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MAN CLAIMS UNEQUAL TREATMENT SEES FAVORITISM IN DUI-REFUSAL INCIDENTS

COALE PARKER THE SUN HERALD

A lawyer who claims that Biloxi police dropped a DUI-refusal charge against a city employee out of favoritism wants a judge to throw out the same charge against his client.

In separate incidents, Michael C. Denton of Biloxi and Biloxi City Tax Director Lucien Brown refused to take tests to determine if they were drunk early in the morning on Oct. 22, police logs show. Refusal to take the test is a misdemeanor, even if the motorist is sober. The fine and court costs for a first offense total \$1,117, which can be reduced by \$350 if the offender successfully completes probation. Also, the state suspends the offender's driver's license for at least 90 days.

Denton was charged with refusing the DUI test, but Brown was not. Patrolman Charles Britt arrested and charged Brown with speeding and not wearing a seatbelt. His total fine is \$142.

A phone call to the mayor

Biloxi Police Chief Tommy Moffett said laws are never equally applied and if a police officer says differently, it's a lie.

``I have personally taken an individual home that was intoxicated and I guarantee that dozens of other officers have done so as well, if they'll admit it to you," Moffett said. ``Police officers can use their discretion in arresting a drunk driver. Police officers are not robotic."

Demanding equal treatment under the 14th Amendment, lawyer R. **Wayne Woodall** filed a motion this week in Biloxi City Court to dismiss a DUI-refusal charge against his client, Denton.

``Two wrongs don't make a right, but certainly (Denton) has a practical case," Attorney General Mike Moore said Wednesday.

Woodall believes Brown sidestepped the DUI refusal charge because Brown works for Mayor A.J. Holloway.

The morning Britt arrested Brown, Brown called the mayor, then the mayor talked to Britt, Biloxi Chief Administrative Officer David Nichols said Wednesday.

Holloway did not return five calls placed Tuesday and Wednesday to ask him about the case. Brown would not answer questions about his phone call to the mayor.

Brown would not say whether he had been drinking, but said he had been at a casino. A police

custody form describes Brown as drinking, drunk and resistive the night of his arrest.

Did they have the evidence?

On police forms, two entries for charges and offenses were blotted out and replaced with a no seat-belt offense. When asked why the entries were altered, Britt replied, "I don't have any idea."

Chief Moffett suggested it could have been a minor error, such as spelling. **Woodall** contends the deleted entries support his allegations that Britt originally charged Brown with DUI-refusal, then later changed the charge to "no seat belt."

Moffett said Britt did not give Brown preferential treatment by not charging him with DUI-refusal. Rather, Britt felt there was not enough evidence to convict Brown on that charge.

Moore disagrees.

"If someone is speeding and they refuse to take a DUI test, there's no reason to not charge them on the grounds that there's not enough proof to win in court," Moore said. "If he did refuse to take a test and it was in the log book, then they should have charged him with it -- that's automatic. There shouldn't be any police discretion there."

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