

Criminal Law Update

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Topics to Cover

- Searches and Seizures
- Discovery
- Probation
- Contempt
- Sentencing
- Criminal Offenses

Searches and Seizures

State v. Rogers, 388 N.C. 453 (2025)

State v. Julius, 925 S.E.2d 854 (N.C. Ct. App. 2026)

State v. Hickman, 924 S.E.2d 50 (N.C. Ct. App. 2025)

State v. Rogers, p. 1



Assuming there is an exclusionary rule arising from the NC Constitution, that rule contains a good faith exception equivalent to the federal good faith exception to the exclusionary rule arising from the Fourth Amendment.

What is the exclusionary rule?

If the State (or government) obtains evidence in violation of a person's constitutional rights, the evidence must be excluded from trial.



Applies in several contexts, including evidence gained from an unreasonable search or seizure in violation of the Fourth Amendment.

What about the good faith exception?

- Under the good-faith exception, evidence will not be excluded if it is obtained by officers who reasonably rely on a search warrant that turns out to be invalid.
 - *U.S. v. Leon*, 468 U.S. 897 (1984)
- North Carolina did not recognize a “good faith” exception to the warrant requirement. If an officer believes in good faith that he or she has authority to search under a warrant, but the officer is mistaken, the evidence still must be excluded.
 - See *State v. Carter*, 322 N.C. 709 (1988) (declining to follow *U.S. v. Leon*)

State v. Rogers, p. 1

§ 15A-974. Exclusion or suppression of unlawfully obtained evidence.

- (a) Upon timely motion, evidence must be suppressed if:
 - (1) Its exclusion is required by the Constitution of the United States or the Constitution of the State of North Carolina; or
 - (2) It is obtained as a result of a substantial violation of the provisions of this Chapter. In determining whether a violation is substantial, the court must consider all the circumstances, including:
 - a. The importance of the particular interest violated;
 - b. The extent of the deviation from lawful conduct;

Evidence shall not be suppressed under this subdivision if the person committing the violation of the provision or provisions under this Chapter acted under the objectively reasonable, good faith belief that the actions were lawful.

- (b) The court, in making a determination whether or not evidence shall be suppressed under this section, shall make findings of fact and conclusions of law which shall be included in the record, pursuant to G.S. 15A-977(f). (1973, c. 1286, s. 1; 2011-6, s. 1.)

State v. Rogers

- Under the good faith exception to the exclusionary rule, detective's reliance on the court's CSLI order objectively reasonable.
 - Application included statutorily required information
 - Cataloged the information he had learned
- Thus, CSLI's exclusion not required by federal constitution.
- Assuming without deciding there is an exclusionary rule under the NC Constitution, Court holds that there is a good faith exception to any such rule that is "equivalent to the federal good faith exception."
- State v. Carter, 332 N.C. 709 (1988), is expressly overruled.

