff's Office used the Intoxilyzer 9000 device, which has been known to be inaccurate, to measure his client's blood alcohol level, he questioned its validity. Also, Banks said the sheriff's deputies' video showing the man's behavior during the arrest indicated he wasn't drunk.

The Intoxilyzer 9000 "has to have quarterly inspections, and as it turned out, the paperwork in those quarterly inspections showed there had been some problems with the radio frequency interference and had to consult with the GBI about changing the location of the instrument in the jail," he said. "That was something to work with but it came from the state's own paperwork."

Banks added that the Intoxilyzer 9000 is not used much today to test for blood alcohol levels because of some recent appellate decisions regarding its inaccuracy, and that in the past five years, two lawsuits challenging the constitutionality of breathalyzer tests—*Elliott v. State* and *Olevik v. State*—have gone before the Georgia Supreme Court.

"Almost all officers will ask for a blood test instead of a breath test," he said.

In a March trial, a Forsyth State Court jury acquitted the man on all charges except speeding, which he admitted to. When asked what this case's takeaway was, Banks added, "It proved the old adage: There's no case that can't be won and there's no case that can't be lost."

Forsyth Solicitor General William Finch, who prosecuted the case, declined to comment on the case.

## **Rape case**

In the second case, Carter represented Bradley Jones Minish, a Banks County man accused of raping his wife as they were going through a divorce. He was indicted in August 2019 and found not guilty by a Banks County Superior Court jury in April.

Carter, who represented Minish both in his divorce and rape cases, said his wife accused him of rape as she pressured him to sign divorce papers. If convicted, he could have been sentenced to life in prison.

"It was a huge relief because he has four children with this woman and was very close to his children," she said. "... I was able to get him a lot of visitation [rights] with his children. He was literally facing a life sentence. If he was convicted, he was not going to see his children again."

Carter added that since the trial ended, Minish's children are living with him full-time. Prior to the rape charge, he had "very liberal visitation, being able to see his kids every week," she said.

Carter noted that Minish's wife's rape accusation didn't make sense.

"If she was truly raped, one of the most serious sexual violations we have [in Georgia's legal system], to me the last thing on her mind would be to have the [alleged rapist] sign some divorce papers," she said. "But yet after the incident happened, she kept texting him to sign the papers."

When asked what the case's takeaway was, Carter said, "It was truly an example of how frequent it happens in terms of women making false allegations in divorce and custody situations, whether it is a rape allegation or something else. I have another custody case and there's claims of child molestation."

She added that Minish had to wear an ankle monitor for three years while awaiting trial, and that he's accused of aggravated stalking in another case in Banks County.

Phone and email messages left with assistant district attorney Hannah Hensley, who prosecuted the case, seeking comment on the case were not returned by deadline.

## **Sex assault case**

In the third case, Stidham represented Brandon Lee Webster, a White County man accused of sexually abusing a woman he had just met. After being arrested in December 2019 and charged with seven counts, including aggravated assault, false imprisonment, sexual battery, escape and interference with government property, Webster spent nearly two years in jail while awaiting a trial that was delayed by the COVID-19 pandemic.

During a May trial before a White Superior Court jury, he was dismissed of or acquitted on all counts except possession of methamphetamine, which he admitted to and got two years (time served) for. Stidham said Webster's charge of possession of more than one ounce of marijuana was dismissed because the police "couldn't prove the identity of the substance."

According to a news release, the judge also dismissed the escape and sexual battery charges due to insufficient evidence, and the jury acquitted Webster on the remaining charges. But if convicted, he faced up to 41 years in jail.

"Obviously we're very happy and relieved he was able to go home after all this was said and done," Stidham said. "It was a very long process for him with the COVID delays being stuck in jail for almost two years. He was very relieved and happy to finally go home at the end of this whole process."

He said the case hinged on the woman's testimony, which was suspect, adding the defense was confident she was lying based on the police evidence contradicting her story.

When asked what this case's takeaway was, Stidham said, "This one was kind of one of those situations where the quote 'When preparation meets opportunity' comes to mind. That was kind of what this case was. ... We had done quite a bit of preparation work, given the seriousness of the charges."

Jeff Langley, district attorney for the Enotah Judicial Circuit, which includes Lumpkin, Towns, Union and White counties, did not return a phone message seeking comment on the case by deadline.