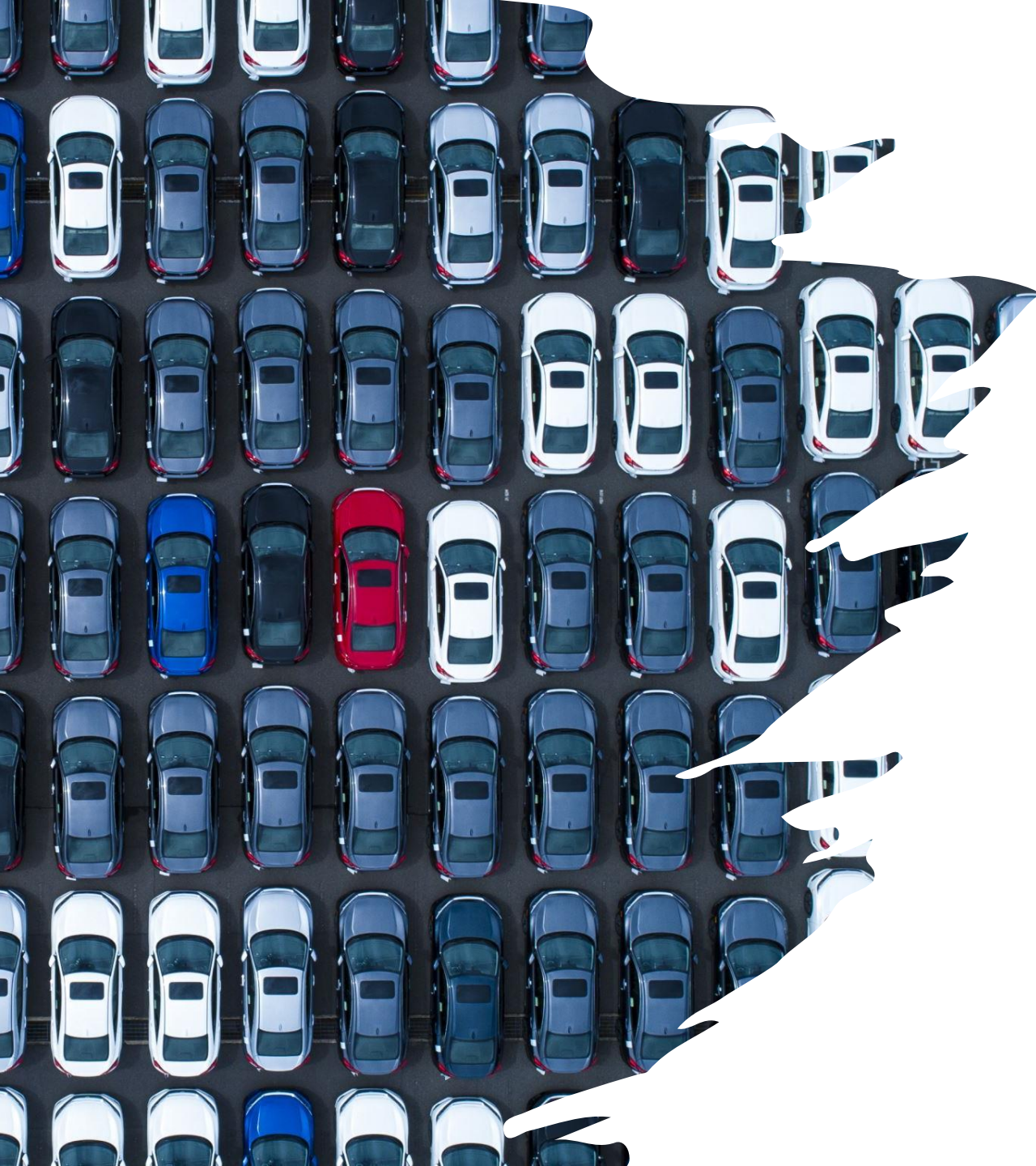




PISGAH
LEGAL SERVICES

Driver's License Restoration in Buncombe and Beyond

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Driver's License Restoration Basics

- I. The License Suspension Crisis in NC
- II. Driver's License Restoration Pro Models and Other Solutions

§ 20-24.1 (a) Revocation for failure to appear or pay fine, penalty or costs for motor vehicle offenses.