The Exception Covers More than Search Warrants

Judicial orders

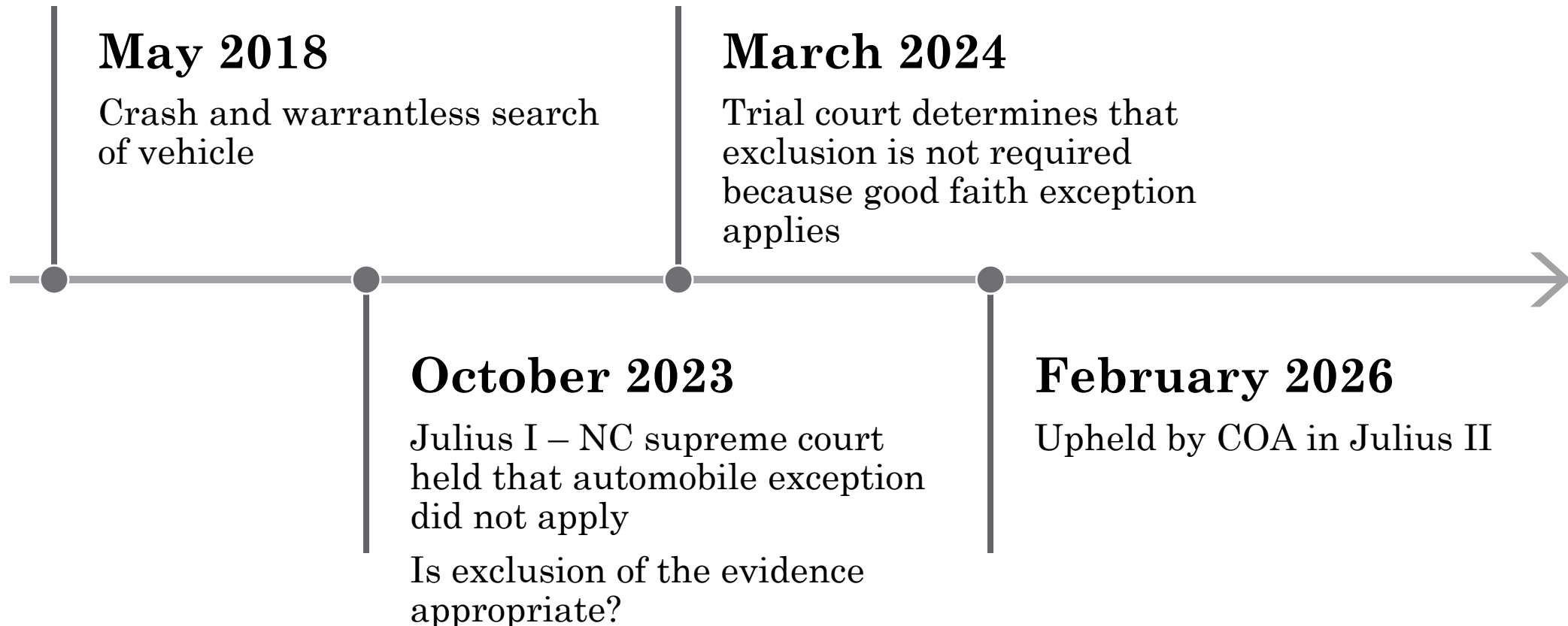
Subsequently invalidated
statutes and caselaw

Clerical errors in court
and police records



State v.
Julius, p. 3

Julius



Julius

- Officer erroneously believed that the automobile exception to the warrant requirement applied
 - “a vehicle may be searched without a warrant when evidence or contraband may possibly be removed from the scene due to the mobility of a vehicle such that it is not practical to secure a warrant without jeopardizing the potential evidence.”
- Prior opinions from the state supreme court, the Supreme Court of the United States, and federal courts of appeal have held that a vehicle’s temporary immobility is not fatal to the application of the automobile exception.

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North Carolina Criminal Law Blog



February 12, 2019

It's Tax Season... For Drugs

Jonathan Holbrook

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State v. Hickman, p. 2

Unauthorized Substance Tax Rates

Substance ^ v	Tax Rate ^ v	Minimum Quantity Before Tax Is Due ^ v
Marijuana Stems & Stalks	\$0.40 for each gram or fraction thereof	More than 42.5 grams
Marijuana	\$3.50 for each gram or fraction thereof	More than 42.5 grams
Low Street-Value Drug Sold by Weight	\$50.00 for each gram or fraction thereof	7 or more grams
Low Street-Value Drug Sold by Dosage Units	\$50.00 for each 10 dosage units or fraction thereof	10 Dosage Units

Hickman

[P]ursuant to G.S. 105-242, you are hereby ordered and commanded to levy upon and sell the real and personal property of the said taxpayer found within your county[.]

EXHIBIT
M1

DEPARTMENT OF REVENUE
P.O. Box 27431
Raleigh, NC 27611

BD

ID: XXX-XX-2848
AN: R57430

WARRANT FOR COLLECTION
OF TAXES

Ronald G. Peay, Secretary
IN THE MATTER OF

JOHNNIE DENISE HICKMAN
3644 TOM DEAL AVE
Valdese, NC 28690

To The Sheriff Of: McDowell COUNTY, NORTH CAROLINA:

WHEREAS, the above taxpayer is indebted to the State of North Carolina on account of duly assessed excise taxes, penalties and interest as follows:

PERIOD	ASSESSMENT DATE	TAX	PENALTY	FEE	INTEREST / ADJUSTMENTS	TOTAL	LESS PAID	TOTAL DUE
5/26/21	5/27/21	113,250.00	45,300.00	21,688.20	2,659.01	182,897.21	50,678.00	132,219.21

PAY THIS AMOUNT: \$132,219.21

Plus additional interest on the balance of the tax due until the assessment is paid in full.

