

Criminal Procedure

Sentencing

[State v. Duffie](#), ___ N.C. App. ___, ___ S.E.2d ___ (May 5, 2015). The court remanded for resentencing where the trial court imposed consecutive sentences based on a misapprehension of G.S. 14-7. The jury found the defendant guilty of multiple counts of robbery and attaining habitual felon status. The trial court sentenced the defendant as a habitual felon to three consecutive terms of imprisonment for his three common law robbery convictions, stating that “the law requires consecutive sentences on habitual felon judgments.” However, under G.S. 14-7.6, a trial court only is required to impose a sentence consecutively to “any sentence being served by” the defendant. Thus, if the defendant is not currently serving a term of imprisonment, the trial court may exercise its discretion in determining whether to impose concurrent or consecutive sentences.

Evidence

Prior Consistent Statements

[State v. Duffie](#), ___ N.C. App. ___, ___ S.E.2d ___ (May 5, 2015). In this robbery case, the court held that no plain error occurred when the trial court admitted into evidence for purposes of corroboration a videotape of an interview with the defendant’s accomplice, when the accomplice testified at trial. The defendant asserted that the accomplice’s statements in the videotape contradicted rather than corroborated his trial testimony. The court disagreed noting that the accomplice’s statements during the interview established a timeline of the robberies, an account of how they were committed, and the parties’ roles in the crimes and that all of these topics were covered in his testimony at trial. While the accomplice did add the additional detail during the interview that he likely would not have committed the robberies absent the defendant’s involvement, this did not contradict his trial testimony.