



**JUNE 26, 2017**

## Jones v. State

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*The Georgia Supreme Court rules there is minimal prosecutorial need for the unfairly prejudicial evidence of a prior DUI conviction in a subsequent DUI prosecution*

In *Jones v. State*, S16G0890 (6/26/17), defendant was convicted of DUI after a trial in which a prior DUI was admitted for the purpose of showing intent and knowledge under Rule 404 (b). The Supreme Court restated that Jones' prior DUI was relevant for the purpose of establishing intent, and again rejected the idea that prior DUIs were never admissible due to the general intent requirement to prove DUI. In this case, however, applying the Rule 403 balancing test, the Supreme Court found that the probative value of the prior conviction was substantially outweighed by the danger of unfair prejudice. The Court noted that the probative value was very low due to the undisputed facts of the defendant's driving, his consumption of alcohol, his speeding, and the results of the test showing his BAC was over the .08 legal limit. The Court expressed disapproval of the trial court's failure to conduct an evidentiary hearing or withholding its ruling on the admission of the prior conviction until evidence had been completed and a proffer made about its intended use and noted their concern that the prior act was used for purposes not addressed when moving for its admission. The Supreme Court still leaves the door open for the admissibility of prior bad act evidence in other cases, including for knowledge.