

JURISDICTION

Wildlife Enforcement Officer Had Subject Matter Jurisdiction to Stop Vehicle Driver for Impaired Driving and To Arrest Her For That Offense

Parker v. Hyatt, ___ N.C. App. ___, 675 S.E.2d 109 (21 April 2009).

The court ruled that a wildlife enforcement officer had subject matter jurisdiction under G.S. 113-136(d) to stop the plaintiff's vehicle for impaired driving and to arrest her for that offense. Driving while impaired satisfies the statutory language, "a threat to public peace and order which would tend to subvert the authority of the State if ignored."

Trial Court Did Not Have Jurisdiction to Revoke Probation When Hearing Was Conducted After Probationary Period Had Ended, and Judge Failed to Make Required Finding Under G.S. 15A-1344(f)(2)—Ruling of Court of Appeals Is Affirmed

State v. Bryant, 361 N.C. 100, 637 S.E.2d 532 (15 December 2006), affirming, 176 N.C. App. 190, 625 S.E.2d 916 (21 February 2006) (unpublished opinion). The court ruled that the trial court did not have jurisdiction to revoke the defendant's probation when the revocation hearing was conducted after the probationary period had ended, and the judge revoking probation failed to make a finding required under G.S. 15A-1344(f)(2) that the state had made a reasonable effort to notify the probationer and to conduct the hearing earlier.

Jurisdiction-Superior court-Habitual DWI a substantive offense-Misdemeanor DWI—Driving with revoked license

State v. Bowden, 177 NCA 718 (2006)

The superior court had jurisdiction to conduct a trial on defendant's misdemeanor DWI and driving with a revoked license charges without a trial first in district court, because: (1) habitual impaired driving is a substantive offense, and not a

status offense as defendant would prefer; (2) the mere fact that a statute is directed at recidivism does not prevent the statute from establishing a substantive offense; and (3) defendant concedes that if the habitual DWI statute creates a substantive offense, then the superior court possessed jurisdiction to try him on the misdemeanor offenses set out in the same indictment with the habitual DWI charge.

Criminal Law--motion for appropriate relief--adjudicating defendant mentally retarded--jurisdiction

State v. Poindexter, 359 NC 287 (2005)

The superior court did not err by concluding that it lacked jurisdiction in a first-degree murder case to conduct an evidentiary hearing with respect to defendant's motion for appropriate relief (MAR) to adjudicate defendant mentally retarded under N.C.G.S. § 15A-2005, because: (1) the General Assembly did not intend for superior courts to make post-conviction determinations of mental retardation outside the confines of N.C.G.S. § 15A-2006; and (2) the one-year window for postconviction determinations of mental retardation under N.C.G.S. § 15A-2006 has expired, and N.C.G.S. § 15A-2005 allows only for pretrial and sentencing determinations of mental retardation.

Courts--jurisdiction--district court--driver's license reinstatement

State v. Benbow, 169 NCA 613 (2005)

The district court did not have jurisdiction to exempt defendant from the ignition interlock requirement where defendant was seeking reinstatement of her driver's license after having it revoked for driving with an alcohol concentration of 0.16. Although defendant had obtained an exemption for her limited driving privilege because medical conditions prevented her use of the device, N.C.G.S. § 20-17.8 does not provide any exceptions to the requirement for license reinstatement.

Jurisdiction--statutory rape--commission of offense within state--sufficiency of evidence

State v. Holden, 160 NCA 503 (2003)

Although the trial court did not err by denying defendant's motions to dismiss five of the ten charges of first-degree statutory rape of a female under the age of thirteen based on the fact that there was substantial evidence those offenses occurred in North Carolina, the trial court erred by failing to dismiss the remaining five counts because there was no evidence that more than five of the ten charged offenses occurred in North Carolina.

Jurisdiction - criminal case on civil calendar - mandate of Chief Justice

State v. Thomas, 132 N.C. App. 515 (1999)

The trial court had proper jurisdiction over a prosecution for discharging a firearm into occupied property where the matter was called for trial before a judge presiding over a calendar designated as "civil" because an order from the Chief Justice specifically authorized the trial court to hear during a civil calendar week both civil and criminal cases.

Criminal Law - jurisdiction of district court before indictments - production of medical records

State v. Jones, 133 N.C. App. 448 (1999)

The district court had jurisdiction to enter orders for the production of defendant's medical records in a capital first-degree murder prosecution arising from an impaired driving collision where the order was entered before the indictments were returned. Jurisdiction is in the district court before a case is bound over to superior court or indictments returned. N.C.G.S. § 7A-272(b).

Criminal Law § 69 (NCI4th Rev.) - second-degree murder - body recovered on United States Forest Service property - jurisdiction

State v. Rice, 129 N.C. App. 715 (1998)

Defendant's contention in a second-degree murder prosecution that the trial court erred by dismissing his motion for appropriate relief based on exclusive jurisdiction in the federal courts because the body was found on Forest Service property was without merit. Under 16 U.S.C. § 480, the states retain civil and criminal jurisdiction over the national forests and, under N.C.G.S. § 104-32, North Carolina reserved concurrent power to enforce the criminal law over any lands as to which any legislative jurisdiction may be ceded to the United States.

Criminal Law § 67 (NCI4th Rev.) - jurisdiction - speeding - dismissal in district court - no superior court jurisdiction

State v. Phillips, 127 N.C. App. 391 (1997)

The superior court erred in exercising jurisdiction over defendant's speeding offense where the record revealed that the State had taken a voluntary dismissal on the speeding charge in the district court and there was no evidence that the dismissal was granted pursuant to a plea arrangement with defendant. N.C.G.S. § 15A-1431.

Criminal Law § 59 (NCI4th); Judgments § 205 (NCI4th) jurisdiction in North Carolina special verdict at first trial relitigation of issue precluded

State v. Dial, 122 N.C. App. 298, 470 S.E.2d 84 (1996)

The trial court's acceptance of the jury's special verdict finding that North Carolina had jurisdiction at defendant's first murder trial, prior to declaring a mistrial by reason of the jury's inability to agree upon the issue of guilt or innocence, precluded defendant from relitigating jurisdiction at his second trial, since the parties were the same; the issue as to jurisdiction was the same; the issue was raised and actually litigated in the prior action;

Criminal Law 1 59 (NCI4th) challenge to jurisdiction State's burden of proof

State v. Rick, 342 N.C. 91 (1995) ___ S.E.2d ___

When jurisdiction in a criminal prosecution is challenged, the State is required to prove beyond a reasonable doubt that the crime with which defendant is charged occurred in North Carolina. 2. Criminal Law 1 59 (NCI4th) jurisdiction murder in this state sufficient evidence for jury The evidence in a second-degree murder prosecution made a prima facie showing of jurisdiction sufficient to carry the case to the jury and permit the jury to infer that the murder took place in this state, although the victim's body was found in a stream in South Carolina, where it tended to show that shortly after leaving work at 11:00 p.m., the victim went to her home in Mount Holly, two doors from where defendant lived, and changed from her work clothes into a dress; a few hours later, defendant was seen in the vicinity alone driving the victim's car; a breaking and entering occurred at the victim's home; acts of violence took place in the home as reflected by broken glass, dishes on the floor and the bedroom in disarray; a cement block and a rock used by the killer to sink the victim's body in the stream some fourteen miles away were taken from the victim's yard; on the morning following the killing, defendant left on his former sister-in-law's car a Bible in which he had written that he was going to kill himself; that afternoon defendant told a friend that he had done something for which the police were going to kill him; and when defendant was arrested, he told the police that the warrant would be worthless if he could prove he "killed that woman in South Carolina."