

# Death-by-distribution law yields seven prosecutions in region to date



Ray Gronberg, Henderson (N.C.) Daily Dispatch

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Aug. 27—HENDERSON — Since it went into effect late in 2019, authorities in the Tri-County region have lodged death-by-distribution charges seven times against people they believe sold drugs to people who later died of an overdose.

Only one of those cases has been resolved so far, on Aug. 15 with a guilty plea from Aaron Lloyd, 26, of 64 Mary Day Drive, Louisburg. He was sentenced to serve between about 6 and 8 years in prison, and according to the N.C. Department of Public Safety was admitted to the state's Craven Correctional Institution near Vanceboro in Down East North Carolina on Aug. 23,

The case — which stemmed from the January 2021 death of 38-year-old Tagreed Ertley — is one of six the Franklin County Sheriff's Office has lodged under the new statute.

After Lloyd's conviction, Franklin County Sheriff Kent Winstead said he views the death-by-distribution statute as "an effective tool in our efforts to address the source" of dangerous drugs, and that his office "will continue to pursue the source of these illegal and dangerous drugs that plague our communities."

Charges from the Franklin sheriff's office remain pending against Kristen Jade Bailey, Matthew James Bond, George Lamont Perry, Tyree Montrel Person and Taylor Austin Proctor, District Attorney Mike Waters' office said. The oldest of those cases, against Bailey and Bond, date from April 2020. The most recent of them, against Person, was filed this February.

The Granville County Sheriff's Office filed the remaining case in the area, against Oxford resident Frederick Thomas Jones, in August 2021. It also remains pending. Granville sheriff's officials have said it stems from an overdose death that happened in Orange County, and that they investigated in conjunction with the Chapel Hill Police Department.

The Vance County Sheriff's Office hasn't lodged a death-by-distribution charge in its jurisdiction, but that's not for want of trying, Sheriff Curtis Brame said.

"The case is hard to prove," Brame said, adding that one of his detectives, William Mitchell, is assigned to work such cases.

Even though Mitchell has "turned over every leaf," the Vance force to date hasn't been able to "find anything concrete to charge anyone," Brame said.

There have been no death-by-distribution cases filed from Warren or Person counties, which are part of the same prosecutorial district as Franklin, Granville and Vance counties.

The shortage of cases has been drawing criticism from local activists like Patricia Drewes, who co-founded Forgotten Victims of Vance, Granville, Franklin and Warren counties after her only child died because of a fentanyl overdose three years ago.

She said the burden of bringing death-by-distribution cases falls on sheriff's offices, and that she doesn't feel they're meeting it.

In Vance County, the Henderson Police Department does have two successful prosecutions to its credit that could've gone down as death-by-distribution cases if they hadn't stemmed from an incident that happened in 2019 before the new law took effect.

Two brothers, Tamar and Jamar Harris, now 20, were convicted in 2021 in connection with the July 26, 2019, death of Joshua Ryder.

A Vance County grand jury in February 2020 charged the Harris brothers with death by distribution of a controlled substance, but had to go back to it a month later for a "superseding indictment" that charged them instead with second-degree murder.

State legislators who passed the death-by-distribution law in 2019 specified that it would take effect on Dec. 1, 2019, and apply only to "offenses committed on or after that date."

The Harris brothers subsequently pleaded guilty to involuntary manslaughter.

Tamar Harris, who also pleaded guilty to heroin possession, attempted trafficking and conspiracy charges, received a sentence of 16 to 29 months, and wound up serving eight days in state prison because he received credit for spending about 20 months behind bars while he was awaiting trial.

Jamar Harris received two years probation, and according to the Department of Public Safety was still on probation as of Friday.

Neither brother had a prior criminal record that counted against them in sentencing, unlike Lloyd, who in 2015 was convicted of felony breaking and entering, and in 2020 was convicted on two counts of selling Schedule I drugs.

Waters' office, in answer to a series of questions The Dispatch posed to the DA, paralleled Brame in saying death-by-distribution cases are far more complex than an ordinary drug prosecution.

"A successful investigation requires homicide detectives and narcotics detectives to work in tandem to put the pieces together," the DA's staff said, adding that it encourages agencies when there's an overdose death to summon "detectives at an early stage, so they are involved in the investigation sooner, taking pictures of the crime scene, securing drug paraphernalia, phones and other electronic evidence, and promptly talking to the last known contacts of the decedent."

The 2019 law — which passed on split votes in both chambers of the N.C. General Assembly — specifies that the crime occurs when someone sells opiates, opioids, cocaine, meth, Schedule IV

depressants, or a mix of any of those to a person who dies after ingesting them. The drug has to be "the proximate cause" of the victim's death, and law applies when the seller "did not act with malice."

There's a second, aggravated level of the statute that kicks in when the seller has a criminal record with previous drug-dealing or trafficking convictions on it.

Normally, the actual sale "is going to be the hardest [thing] to prove" because unlike a normal drug-trafficking case, there isn't "a controlled purchase on video or witnessed by law enforcement — or anyone else that will cooperate," Waters' staff said. "Law enforcement in these cases must rely on circumstantial evidence gathered after the fact."

A 2018 white paper on "The Opioid Epidemic" from the National District Attorneys Association made a similar point, noting that it's a matter of "particular importance" to acquire access to the victim's cellphone and cellphone records, as "in many instances, a user will engage in a series of calls and/or texts with the drug dealer" to procure drugs shortly before overdosing.

Brame said his office has searched victims' cell records, but he added that while knowing who sold drugs to an overdose victim is "a start," that's "not enough alone to charge someone."

A case can require evidence acquired from a victim's family and associates, and that's often not forthcoming, he said.

But "under the old law it was damn near impossible to charge anybody," Brame said.

The National District Attorneys Association's white paper urged prosecutors to make death-by-distribution cases a priority not just for their own sake, but because the prospect of a more serious charge could give a dealer additional incentive to cooperate with law enforcement and "provide other actionable intelligence [on] broader distribution networks."

Criticism of laws like North Carolina's has come from groups like the Health in Justice Action Lab, a Massachusetts-based group that's compiled a how-to guide for defense attorneys who take on death-by-distribution cases.

Such laws are typically used against low-level dealers, authorities are more prone to use it when the victim is white, and they undermine public-health-based responses to the drug problem, the group argues.

"While it may offer some emotional value to some of the bereaved, and it may provide some political value to law enforcement and prosecutors to be seen 'doing something' about the opioid crisis, study after study demonstrates that tough law enforcement practices do not curb problematic drug use or trafficking on a large scale," it said in its "Drug Induced Homicide Defense Toolkit."

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