

David J. Williams
Jarvis, McArthur & Williams
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Burlington, VT
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Current Employment -

Jarvis, McArthur & Williams, June 2011 to present

Criminal and civil litigation in state and federal courts

Prior Law Related Employment

Law Offices of David J. Williams, January 2011-May 2011

Criminal and civil litigation in state and federal courts

Sleigh & Williams, P.C. 1991-2010

Criminal and civil litigation in state and federal courts

Office of the Defender General, 1988-1991

Responsible for defending indigent clients charged with drug offenses before Vermont's trial and appellate courts

Legal Aid Society of New York, 1984-1988

Appellate attorney responsible for representing indigent criminal defendants in New York's appellate courts

Educational Degrees

1974 – BA-Marquette University
Major – History

1981 – Ph.D. – University of New Hampshire
Modern American History

1984 – JD - Cornell Law School, Ithaca, New York

Reported Federal Cases

Sakoc v. Carlson, 2016 WL _____ - District Court's summary judgment order granting state trooper's claim for qualified immunity reversed

United States v. Miller, 808 F.3d 607 (2d Cir. 2015), 2015 WL 8952660 - High Seas venue statute applies to crimes committed in the United States

U.S. v. Aguiar, 737 F.3d 251 (2d Cir. 2013), cert. denied, 2014 WL 1905258 - good faith exception applies to GPS device attached to vehicle without a warrant

Lyndonville Savings Bank v. Lussier, 211 F.3d 697 (2d Cir. 2000) - \$8.7 million judgment reversed and case dismissed for lack of subject matter jurisdiction

Guiles v. Marineau, 416 F.3d 320 (2d Cir. 2006) – student free speech rights vindicated

United States v. Carter, 58 Fed. Appx. 867, 2003 WL 282453 (2d Cir. 2003) - defendant advising co-defendant not to testify was not ground for obstruction of justice

U.S. v. Scott, 178 F.R.D. 49 (D. Vt. 1998) – other act evidence inadmissible in drug conspiracy trial

U.S. v. Scott, 996 F. Supp. 358 (D. Vt. 1998) - prosecutor did not intentionally provoke mistrial in violation of defendant's right against double jeopardy

U.S. v. \$2542 in United States Currency, 754 F. Supp. 378 (D. Vt. 1990) – state court has prior exclusive jurisdiction in federal forfeiture matter

Guiles v. Marineau, 349 F. Supp.2d 871 (D. Vt. 2004) - student free speech limited by trial court

Barrett v. Prison Health Services, Inc., 647 F. Supp. 2d 314 (D. Vt. 2009) – court does not have subject matter jurisdiction over non-diverse defendant

Lowry v. Com of Canada, 917 F. Supp. 290 (D. Vt. 1996) – court does not have subject matter jurisdiction over Canada for property damage caused by helicopter in U.S.

U.S. v. Greer, 958 F. Supp. 192 (D. Vt. 1997) – severance not warranted in drug conspiracy case

U.S. v. Greer, 956 F. Supp. 520 (D. Vt. 1997) – motion to dismiss indictment denied

Unreported Federal Cases

Bruce Strauss, Bankruptcy Trustee, v. Hibbitts, 2016 WL ____ - legal malpractice claim survives summary judgment after bankruptcy trustee substituted as party in interest

U.S. v. Emerson, 2016 WL 1047006 - application of sentencing guidelines to a newly listed Schedule I controlled substance, a-PVP (commonly referred to as "bath salts")

Bettis v. Bean, 2015 WL ____ - police officer did not use excessive force when he broke elderly man's arm using rear wrist lock

Sakoc v. Carlson, 2015 WL _____ - police officer entitled to qualified immunity based on "arguable probable cause"

United States v. Baez-Garcia, _____ WL _____ - collective knowledge doctrine

Todd v. Hatin, et al., 2014 WL 5421232 - corrections officials' motion for summary judgment on Eighth Amendment claim for unlawful imprisonment denied

Sakoc v. Carlson, 2014 WL _____ - motion to exclude testimony of Drug Recognition experts granted

United States v. Hercules, 2014 WL 1598015 - motion to suppress statements on 5th and 6th Amendment grounds denied

United States v. Mayo, 2013 WL 5945802 - warrantless cell phone search violates 4th Amendment

United States v. Reed, 2013 WL 5503691 - cell phone search authorized by warrant does not violate 4th Amendment

Dunnells v. TechTrade, Ltd., 2013 WL _____ - motion to amend complaint granted after Plaintiff invoked Vermont's discovery rule related to statute of limitations

Todd v. Hatin, et al., 2013 WL 3990815 - corrections officials' motion to dismiss Eighth Amendment claim for unlawful imprisonment denied

