

Criminal Procedure

Sentencing

State v. Rollins, __ N.C. App. __, __ S.E.2d __ (July 17, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xNDM3LTEucGRm>). The trial court erred by determining that the defendant was a prior record level VI when the defendant's Florida conviction for burglary was not sufficiently similar to the corresponding N.C. burglary offense. The Florida statute is broader than the N.C. statute in that it encompasses more than a dwelling house or sleeping apartment. Significantly, the Florida statute does not require that the offense occur in the nighttime or that there be a breaking as well as an entry. Based on these differences, the Florida burglary statute is not sufficiently similar to N.C.'s burglary statute. The court went on to find the Florida crime sufficiently similar to G.S. 14-54, felonious breaking or entering.

Judicial Administration

Closing the Courtroom

State v. Rollins, __ N.C. App. __, __ S.E.2d __ (July 17, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xNDM3LTEucGRm>). The trial court violated the defendant's right to a public trial by temporarily closing the courtroom while the victim testified concerning an alleged rape perpetrated by defendant without engaging in the four-part test set forth in *Waller v. Georgia*, 467 U.S. 39 (1984). The court held that while the trial court need not make exhaustive findings of fact, it must make findings sufficient for the appellate court to review the propriety of the trial court's decision to close the proceedings. The court cautioned trial courts to avoid making "broad and general" findings that impede appellate review. The court remanded for a hearing on the propriety of the closure:

The trial court must engage in the four-part *Waller* test and make the appropriate findings of fact regarding the necessity of closure during [the victim's] testimony in an order. If the trial court determines that the trial should not have been closed during [the victim's] testimony, then defendant is entitled to a new trial. If the trial court determines that the trial was properly closed during [the victim's] testimony on remand, then defendant may seek review of the trial court's order by means of an appeal