

## **Criminal Procedure**

### **Pretrial Release**

[State v. Townsend](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). In an impaired driving case, the court rejected the defendant’s argument that his rights were violated when the magistrate set a \$1,000 secured bond without recording reasons why a secured bond was required. In fact the magistrate set “an option bond,” giving the defendant a choice between paying a \$1,000 secured bond or a \$1,000 unsecured bond and being released to a sober, responsible adult, and the defendant was eventually released to his wife. Even if the magistrate was required to make findings in support of the secured bond, the defendant failed to show any prejudice. [Author’s note: G.S. 15A-534(b) requires a judicial official to “record the reasons” for imposing a secured bond “to the extent provided in the policies or requirements issued by the senior resident superior court judge pursuant to G.S. 15A-535(a).”]

### **Indictment Issues**

[State v. Miranda](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). An indictment charging trafficking by manufacturing was not defective. The court rejected the defendant’s argument that the indictment was fatally defective because it did not adequately describe the manner in which the defendant allegedly manufactured cocaine. It reasoned: “Although Defendant is correct in noting that the indictment does not explicitly delineate the manner in which he manufactured cocaine or a cocaine-related mixture, the relevant statutory language creates a single offense consisting of the manufacturing of a controlled substance rather than multiple offenses depending on the exact manufacturing activity in which Defendant allegedly engaged.”

### **DWI Procedure—*Knoll* Motions**

[State v. Townsend](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). In an impaired driving case where the defendant was told of his right to contact counsel and friends to observe him and had several opportunities to call those people but failed to do so, no *Knoll* violation occurred.

### **Arrest, Search & Investigation**

[State v. Townsend](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). (1) An officer had probable cause to arrest the defendant for DWI. While stopped at a checkpoint the officer noticed that the defendant had “bloodshot eyes and a moderate odor of alcohol about his breath.” The defendant admitted to “drinking a couple of beers earlier” and said he “stopped drinking about an hour” before being stopped at the checkpoint. Two alco-sensor tests administered to the defendant yielded positive results and the defendant exhibited clues indicating impairment on three field sobriety tests. (2) The court rejected the defendant’s argument that the checkpoint lacked an acceptable primary purpose. The State’s evidence showed that the checkpoint was administered according to a written plan, that the date for the checkpoint was selected almost a year in advance, that the location was chosen because of the statistically high number of impaired driving offenses and fatalities that had occurred in the area, and

that its main purpose was to check for DWIs. The court also rejected the defendant's argument that the checkpoint was unreasonable.

## **Criminal Offenses**

### **Drug Crimes**

[\*State v. Miranda\*](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). (1) In a case in which the defendant was charged with trafficking in cocaine by manufacturing, the trial court did not commit plain error by failing to instruct the jury on manufacturing cocaine. The evidence showed that the defendant possessed cocaine and a mixture of cocaine and rice that exceeded the statutory trafficking amount. The defendant admitted to having mixed rice with the cocaine to remove moisture. The court rejected the defendant's argument that the combination of cocaine base and rice does not constitute a "mixture" as used in the trafficking statutes and concluded that the statutory reference to a "mixture" encompasses the mixture of a controlled substance with any other substance regardless of the reason for which that mixture was prepared. (2) The trial court did not commit plain error by failing to instruct the jury that to convict the defendant for trafficking by compounding it had to find he did so with an intent to distribute. Because the evidence showed that the defendant also manufactured by packaging and repackaging, the court concluded that the defendant failed to establish that a different outcome would probably have been reached had the instruction at issue been delivered at trial. (3) The court rejected the defendant's argument that the evidence was insufficient to show trafficking in cocaine by manufacture. Where officers find cocaine or a cocaine-related mixture and an array of items used to package and distribute that substance, the evidence suffices to support a manufacturing conviction. Here, State's evidence showed that more than 28 grams of cocaine and several items that are commonly used to weigh, separate, and package cocaine for sale were seized from the defendant's bedroom.

### **Sex Offender Crimes**

[\*State v. Pressley\*](#), \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (Aug. 19, 2014). Falsely stating an address on any verification form required by the sex offender registration program supports a conviction for failing to register as a sex offender. The court rejected the defendant's argument that the only verification forms that count are the initial verification form and those required to be filed every 6 months thereafter, noting that under G.S. 14-208.9A(b) additional verification may be required. (2) The court rejected the defendant's argument that his false reporting of his address on two separate verification forms constituted a continuing offense and could support only one conviction. The court concluded that the submission of each form was a distinct violation of the statute.