Rotman v. Progressive Insurance and Concord Group, 2013 WL 3293531 - insurance carriers' motions for summary judgment denied in underinsured motorist action

Sakoc v. Carlson, 2012 WL 3929904 - police officer's motion for summary judgment and qualified immunity denied in civil rights action

U.S. v. Tabares, 2012 WL 845293 – defense motion to suppress statements denied

U. S. v. Aguiar, 2011 - defense motion to suppress Title III wiretap evidence denied

U.S. v. Aguiar, 2011 WL 976496 – search warrant affidavit established probable cause to issue so-called “hybrid” trap & trace/pen register orders

Barrett v. Prison Health Services, 2010 WL 2868216 – disputed facts related to duty of private prison health care provider to correctional officer needs jury resolution

Towsley v. Frank, 2010 WL 5394837 – defendant police officer not entitled to summary judgment on excessive force/qualified immunity for deploying taser on plaintiff after plaintiff went out of a second floor window

U. S. v. Molodtsova, 2010 WL 723688 – automobile stop and subsequent search did not violate Fourth Amendment

U.S. v. Masterson, 2009 WL 2365334 - vehicle search did not violate Fourth Amendment

U.S. v. Greer, 1997 WL 82797 (D. Vt.) – motion to dismiss indictment on speedy trial grounds denied

U.S. v. Ryan, 2008 WL 901538 (D. Vt.) – evidence seized pursuant to search warrant suppressed because warrant did not specify property to be seized

U.S. v. Ryan, 2009 WL 1545794 (D. Vt.) – “good faith” exception does not apply to invalid warrant obtained by ICE agents

U.S. v. Ryan, 406 Fed.Appx. 565 (2d Cir. 2011) – defendant’s sentence was not substantively unreasonable

U.S. v. Gravel, 323 Fed. Appx. 55 (2d Cir. 2009) – guideline sentence affirmed

Honkala v. Vermont DOC, 2006 WL 2252370 (D. Vt.) – diabetic prisoner did not exhaust administrative remedies before filing civil rights action

U.S. v. Breault, 2005 WL 1278517 (D. Vt.) - motion to resentence denied, *Booker* decision cannot be applied retroactively

United States v. Campbell, Doc. No, 93-1803, 2d Cir., 4/13/94, entry order affirming sentence

Reported State Cases

New York Court of Appeals

People v. Murphy, 508 NE 2d 920 (NY 1987) – manslaughter conviction reversed for double jeopardy violation

People v. Thompson, 503 NE 2d 1369 (NY 1986) – counsel did not provide ineffective assistance of counsel; conviction later reversed after defense discovered that prosecutor failed to provide exculpatory evidence to trial counsel

Appellate Division, New York Supreme Court

People v. Frias, 526 NYS 2d 852 (2d Dept. NY) – police testimony at suppression hearing was not inherently improbable

People v. Brown, 516 NYS 2d 498 (2d Dept. 1987) – trial court’s order limited voir dire to 10 minutes was not abuse of discretion

People v. Jones, 512 NYS 2d 701 (2d Dept. 1987) – trial court’s decision not to charge lesser included offense was correct

People v. Goggans, 506 NYS 2d 908 (2d Dept. 1986) – charges dismissed because prosecutor failed to produce witnesses at suppression hearing

People v. Young, 502 NYS 2d 414 (2d Dept. 1986) – state’s evidence proved charges beyond a reasonable doubt

People v. Tanner, 494 NYS 2d 901 (2d Dept. 1985) – evidence insufficient to sustain conviction

People v. Hodges, 496 NYS 2d 414 (2d Dept. 1985) – claim of right defense not available in robbery prosecution

People v. Murray, 525 NYS 2d 577 (2d Dept. 1988) – court’s jury charge did not violate defendant’s rights

People v. Collins, 528 NYS 2d 41 (1st Dept. 1988) – conviction reversed because prosecutor improperly implicated right to counsel

People v. Henderson, 554 NYS 2d 924 (2d Dept. 1990) – child sexual abuse conviction reversed because defendant’s right to confrontation was violated

People v. James, 536 NYS 2d (2d Dept. 1989) – murder conviction affirmed

People v. Colon, 531 NYS 2d 355 (2d Dept. 1988) – conviction reversed because court’s charge to jury improperly drew attention to defendant’s failure to testify

People v. Torres, 529 NYS 2d 37 (2d Dept. 1988) – defendant’s conviction affirmed

Vermont Supreme Court

State v. Birchard, 2010 VT 57, 2010 WL 2521002 – Article Eleven requires suppression of evidence discovered during unlawful search of closed backpack

