



# CaseLaw Update

## Prosecuting Attorneys' Council of Georgia

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### CaseLaw This Week

Week Ending January 14, 2005

#### • Search & Seizure

#### Search & Seizure

*Dixon v. State*, A04A1682 (01/05/05), 2005  
Ga. App. LEXIS 1.

Defendant pleaded guilty to possession of cocaine and driving on a suspended license and was sentenced to probation. On October 6, 2003, the State brought an action to revoke Defendant's probation, alleging he had violated probation by possessing a firearm, carrying a concealed weapon, driving under the influence of alcohol and drugs, violating the open container law, and driving with defective equipment. The arresting officer testified that he noticed a Dodge Durango missing a fog light. He initiated the traffic stop, after the vehicle passed him twice, for the safety of the driver and vehicle. The Defendant admitted he had been drinking. The officer placed the Defendant under arrest, searched the Defendant's vehicle and found a .40 caliber pistol. The Defendant then admitted that he was a convicted felon, that he was a regular user of marijuana and cocaine and that he had used cocaine earlier that evening. On appeal, the Defendant argued that his motion to suppress should have been granted because the arresting officer did not have a reasonable, articulable suspicion for stopping the vehicle, because it is not a violation of the law to operate a vehicle with a defective fog light. **The Court held that the officer had a good faith, reasonable belief, based on his**

**training that all lights found on a vehicle were required to be in good working order. It was not the officer's function to determine on the spot, whether a malfunctioning fog light fell within the definition of equipment required to be in proper working order pursuant to O.C.G.A. § 40-8-7. The fact that his subsequent research revealed that a vehicle is not required to have fog lights did not render the stop invalid. Under the totality of the circumstances, the officer's motives and actions were not arbitrary or harassing. Judgment affirmed.**