The Division must revoke the driver's license of a person upon receipt of notice from a court that the person was charged with a motor vehicle offense and he:

- (1) failed to appear, after being notified to do so, when the case was called for a trial or hearing; or
- (2) failed to pay a fine, penalty, or court costs ordered by the court.

Revocation orders entered under the authority of this section are effective on the sixtieth day after the order is mailed or personally delivered to the person.

As of 2018, there were **1,225,000** people with active driver's license suspensions in North Carolina relating to **failure to pay** traffic fines and court costs, and **failure to appear** in court for traffic offenses.

- 827,000 for failure to appear
- 263,000 for failure to pay
- 135,000 for both

These suspensions constitute about **15%** of all adult drivers in the state.



According to data from the Administrative Office of the Courts, when a traffic court debt is not paid **within a year, it is not likely to ever be paid.**

Statewide, the median length of a license suspension for failure to pay is **6 years.**

In **Buncombe County**, the median length of a suspension for failure to pay is **12.6 years.**

A large number of "failure to pay" license suspensions are based on an inability to pay—
not a willful refusal.



Rising Court Costs in North Carolina

Sample of 2020 Court Costs and Fees

- **General Court of Justice fee (District): \$147.50**
- General Court of Justice fee (Superior): \$154.50
- Jail fee: \$10 per day of pretrial confinement
- Facilities fee (District): \$12
- Facilities fee (Superior): \$30
- Telecommunications and Data fee: \$4
- Law enforcement officer retirement fee: \$7.50
- Community Service fee: \$250
- **Failure to Appear fee: \$200**
- **Failure to Comply fee: \$50**
- State Crime Lab fee: \$600
- **Installment fee: \$20**
- Probation fee: \$40 per month
- **Appointment of Counsel fee for Indigent Defendant: \$60**

Additional Fees for Traffic Offenses

- Chapter 20 fee: \$10
- Chapter 20, Improper Equipment fee: \$50
- Seat Belt fee: \$10
- Civil Revocation fee: \$100
- Limited Driving Privilege fee: \$100

In 1995, the General Court of Justice Fee (District) was \$41. Today it is \$147.50.

260% Increase

Note: If that court fee had only increased to take account for inflation, the fee would be \$71.34 today.

Some good news as of Jan. 1, 2022!

ORDER AMENDING THE
GENERAL RULES OF PRACTICE
FOR THE SUPERIOR AND DISTRICT COURTS

Pursuant to section 7A-34 of the General Statutes of North Carolina, the Court hereby adopts Rule 28 of the General Rules of Practice for the Superior and District Courts.

* * *

Rule 28. Equitable Imposition of Monetary Obligations in Criminal Cases and Infraction Cases Based on the Defendant's Ability to Pay

(a) **Scope.** This rule applies only in criminal cases and infraction cases in which the court has discretion to impose costs, fees, fines, restitution, or other monetary obligations equitably based on the defendant's ability to pay.

(b) **Motion for Relief.** A defendant convicted of a crime or found responsible for an infraction may use AOC-CR-415, Request for Relief from Fines, Fees, and Other Monetary Obligations, to move the court to impose costs, fees, fines, restitution, or other monetary obligations equitably based on the defendant's ability to pay.

(c) **Determination by Court.** The court must consider the defendant's motion and, if necessary, conduct a hearing. The court must rule on the motion prior to imposing costs, fees, fines, restitution, or other monetary obligations and may grant the defendant any relief permitted by law.