AND WHEREAS, said taxes have not been paid after the taxpayer was given notice of assessment of the tax;

THEREFORE, pursuant to G.S. 105-242, you are hereby ordered and commanded to levy upon and sell the real and personal property of the said taxpayer found within your county, or so much thereof as may be necessary to pay and satisfy said indebtedness and your costs hereof, and to return to the undersigned the monies collected hereunder within sixty days from the date of receipt of this order.

Witness my hand and seal, on November 17, 2022.

Ronald G. Peay
Secretary of Revenue

By: E. Place
Signature of Enforcement Agent

DELIVERED WARRANT FOR COLLECTION OF TAXES
TO THE SHERIFF OF McDowell COUNTY ON
November 17, 2022

E. Place
SIGNATURE OF ENFORCEMENT AGENT

RETURN OF SHERIFF
RECEIVED THE DAY OF
DEMAND AND LEVY MADE THE
DAY OF AND
RETURN



Hickman

- A search conducted solely pursuant to a general administrative tax warrant, issued under G.S. 105-242, violates the Fourth Amendment where there is no valid search warrant obtained.
- The statute authorizes only the action “to levy and sell.”



Is there a good faith exception?



N.C. R. App. P. 10. Thus, because the State did not present before the trial court any arguments regarding good faith, this argument is waived, and we do not address the issue of the good faith exception under North Carolina law.¹

Is there a good faith exception?

- Probably not.
- The good faith exception to the federal exclusionary rule allows “evidence obtained in objectively reasonable good faith reliance on a subsequently invalidated **search warrant**” to be admitted.
 - *Leon*, 468 U.S. at 922, 104 S. Ct. at 3420.

Is there a good faith exception?

File No.	STATE OF NORTH CAROLINA	
SEARCH WARRANT	_____ County	In The General Court Of Justice District/Superior Court Division
IN THE MATTER OF	To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:	
	I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.	
	You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.	
Name Of Applicant		
Name Of Additional Affiant(s)		

Tax warrant states: “[P]ursuant to G.S. 105-242, you are hereby ordered and ordered and commanded to **levy upon and sell** the real and personal property of the said taxpayer found within your county[.]” **It says nothing about searching.**

Discovery

State v. Chemuti, 388 N.C. 412 (2025)



Bodycam footage

- Defendants in district court cases are not entitled to receive statutory discovery.
 - They are entitled to *Brady* material
- Accordingly, defendants in criminal district court cases historically utilized a subpoena issued pursuant to G.S. 15A-802 to obtain documentary or video evidence related to the case.

Bodycam footage

- In 2016, the General Assembly enacted G.S. 132-1.4A, which creates confidentiality protections for certain law enforcement agency recordings, including body-worn camera footage.
- The requesting party must file a petition or complaint for the recordings in superior court and affords the court broad discretion to determine which portions of the recording, if any, should be produced. G.S. 132-1.4A(g).

State v. Chemuti, p. 6

- Criminal defendants may not subpoena body camera footage and other recordings in the custody of law enforcement agencies.
- They must use the procedures set forth in G.S. 132-1.4A.
- A district court defendant who wishes to obtain law enforcement recordings covered under G.S. 132-1.4A from the custodial law enforcement agency must petition the superior court to order their release.
- A district court judge presiding over the underlying criminal matter may not order the recording's release.

Can a DA release recordings to defendant?

- Maybe.
- Custodial law enforcement agency is required to disclose or release a recording to a district attorney:
 - (i) for review of potential criminal charges,
 - (ii) in order to comply with discovery requirements in a criminal prosecution,
 - (iii) for use in criminal proceedings in district court, or
 - (iv) for any other law enforcement purpose,” without a court order
- A district attorney is not expressly prohibited from releasing covered law enforcement agency recordings to district court defendants without a superior court order.
- *Chemuti* stated that the statute provision did not “authorize release to criminal defendants or to the district attorney *in order to comply with a defendant’s subpoena*,” but it did not state that the statute precluded a district attorney from re-releasing to a district court defendant.

