Direct Criminal Contempt

October 2025 Cheryl Howell UNC School of Government

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- I am considering holding you in direct criminal contempt for ... [briefly describe the conduct]. Is there anything you would like to say?
- I find you to be in direct criminal contempt.
- I sentence you to
 [12 hours, 24 hours, ... up to 30 days incarceration; and/or

[\$50, \$200, ... up to \$500 fine; and/or a censure]

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Contempt authority is statutory

NC Gen. Stat. Chapter 5A Criminal Contempt Civil Contempt Contempt by Juveniles

CRIMINAL CIVIL To *punish* for an act To *coerce* compliance already committed with court order G.S. 5A-11 to 5A-17 G.S. 5A-21 to 5A-26 1 UNC 4 Criminal contempt - Grounds 1 UNC 5 Criminal contempt - Grounds

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(10) Any other act or omission specified elsewhere in the General Statutes of North Carolina as grounds for criminal contempt.		release supervision" includes, but is not limited to, knowingly violating the terms of post-release supervision in order to be returned to prison to serve out the remainder of the supervised's sentence. (10) Agently of the case of the supervised is sentence.	-	

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Criminal contempt - Punishment					
• Imprisonment	Suspended sentences allowed with conditions. -State v. Key (2007)				
to 30 days;	If appealed, bail hearing required.				
 Censure; and/or 	-5A-17				
• Fine up to \$500	Judicial Official can withdraw or reduce a sentence any time "if warranted by the				
	conduct of the contemnor and the ends of justice." -5A.12(c)				
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Criminal contempt - Pro	cedure				
eriiiiiai contempt 110	cedure				
Summary proceeding	Plenary proceeding				
 Direct contempt 	 All <u>in</u>direct contempt 				
only	Direct contempt (at				
<u>Offiy</u>	option of the Judicial				
	Official)				
UNC VALUE OF DEPTH AND ADDRESS OF THE PROPERTY					
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Criminal contempt - Pro	cedure				
""	Direct criminal contempt" is act of				
Summary proceeding	ontempt committed: Within sight or hearing of presiding				
• Direct contempt	judicial official; and In, or in immediate proximity to, room where proceedings are being				
<u>only</u> .	held; and Likely to interrupt or interfere with matters before the court.				
	Summary proceeding				
1	ppropriate "when necessary to restore order or maintain dignity and authority of the court."				
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- •YOU will be the only witness.
- Can you provide all the facts from your personal observation?

Criminal contempt - Procedure

Summary proceeding

Direct contempt only Judge gives person summary notice of charges
 Judge <u>must</u> give "summary opportunity to respond."

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Criminal Contempt - Procedure

"summary opportunity to respond"

"...[i]ntended not to provide for a hearing, or anything approaching that...but merely to assure that the alleged contemnor had an opportunity to point out instances of gross mistake about who committed the contemptuous act or matters of that SOTt." -Official commentary to 56-14 (quoted often in cases)



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	"Summary opportuni	ty to respond	
	In re Korfmann, 786 S.E.2d 768 (N.C. App. 2016).		
	Trial judge:	Court of Appeals:	
	This Court takes the strong position that technology is not to be utilized by jurors and, in fact, this jury has	Contempt order	
	been warned several times not to use. In my opinion the utilization by the juror is blatantly	VACATED:	
	disrespecting the Court's order not to use. Sir, I think that what I am going to do with you is I am	"The trial court did not	
	going to send you to Wilson County Jail for 30 days for failing to follow the order given to you by this Court.	give appellant the necessary 'summary	
	The ladies and gentlemen of this jury are now excused. You can get a certificate as to where you have been for	notice of the charges and a summary opportunity	
	the last several days. You are excused. This gentleman is in your custody.	to respond[.]"	
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State	v. Robinson, 281 NC App	614 (2022)	
	• Defendant: "Look at the m	essages on my cell	
	phone."		
	 Magistrate: "If you do not it 		
	phone from the courtroom	ı, I will hold you in	
	contempt."	II the rescensive	
	 Defendant: "But here are a should look at my cell phore 		
	 Magistrate enters order of 		
	contempt	direct criminal	
<u>unc</u>			
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Crimir	nal contempt - Proced	lure	
	1 10	dge gives person	
Sun	nmary proceeding su	immary notice of	
. D:	2 10	narges dge <u>must</u> give "summary	
	3. Ju	oportunity to respond." dge finds facts	
<u>only</u>	su	pporting summary	
		nposition of measures. Must find willfulness.	
	•	Must state facts found "beyond reasonable	
		doubt."	
		/	



Criminal contempt - Procedure

Show cause order
 Must state facts upon which order is based.
 Form: AOC-CR-219
 Hearing (non-jury trail)
 Burden of proof on State
 Beyond a reasonable doubt indigent entitled to counsel
 Self-incrimination protection applies.
 Order
 Guilty or not guilty
 Findings of fact required.
 Must find willfulness (or prior warning).
 Must state "beyond reasonable doubt."

Plenary proceeding

- All <u>in</u>direct contempt
- Direct contempt (at option of Judicial Official)

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STATE OF HOME CAROLINA

STATE

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1 UNC

Appeal	
Clerk of Court ——— Superior Court (de novo appeal)	
Bail hearing required when contemnor appeals	
District court judge sets release conditions	
 Hearing must be held within 24 hours If not held within 24 hours, any judicial 	
official shall conduct the bond hearing.	
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Stay calm, take a deep breath, and say	
stay cann, take a deep steam, and sayiiii	
I am considering holding you in direct criminal contempt for [briefly describe	
the conduct]. Is there anything you would like to say?	
I find you to be in direct criminal contempt.	
* I sentence you to	
[12 hours, 24 hours, up to 30 days incarceration; and/or	
[\$50, \$200, up to \$500 fine; and/or	
[a censor]	
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Should 1?	
Some alternatives:	
Ignore and move on.	
 Admonish and move on. If the person is not a party, instruct him or her to leave. 	
Take a break. (Hit the reset button.)	
 Order person "retrained" for short period of time before 	
summary proceedings. 5A-16(a).	
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