* * *

If a defendant presents a motion for Relief from Fines, Fees, and Other Monetary Obligations, the court **must consider and rule on the motion prior to imposing monetary obligations** and may grant any relief permitted by law.

Driver's license
suspensions for failure to
pay often have a
profound negative impact
on entire families.



loss of license

=

loss of employment

high transportation costs and
commute times

less access to medical services

criminal-justice involvement



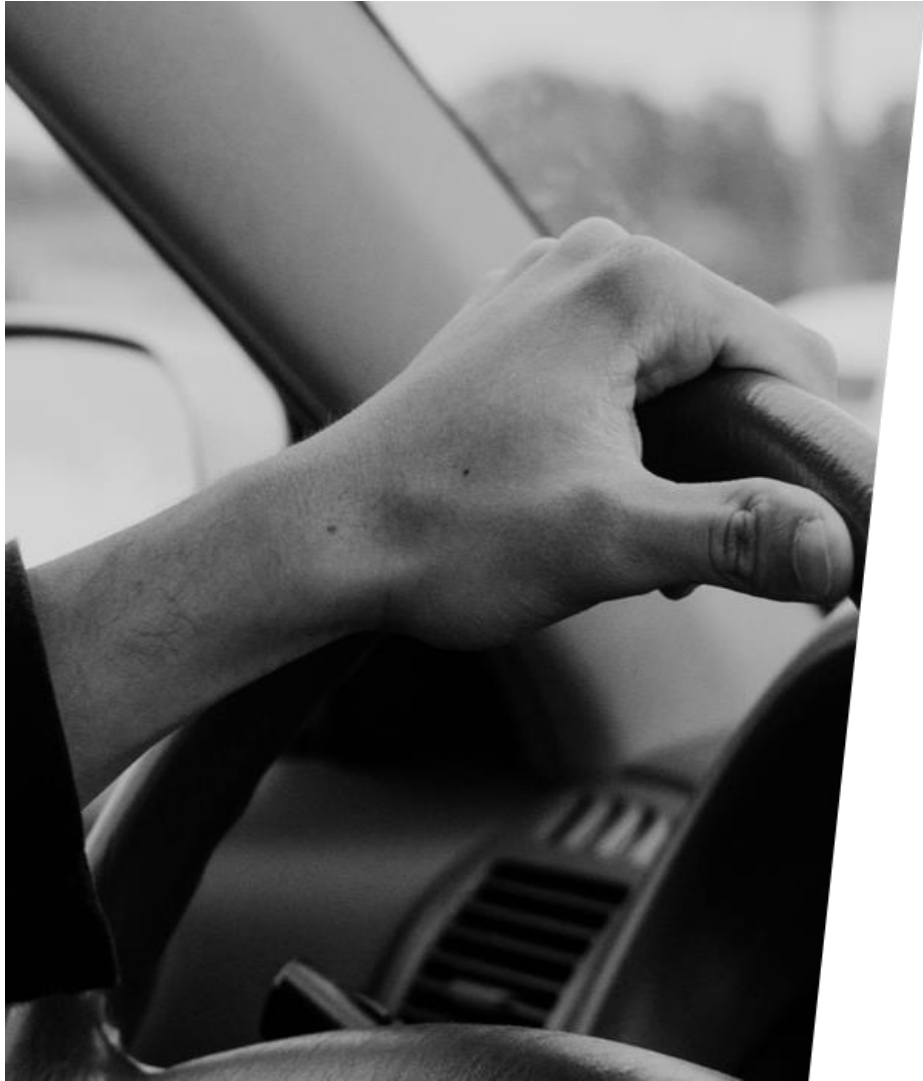
catastrophic racial disparities result in households of color being disproportionately exposed to, and severely impacted by, traffic debt.



long-term suspensions disproportionately impact people of color.

Statewide: Black or African American drivers had active suspensions for unpaid court costs and fines at a rate **4 times higher** than white, non-Hispanic drivers.