State v. Kirchoff, 156 Vt. 1 (1991) – Article Eleven protects open fields in Vermont

State v. Brooks, 157 Vt. 490 (1991) – Article Eleven does not protect conversations in public places

State v. Savva, 159 Vt. 616 (1991) – Article Eleven requires warrant to search automobile

State v. Hall, 168 Vt. 327 (1998) – Article Eleven does not protect un-posted property beyond curtilage

State v. Simpson, 156 Vt. 349 (1991) – use of paid informants to target specific persons in drug sting does not offend state constitution

State v. Veburst, 156 Vt. 133 (1991) – defendant waived claim that search warrant application did not provide sufficient information to demonstrate probable cause

State v. Terry, 159 Vt. 531 (1993) – federal forfeiture proceeding preempted motion to return property

State v. Wetherbee, 177 Vt. 274 (2004) - federal forfeiture proceeding preempted motion to return property

State v. Cadorette, 175 Vt. 268 (2003) – life sentence reversed and new trial ordered because trial court failed to arraign defendant

State v. Roberge, 155 Vt. 121 (1990) – State offered sufficient evidence to prove that defendant eluded the police

State v. Webster, 165 Vt. 54 (1996) – trial court did not violate defendant’s right to cross-examine witnesses at trial

State v. Hanks, 172 Vt. 93 (2001) – trial court violated defendant’s right to cross-examine state’s expert in DUI trial

State v. Bradley, 164 Vt. 346 (1995) – trial court did not have authority to dismiss prosecution after out-of-state police witnesses avoided depositions

State v. Findlay, 171 Vt. 594 (2001) - trial court violated defendant’s right to cross-examine witnesses at trial

Harsch Properties v. Nicholas, 182 Vt. 196 (2007) – implied duty of good faith and fair dealing is an implied term of contract

State v. Defranceaux, 170 Vt. 561 (2000) – police did not violate Article Eleven during search of defendant’s home

State v. Allocco, 162 Vt. 59 (1994) – Miranda warnings not required when police questioned defendant in his business office

In re Karpin, 647 A.2d 700 (Vt. 1993) – evidence justified disbarment of attorney

In re Grievance of Towle, 665 A.2d 55 (Vt. 1995) – dismissal of probation officer justified

Searles v. Vt. AOT, 171 Vt. 562 (2000) – state had no duty to replace warning sign removed several years earlier

Federal Civil Trials

Guiles v. Marineau, 349 F.Supp.2d 871 (D. Vt. 2004) – Student free speech

Federal Criminal Trials

USA v. McNeely, 94-72 – Mann act violation (1994)

USA v. Scott, 95-cr-72-8 – Drug conspiracy and Maritime Drug Act (1997)

USA v. Aguiar, 09-cr-90 – Conspiracy to distribute drugs (2011)

USA v. Johnson, 09-cr-64 - Conspiracy to distribute drugs (2011)

USA v. Baez-Garcia, 10-cr-88 - Conspiracy to distribute drugs (2015)

State Civil Trials

Lussier v. Bailey, 166-6-00 Cncv, April 2003 – Attorney malpractice

Constantine v. V.A.S.T., 15-1-09 Wncv, April 2011 – personal injury

Watson v. Village of Northshore, Inc. - _____ Cncv, July 2016 - violation of contract

State Criminal Trials

State v. McAllister, 481-5-15, Frccr, June 16, 2016 - Sexual Assault

State v. Reid, 552-8-08 Lecr, October 18, 2010 – Aggravated Sexual Assault

State v. Reid, 565-9-08 Lecr, June 28, 2010 – Aggravated Assault

State v. Gravel, 697-9-07 Cacr, June 18, 2008 – DWI

State v. Dauphin, 82-2-08 Cacr, May 30, 2008 – DWI

State v. Birchard, 564-9-07 Oscr, May 9, 2008 – Possession of Marijuana-felony

State v. Mooney, 424-5-06 Cacr, October 17, 2006 – DWI

State v. Field, 18-2-06 Excr, August 17, 2006 – DWI

State v. Spaulding, 367-6-05 Cacr, July 25-26, 2006 – Conspiracy to Deliver Cocaine

