

Criminal Procedure

Indictment Issues

State v. Barnett, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0yNjktMS5wZGY=>). (1) An indictment charging failing to notify the sheriff's office of change of address by a registered sex offender under G.S. 14-208.9 was defective where it failed to allege that the defendant was a person required to register. (2) Although the indictment failed to specify G.S. 14-208.9(a) as the statute violated, this omission alone did not create a fatal defect.

Pleas

State v. Rouson, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zODItMS5wZGY=>). The court rejected the defendant's argument that an insufficient factual basis for his pleas required a remedy where the defendant did not assert prejudice from the lack of a factual basis.

Motion to Dismiss

State v. Powell, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zMTctMS5wZGY=>). There was sufficient evidence that the defendant perpetrated the murder. The defendant's cell phone was found next to the victim, cell phone records showed that the phone was within one mile of the murder scene around the time of the murder, the defendant gave inconsistent statements about his whereabouts, and a witness testified that the defendant stated, "I must have dropped [my phone] after I killed him."

Sentencing

State v. Powell, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zMTctMS5wZGY=>). Sufficient evidence supported the trial court's determination of the defendant's prior record level. Counsel's oral stipulation and the prior record level worksheet established the existence of an out-of-state felony conviction, even though neither the defendant nor defense counsel signed the worksheet.

Evidence

Direct and Cross Examination

State v. Powell, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zMTctMS5wZGY=>). The prosecutor did not impermissibly vouch for the credibility of a State's witness by asking whether any promises were made to the witness in exchange for his testimony.

Arrest, Search & Investigation

Arrest

State v. Rouson, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zODItMS5wZGY=>). The court rejected the defendant's argument that a show of force by law enforcement following a traffic stop amounted to an arrest without probable cause. The defendant was a passenger in a vehicle stopped for running a red light. One officer approached the driver's window; another told the four passengers to place their hands where they could be seen. After the passengers failed to comply with this request, the officers removed the passengers from the vehicle. When one of the officers told the defendant that he was going to do a weapons frisk, the defendant admitted to having a gun.

Criminal Offenses

Motor Vehicle Offenses

State v. Cameron, __ N.C. App. __, __ S.E.2d __ (Oct. 2, 2012)

(<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi0zOTUtMS5wZGY=>). (1) In a speeding to elude case, the court rejected the defendant's argument that she did not intend to elude an officer because she preferred to be arrested by a female officer rather than the male officer who stopped her. The defendant's preference in this regard was irrelevant to whether she intended to elude the officer. (2) Even if the trial court erred in its jury instruction with regard to the required state of mind, no plain error occurred in light of the overwhelming evidence of guilt.