Buncombe: Black or African American drivers had active suspensions for unpaid court costs and fines at a rate **5 times higher** than white, non-Hispanic drivers.



Driver's License Restoration Models

Methods of Relief

Mass Relief



Rely on

District Attorney partners willing to motion for relief



Utilize

Data from the AOC to identify who qualifies based on the DA's criteria



Engage

Pro Bono Attorneys to screen records, prepare motions, and draft advice letters

Legal Clinics & The Local Bar

Restoration Clinic

- Clinic attorney volunteers review client records and draft an advice letter
- Volunteers receive free training and continuing education credits in exchange for agreeing to take pro bono cases
- Advice only, not a lot of direct representation
- Leverages strong local pro bono networks and raises awareness of the issue in the legal community
- Allows a provider such as PLS to serve more clients in a relatively short period of time

PLS Mountain Area Volunteer Lawyer (“MAVL”) program

- Local attorneys, particularly those with expertise in traffic and criminal law, provide various degrees of assistance- everything from consultations to court representation

AOC 415 Motions

- Important Self-Help Mechanism but not widely used yet
- Needs to be more accessible, not just in Buncombe
- Potential tie in with Court Navigator, clinics, and self-help center
- Important to understand the limitations: cannot be used for fees owed directly to DMV and must be filed county by county.

Debt Relief Fund

- Financial aid for outstanding debt (DMV and Court)
- Chapel Hill: administered by CHPD Crisis Unit
 - Eligibility based on residency, indigency, nature of expense, other possible avenues of relief
 - Payments directly to courts, DMV, etc., on behalf of applicants
 - Started with \$20K and one county and has since expanded with the neighboring counties contributing additional funds for use by their residents.
- Pisgah Legal: pilot program for Buncombe residents and those with Buncombe County cases
 - Funded by a Safety Justice Challenge Grant

Restoration Counsel

- Attorney embedded in the courthouse, available to assist residents with DL issues.
 - like the Expunction service PLS currently provides through the JRC
- Orange County
 - ❖ Expungements
 - ❖ Certificates of Relief
 - ❖ General Court Debt Relief
 - ❖ Driver's License Restoration
 - ❖ Probation and Court Fee and Cost Relief
- Durham Expunction and Restoration (DEAR)
- Charlotte Center for Legal Advocacy – *currently retooling*

Partnerships

- Local service providers working in various fields such as re-entry, medical-legal, substance abuse and mental health treatment, etc., refer clients for DLR services and in some instances support the process
- PLS currently working with the United Way of Rutherford County and Operation Gateway
 - Referral source
 - Logistical support – obtaining DMV and court records, coordinating client appointments and providing transportation.
 - Financial aid
 - Peer support and general Re-entry services, work force development.

Other Ideas

- Court Navigator
 - Assist pro se clients with simple tasks- limited driving privileges, motion-based remittance, etc.
- Legal Self-Help Center
 - Public computer terminal with commonly used forms and instructions
 - currently available in Mecklenburg
- Free DMV Records
 - public computer terminal or other platform where Buncombe residents could obtain free copies of their NC DMV records
 - Similar to the CIPRS terminal currently available in every Clerk's Office
- Integration with Buncombe County Jail, Public Defender's Office, Justice Resource Center
- Amnesty Days

