

## ARRAIGNMENT

### **Right To Arraignment -- Proceeding To Trial On Same Day As Arraignment**

*State v. Vereen 177 N.C. App. 233 (2006)*

The trial **court erred** in a resisting a public officer in the performance of his duties case by immediately **proceeding to trial on the same day defendant was arraigned** without defendant's consent when defendant adequately invoked N.C.G.S. § 15A-943(b) and did not waive his right to arraignment, because: 1) defendant twice moved the trial court to continue his case during his formal arraignment so he could obtain evidence he subpoenaed and so his witnesses would be available; 2) N.C.G.S. § 15A-941(d), **which requires a defendant to file a written request for arraignment within twenty-one days, is inapplicable to defendants who are before the superior court for a trial de novo** whose charges lie within the original jurisdiction of the district court; and 3) defendant was entitled to an arraignment in superior court since defendant's not guilty plea from the district court is completely disregarded when a trial de novo in the superior court is a new trial from the beginning to the end.

### **Request For Separate Arraignment -- Request To Reschedule Trial -- Waiver**

*State v. Trull 153 N.C. App. 630 (2002)*

The trial court did not err in an attempted first-degree murder, possession of a handgun by a felon, and discharging a firearm into occupied property case by denying defendant's request for a separate arraignment and to reschedule his trial at least one week thereafter, because: 1) defendant waived the requirement of N.C.G.S. § 15A-943(b) by failing to request formal arraignment; and 2) although defendant contends he never received notice of the twenty-one day limit for filing a request for arraignment as required under N.C.G.S. § 15A-941(d), N.C. R. App. P. 10(b)(1) provides that his failure to raise the issue at trial precludes his raising it on appeal, and in any event the argument is based on the content of documents which are not included in the record on appeal.

### **Citation -- Statement Of Charges Not Required**

*State v. Phillips 149 N.C. App. 310 (2002)*

The trial court did not err by proceeding to trial upon a citation in a prosecution for speeding and failing to produce a license because defendant had already been tried by citation in district court and was no longer entitled to assert his statutory right to require a statement of charges. Because the State was not required to file a statement of charges, the three-day trial preparation period of N.C.G.S. § 15A-922(a) did not apply.

## **Arraignment And Trial -- Same Day**

*State v. Cates, 140 N.C. App. 548 (2000)*

The trial court erred in a prosecution for kidnapping, rape, and statutory sex offense by proceeding to trial on the day in which defendant was arraigned. N.C.G.S. § 15A-943 requires that all arraignments be calendared and defendant's was not--only his trial--but a defendant must demonstrate prejudice from failure to follow this provision. The statute also requires a one-week period between arraignment and trial and violation of this protection constitutes automatic reversible error unless a defendant has waived the protection. Although the State contends that defendant waived the statutory protection because he did not cite N.C.G.S. § 15A-943 in his motion for a continuance, a defendant is not required to make an explicit § 15A-943 objection when that defendant has made a motion for a week's continuance based upon the same purpose for which the statute was designed--allowing a sufficient interlude to prepare for trial.