

Self-Incrimination

1) Constitutional Law--Self-incrimination--Juvenile's refusal to admit guilt--Custody pending appeal

In re Lineberry, 154 N. C. APP. 246 (2002)

A juvenile's constitutional right against self-incrimination was violated where the court found that the juvenile's consistent refusal to admit to the offenses diminished his amenability to treatment and ordered that he remain in custody pending appeal.

2) Constitutional Law--Self-incrimination--Exercise of right to counsel--Pre-Miranda warning--Admissible

State v Salmon, 140 N.C. App. 567, 2000

The trial court did not err in a second-degree murder prosecution by admitting the statement of a police officer on cross-examination that defendant had been informed that a youth detective would be speaking with him at the police station and defendant had responded, "Not without my lawyer." The officer had testified on direct examination for defendant that before defendant had been given his Miranda warnings he had volunteered that "I didn't mean to do it." The Fifth Amendment Self-Incrimination Clause rather than Sixth Amendment Right to Counsel is involved here since no indictment or juvenile petition had been filed, and the Fifth Amendment's Self-Incrimination Clause does not prevent the use of defendant's right to counsel against him at trial when defendant exercises that right prior to his being advised of his Miranda rights.

3) Constitutional Law--Self-incrimination--Prior testimony voluntarily given

State v. McNeil, 140 N.C. App. 450, 2000

The trial court did not err in a prosecution for first-degree murder, armed robbery, and conspiracy to commit armed robbery by allowing the State to introduce testimony defendant had given during his brother's trial arising from the same events. During that testimony, defendant exercised his Fifth Amendment privilege and refused to answer many questions, but specifically stated under oath that his brother did not shoot or kill either of the victims. The privilege against self-incrimination furnishes no protection against the use of testimony which was voluntarily given.

4) Constitutional Law, Federal--Self-incrimination--Handwriting samples

State v. Teague, 134 N.C. App. 702 (1999)

The trial court did not err in admitting evidence that defendant refused to comply with a search warrant to obtain samples of his handwriting because the Fifth Amendment privilege against compulsory self incrimination does not extend to physical characteristics such as handwriting and blood samples.

5) Constitutional Law, Federal--Self-incrimination--Robbery --Acting in concert--Codefendant not required to testify

State v. Stanfield, 134 N.C. App. 685 (1999)

The trial court did not err in a robbery case when it did not allow defendant to call his codefendant to testify after the codefendant pled guilty outside the presence of the jury and claimed he would invoke his Fifth Amendment privilege not to incriminate himself if called as a witness because defendant did not proffer the evidence he sought to elicit from his codefendant and merely wanted the jury to speculate. In addition, the fact that defendant was being tried on the theory of acting in concert meant the codefendant's admission of his involvement would not exonerate defendant.