State v. Pierce, 1176-9-05 Wncr, July 24, 2006 – DWI ⁶/DLS

State v. Scott, 403-8-05 Oscr, April 17, 2006 – DWI

State v. Miles, 881-12-03 Cacr, June 16, 2004 – DWI ³

State v. Powers, 719-12-02 Oscr, June 17, 2003 – Sale of Marijuana and Cocaine

State v. Wallace, 1-1-01 Excr, August 19, 2002 – DWI

State v. Carter, 300-4-01 Cacr, April 24, 2002 – DWI

State v. Giroux, 382-7-01 Oscr, December 13, 2001 – Negligent Operation and ATE

State v. Wing, 326-4-01 Cacr, August 1, 2001 – DWI

State v. Austin, 1176-10-98 Cacr, May 9, 2001 – DWI

State v. Spring, 18-1-00 Cacr, October 30, 2000 – DWI

State v. Powell, 763-8-00 Cacr, October 4, 2000 – Simple assault

State v. Graveline, 62-6-99 Excr, February 24, 2000 – DWI

State v. Parenteau, 131-2-99 Cacr, October 28, 1999 - SAPO

State v. Crowe, 23-3-99 Excr, November 12, 1999 – DWI

State v. Sholan, 21-1-99 Cacr, October 13, 1999 – Domestic Assault

State v. Hanks, 1091-10-98 Cacr, September 28, 1999 – DWI

State v. Brown, 1261-11-98 Cacr, April 8, 1999 – DWI

State v. Findlay, 1121-7-97 Wmcr, March 29, 1999 – Sale of Marijuana

State v. Barnes, 503-5-98 Cacr, February 16-17, 1999 – DWI

State v. McElroy, 131-2-98 Cacr, February 9, 1999 – Simple Assault

State v. Mitchell, 232-3-98 Cacr, January 13, 1999 – Domestic Assault

State v. Davio, 628-7-98 Cacr, November 23, 1998 – Impeding a police officer

State v. Mitchell, 53-6-97 Excr, September 10, 1998 – DLS/Attempting to Elude

State v. Greeno, 43-6-97 Excr, August 7, 1998 – Resisting Arrest

State v. Bandy, 961-9-97 Cacr, February 12, 1998 – Assault w/deadly weapon

State v. Stone, 957-7-97 Cacr, February 11, 1998 – Impeding a police officer
State v. Kelly, 730-10-97 Oscr, January 19, 1998 – DWI⁴/DLS³
State v. Dickey, 939-9-97 Cacr, January 13, 1998 – Negligent Operation
State v. Crown, 479-5-97 Cacr, November 4, 1997 – Violation Abuse Prevention Order
State v. Cheney, 563-6-97 Cacr, October 22, 1997 – DWI
State v. Forant, 80-1-97 Cacr, September 4, 1997 – Domestic Assault
State v. Peltier, 61-1-97 Cacr, July 14, 1997 – Retail Theft
State v. Leget, 190-3-97 Cacr, July 11, 1997 – Domestic Assault
State v Somers, 1109-12-97 Cacr, April 22, 1997 – Unlawful Trespass
State v. Farrell, 1025-11-96 Cacr, February 11, 1997 – Simple Assault
State v. Serrano, 142-10-96 Excr, January 9, 1997 – C & N
State v. Pelow, 864-9-96 Cacr, January 8, 1997 – DWI³
State v. Boutin, 776-8-96 Cacr, November 19, 1996 – Sale Regulated Drug
State v. St. George, 1063-12-95 Cacr, June 26, 1996 – DLS
State v. Klee, 971-11-95 Cacr, March 13, 1996 – DWI
State v. Bassett, 780-9-96 Cacr, February 1, 1996 – DWI³
State v. Pelow, 554-7-95 Cacr, October 17, 1995 – Domestic Assault
State v. Halden, 265-4-95 Cacr, September 18, 1995 – DWI³
State v. Moreau, 15-2-94 Excr, September 5-8, 1995 – C&N-Fatal/Invol Manslaughter
State v. Ewen, 81-1-95 Cacr, June 14, 1995 – Aggravated Assault, Simple Assault
State v. Noyes, 58-1-95 Cacr, May 17, 1995 – Escape
State v. Broome, 493-9-94 Oscr, March 2, 1995 – Simple Assault
State v. Mercado, 3308-7-94 Wncr, Delivery of Heroin
State v. Reed, 630-8-94 Cacr, January 17, 1995 – SAPO
State v. Chicoine, 1883-5-94 Cncr, Selling Cocaine, 3 counts
State v. Muzzy, 354-5-94 Cacr, November 9, 1994 – DLS
State v. Beer, 834-11-93 Cacr, October 13, 1994 – DWI
State v. Skinner, 735-10-93 Cacr, October 3, 1994 – DWI
State v. Sawyer, 736-10-93 Cacr, September 26, 1994 – DWI²
State v. Richard, 756-11-93 Cacr, September 26, 1994 – Unlawful Mischief
State v. Gann, 738-10-93 Cacr, September 15, 1994 – DWI

