

Criminal Procedure

Guilty Pleas

[State v. Ruffin](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). In a rape case, any error made by the trial court regarding the maximum possible sentence did not entitle the defendant to relief. The trial court's statement was made in connection with noting for the record—on defense counsel's request—that the defendant had rejected a plea offer by the State. The court rejected the defendant's argument that the provisions of G.S. 15A-1022 should apply, noting that statute only is applicable when the defendant actually pleads guilty; a trial court is not required to make an inquiry into a defendant's decision not to plead guilty.

Probation

[State v. Sale](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). (1) The trial court erred by entering a period of probation longer than 18 months without making the findings that the extension was necessary. (2) The court held that it had no authority to consider the defendant's challenge to the trial court's imposition of a special condition of probation.

Evidence

400 Rules

[State v. Carpenter](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). In an armed robbery case, the trial court did not err by admitting three photographs of the defendant and his tattoos, taken at the jail after his arrest. (1) The photographs were properly authenticated where the officer who took them testified about the procedure used and that they fairly and accurately depicted the defendant's tattoo as it appeared when he was in custody. (2) The photographs were relevant to identity where crime scene surveillance camera footage clearly showed the location and general dimensions of one of the robber's tattoos, even though the specifics of it were not visible on the footage. (3) The court rejected the defendant's argument that the photographs should have been excluded under Rule 403 because they showed him in a jail setting. The court noted that the photographs did not clearly show the defendant in jail garb or in handcuffs; they only showed the defendant in a white t-shirt in a cinderblock room with large windows. Furthermore, the trial court specifically found that it was unable to determine from the pictures that they were taken in a jail.

Arrest Search and Investigation

[State v. Sutton](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). An officer had reasonable suspicion to stop and frisk the defendant when the defendant was in a high crime area and made movements which the officer found suspicious. The defendant was in a public housing area patrolled by a Special Response Unit of U.S. Marshals and the DEA concentrating on violent crimes and gun crimes. The officer in question had 10 years of experience and was assigned to the Special Response Unit. Many persons were banned from the public housing area—in fact the banned list was nine pages long. On a prior occasion

the officer heard shots fired near the area. The officer saw the defendant walking normally while swinging his arms. When the defendant turned and “used his right hand to grab his waistband to clinch an item” after looking directly at the officer, the officer believed the defendant was trying to hide something on his person. The officer then stopped the defendant to identify him, frisked him and found a gun in the defendant’s waistband.

Criminal Offenses

Robbery

[*State v. Carpenter*](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). Sufficient evidence supported the defendant’s armed robbery conviction where two eyewitnesses identified the defendant and an accomplice. The court was unpersuaded by the defendant’s citation of articles and cases from other states discussing the weaknesses of eyewitness identification, noting that such arguments have no bearing on the sufficiency of the evidence when considering a motion to dismiss. It continued: “If relevant at all, these arguments would go only to the credibility of an eyewitness identification.”

Drug Offenses

[*State v. Fleig*](#), __ N.C. App. __, __ S.E.2d __ (Mar. 4, 2014). The trial court erred by sentencing the defendant for both selling marijuana and delivering marijuana when the acts occurred as part of a single transaction.