

Criminal Offenses

Homicide

[*State v. Spruiell*](#), ___ N.C. App. ___, ___ S.E.2d ___ (April 4, 2017). Rejecting the defendant's ineffective assistance of counsel claim with respect to his first-degree felony murder conviction, the court also rejected the proposition that a felony murder conviction cannot be predicated on a felony of shooting into occupied property where that felony also was the cause of the victim's death. Reviewing the relevant case law, the court concluded:

[I]t is clear that neither the Supreme Court nor this Court has ever expressly recognized an exception to the felony murder rule for the offense of discharging a weapon into occupied property. At most, North Carolina courts have recognized a very limited "merger doctrine" that precludes use of the felony murder rule in situations where the defendant has committed one assault crime against one victim and the State seeks to use that assault as the predicate felony for a felony murder conviction.

Robbery

[*State v. Wright*](#), ___ N.C. App. ___, ___ S.E.2d ___ (April 4, 2017). In this armed robbery case, the trial court did not err by failing to instruct the jury on the lesser-included offense of common law robbery. The defendant entered three convenience stores with his face covered and a gun in his hand and stole money in the presence of the store clerks. The defendant argued that the State failed to present evidence that the victims' lives were endangered or threatened. With respect to two of the robberies, the defendant argued that there was no evidence that he actually pointed his gun at the clerks. With respect to the third, he noted that the clerk testified that she was "never scared." The court distinguished cases holding that mere possession of a weapon during a robbery is insufficient to support a finding that the victim's life was endangered or threatened on the basis that in those cases, neither the victim nor the bystanders actually saw the weapon. It went on to note that where the evidence establishes that a defendant held a dangerous weapon that was seen by the victim or a witness during the robbery, cases hold that this element is satisfied. Thus, with respect to the robberies where the clerks saw the defendant holding the gun, the evidence was sufficient. With respect to the third robbery, the court held, citing prior case law, that the State is not required to prove that the victim was in fact afraid.

Possession of Stolen Property

[*State v. Rice*](#), ___ N.C. App. ___, ___ S.E.2d ___ (April 4, 2017). The evidence was sufficient to establish that the defendant constructively possessed two stolen firearms found in a van he had rented. The defendant was convicted of two counts of possession of stolen goods in violation of G.S. 14-71.1. The weapons in question were stolen during two separate home invasions. Officers learned that a van spotted on the premises of the second home was rented to Shirelanda Clark. Clark informed officers that she had re-rented the vehicle to the defendant and an individual named Dezmon Bullock. At the request of the police, Clark arranged a meeting with the defendant and Bullock. The two arrived in the van and consent was given to search the vehicle. As the search began, officers found a new basketball goal still in its box. After claiming ownership of the basketball goal, the defendant abruptly left the scene, leaving the item behind. The search continued, and the two stolen weapons were discovered. On appeal the court rejected the defendant's contention that the evidence was insufficient to establish constructive possession of the weapons, reasoning that although the defendant did not have exclusive possession of the van, other incriminating circumstances existed to establish constructive possession.

Those circumstances included: the defendant's "nervous disposition;" the fact that the defendant "admitted ownership of the basketball goal in proximity to the stolen firearms;" the fact that the defendant had rented the van from Clark; and that the defendant "exhibited irrational conduct tending to indicate he was fearful that the firearms would be discovered during the course of the search — specifically his sudden and abrupt departure from the area when [officers] began the search of the van . . . leaving behind his personal property for which he did not return."