State v. Cahill, 167-3-94 Cacr, August 26, 1994 – Disorderly Conduct
State v. Collins, 417-9-93 Oscr, July 19, 1994 – DWI-felony
State v. Reed, 162-2-94 Cacr, June 22, 1994 – Domestic Assault
State v. Sweetland, 488-7-93 Cacr, June 20, 1994 – DWI
State v. Langmaid, 277-3-93 Cacr, April 13, 1994 – DWI
State v. Boise, 71-1-93 Cacr, April 12, 1994, - DWI
State v. Marcy, 128-2-93 Cacr, March 16, 1994 – Simple Assault
State v. Franklin, 169-3-93 Cacr, March 15, 1994 – Viol Abuse Prevention Order
State v. Derouchie, 327-7-93 Oscr, February 1, 1994 – Cultivation of Marijuana
State v. Proper, 596-8-93 Cacr, January 11-13, 1994 – SxA-Minor
State v. Roya, 146-2-93 Cacr, November, 22, 1993 – DWI
State v. Blondin, 447-6-93 Cacr, November 17, 1993 – SA, UM
State v. Emerson, 476-8-92 Cacr, July 13, 1993 – DWI²
State v. Duprat, 19-2-93 Ecr April 27-28, 1993 – L&L, SxA
State v. Persons, 466-7-92 Cacr, January 13, 1993 – Simple Assault
State v. Reed, ____ - __-92 Cacr, December 18, 1992 – Simple Assault
State v. Poulin, 352-6-92 Cacr, November 24, 1992 – C&N, ATE
State v. Bryant, 67-8-92 Ecr, October 7, 1992 – UM, SA, SA
State v. Shattuck, 324-5-92 Cacr, October 1, 1992 – Simple Assault
State v. Esposito, 165-10-91 Ecr, August 5, 1992 – Aggravated Assault
State v. Pierson, 123-2-92 Cacr, June 24, 1992 - DWI
State v. Chapman, 993-12-91 Cacr, June 9-10, 1992 – Aggravated Assault
State v. Cook, 1003-12-91 Cacr, April 30, 1992 – Leaving Scene of Accident
State v. Belknap, 990-12-91 Cacr, April 29, 1992 – Taking Deer
State v. Pilette, 1012-12-91 Cacr, April 28, 1992 – DWI
State v. Little, 850-10-91 Cacr, April 14, 1992 – Simple Assault
State v. Hambley, 858-10-91 Cacr, April 13, 1992 – Petit Larceny
State v. Goyette, 896-10-91 Cacr, April 7, 1992 – DWI
State v. Sweet, _____ Cncr, March 1990 – sale of marijuana

Bar Memberships

Appellate Division, Third Department, New York, 1985 – present
Vermont Supreme Court, 1989 – present
United States Court of Appeals, Second Circuit, 1998 – present
United States District Court for the District of Vermont, 1990 - present

Lectures/Presentations

June 2015 - Green Mountain Juvenile and Criminal Defense Institute
The "Good Faith" Exception to the exclusionary rule: The Dutch Elm disease of the law

May 23, 2013 – Lorman Education Services Seminar-Personal Injury 101
Introduction to personal injury law - expert testimony and use of computer graphics at trial

June 4, 2009 – Green Mountain Juvenile and Criminal Defense Institute
Lecture to criminal defense practitioners on search and seizure issues related to automobile stops

February 11, 2003 – Lorman Education Services Seminar-Strategies in Handling DWI cases in Vermont
All day seminar to criminal defense practitioners relating to all aspects of DWI defense.

Publications

“The Bureau of Investigation and Its Critics, 1919-1921: The Origins of Federal Political Surveillance,” *Journal of American History* (December 1981)

“‘They Never Stopped Watching Us’: FBI Political Surveillance, 1924-1936,” *UCLA Historical Review* (1981)

“‘Sowing the Wind’: The Deportations Raids of 1920 in New Hampshire,” *Historical New Hampshire*, (Spring 1979)

Awards

Cornell Law School, Earl Warren Prize for writing, 1982
Co-recipient, David Curtis Civil Liberties Award, Vermont Civil Liberties Union, 2006

Expert Testimony

In re Drew McNeil, Doc.No. ____ Wncv

In re: Rebecca Wetter, Doc.No. _____ Cncv

In re: Jamie Ovitt, Doc.No. 239-10-06 Oscv

In re: Bruce Cohen, 161 Vt. 432 (1994)

Other Activities

Fellow, International Academy of Trial Lawyers, inducted April 2016

Board member, Vermont Civil Liberties Union

Committee member reviewing performance of Vermont's Federal Defender