

Criminal Procedure

Competency Issues

[State v. Newson](#), ___ N.C. App. ___, ___ S.E.2d ___ (Feb 3, 2015). The defendant was competent to stand trial and to represent himself. As to competency to stand trial, the defendant had several competency evaluations and hearings; the court rejected the defendant's argument that a report of the one doctor who opined that he was incompetent was determinative of the issue, noting that numerous other doctors opined that he was malingering. The court also rejected the defendant's argument that even after several competency hearings, the trial court erred by failing to hold another competency hearing when the defendant disrupted the courtroom, noting in part that four doctors had opined that the defendant's generally disruptive behavior was volitional. The court also rejected the defendant's argument that even if he was competent to stand trial, the trial court erred by allowing him to proceed pro se. The court found *Indiana v. Edwards* inapplicable because here--and unlike in *Edwards*--the trial court granted the defendant's request to proceed pro se. Also, the defendant did not challenge the validity of the waiver of counsel colloquy.

Mistrial

[State v. Newson](#), ___ N.C. App. ___, ___ S.E.2d ___ (Feb 3, 2015). The trial court did not err by denying the pro se defendant's motion for mistrial asserting that the jury was prejudiced against him. The record revealed that members of the jury did seem to be frustrated with the pro se defendant who was disruptive in court and asked rambling and irrelevant questions of witnesses. Their frustration was demonstrated through notes to the trial court and the fact that some members stood up several times in apparent exasperation during the proceedings. However, the court concluded that where a defendant was "prejudiced in the eyes of the jury by his own misconduct, he cannot be heard to complain." (quotation omitted).

Forfeitures

[State v. Royster](#), ___ N.C. App. ___, ___ S.E.2d ___ (Feb 3, 2015). A defendant who pleaded guilty to felony possession of marijuana had no right to appeal the trial court's order forfeiting \$400 in cash seized from his car under G.S. 90-112(a)(2).

Evidence

404(b)

[State v. Waddell](#), ___ N.C. App. ___, ___ S.E.2d ___ (Feb 3, 2015). In this felony indecent exposure case where the defendant exposed himself to a 14-year old boy, his mother and grandmother, the trial court did not err by admitting 404(b) evidence from two adult women who testified that the defendant exposed himself in public on other occasions. The court rejected the defendant's argument that the other acts were insufficiently similar to the charged conduct and only "generic features of the charge of indecent exposure," noting that the 404(b) testimony revealed that the defendant exposed himself to

adult women, who were either alone or in pairs, in or in the vicinity of businesses near the courthouse in downtown Fayetteville, and each instance involved the defendant exposing his genitals with his hand on or under his penis. The court also rejected the defendant's argument that because the current charge was elevated because the exposure occurred in the presence of a child under 16 and the prior incidents involved adult women, they were not sufficiently similar, noting that the defendant acknowledged in his brief that in this case he did in fact expose himself to an adult woman as well. The court also rejected the defendant's argument that the evidence should have been excluded under the Rule 403 balancing test.

Arrest, Search and Investigation Exclusionary Rule

[Combs v. Robertson](#), ___ N.C. App. ___, ___ S.E.2d ___ (Feb 3, 2015). The Fourth Amendment's exclusionary rule does not apply in civil drivers' license revocation proceedings. The evidence used in the proceeding was obtained as a result of an unconstitutional stop; after the same evidence previously had been used to support criminal charges, it was suppressed and the criminal charges were dismissed. The court held that while the evidence was subject to the exclusionary rule in a criminal proceeding, that rule did not apply in this civil proceeding, even if it could be viewed as "quasi-criminal in nature."