Client Stories

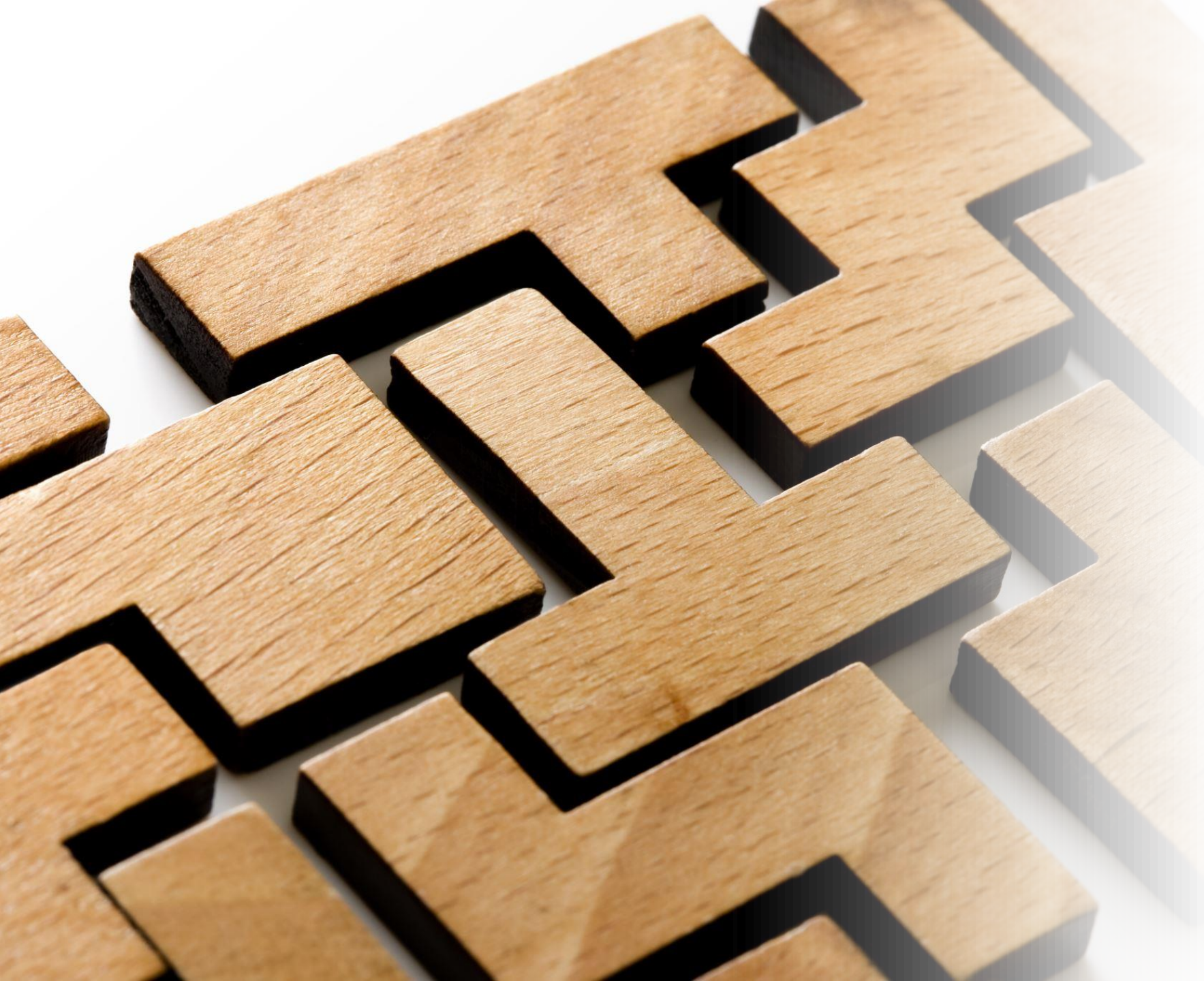
Client #1

- Man of color, North Carolina native and U.S. Army veteran. Struggled with mental health and substance abuse issues. Living in supportive housing and working in hospitality, recently obtained Peer Support certification
- License suspended for more than a decade, for missed court dates and unpaid fines
- Referred to PLS by a peer support mentor: PLS reviewed DMV record and assessed case
- DA's Office agreed to dismiss all but one case
- PLS Debt Relief Fund paid remaining costs, United Way of Rutherford will assist with logistics

Client Stories

Client #2

PENDING...



Interlocking Solutions

- No one fix for a problem this big.
- Getting people with long term suspensions back on the road, preventing others from falling into that trap, and making it easier to get out when it does happen