Probation

State v. Smith, No. COA25-713 (N.C. Ct. App. May 20, 2026)

State v. Jessup, No. COA25-984 (N.C. Ct. App. June 3, 2026)

State v. Haney, No. COA25-943 (N.C. Ct. App. June 3, 2026)

Probation extensions

“Special purpose” extensions

- G.S. 15A-1342(a)
- Court may extend by up to 36 months if:
 - Probationer consents
 - In last six months of original period of probation
 - For restitution or medical/psychiatric treatment

“Ordinary” extensions

- G.S. 15A-1344(d)
- Extend up to 60-month limit “after notice and hearing and for good cause shown”

AOC-CR-609 page 2

Ordinary

OTHER MODIFICATIONS OF PROBATION

- ☐ 1. The defendant's term of probation is extended for a period of
- ☐ a. for good cause shown, pursuant to G.S. 15A-1344(d). (**NOTE:** *The total of the original period of probation plus all extensions under G.S. 15A-1344(d) may not exceed five years.*)
- ☐ b. with the defendant's consent, pursuant to G.S. 15A-1342(a) or G.S. 15A-1343.2(d). (**NOTE:** *The extension must be for the purpose of allowing the defendant to complete a program of restitution or continue medical or psychiatric treatment ordered as a condition of probation. The extension may be ordered during the last six months of the original, unextended period of probation and may not exceed three years beyond the original period of probation.*)

Special purpose

State v. Smith, p. 21

- 11/2020: Defendant placed on 36 months probation (expires 11/2023)
- 4/2022: Probation extended by 24 months (expires 11/2025)
- 2025: Revoked for absconding

OTHER MODIFICATIONS OF PROBATION

☒ 1 The defendant's term of probation is extended for a period of 24 MONTHS

☐ a for good cause shown, pursuant to G S 15A-1344(d) (NOTE The total of the c
may not exceed five years)

☐ b with the defendant's consent pursuant to G S 15A-1342(a) or G S 15A-1343
defendant to complete a program of restitution or continue medical or psychiatric treatment
only during the last six months of the original unextended period of probation and may not

☐ 2 The defendant's assignment to intensive supervision is terminated and the defendant

☐ 3 The defendant is transferred to ☐ house arrest ☐ intensive supervision

State v. Smith, p. 21

- Court of Appeals:
 - Not “special purpose” (too early)
 - Improper “ordinary” (no “good cause”)
 - Without proper extension, no jurisdiction to revoke in 2025.
 - Vacated

 **OTHER MODIFICATIONS OF PROBATION**

☒ 1 The defendant's term of probation is extended for a period of 24 MONTHS

☐ a for good cause shown, pursuant to G S 15A-1344(d) (NOTE: The total of the extension may not exceed five years)

☐ b with the defendant's consent pursuant to G S 15A-1342(a) or G S 15A-1343; the defendant is required to complete a program of restitution or continue medical or psychiatric treatment only during the last six months of the original unextended period of probation and may not be removed from the community.

☐ 2 The defendant's assignment to intensive supervision is terminated and the defendant is returned to standard probation.

☐ 3 The defendant is transferred to ☐ residential ☐ non-residential supervision.

State v. Jessup

- Jan. 2021: 36-month original probation period (expires Jan. 2024)
- Aug. 2023: 36-month extension (expires Jan. 2027)
- Jan. 2025: Revoked for absconding
- COA: “Ordinary extension” is void (too long); revocation vacated

OTHER MODIFICATIONS OF PROBATION	
☒	1. The defendant's term of probation is extended for a period of <u>36 months</u> ☒ a. for good cause shown, pursuant to G.S. 15A-1344(d). (NOTE: The total of the original period of probation plus all extensions may not exceed five years.) ☐ b. with the defendant's consent, pursuant to G.S. 15A-1342(a) or G.S. 15A-1343.2(d). (NOTE: The extension must be for the defendant to complete a program of restitution or continue medical or psychiatric treatment ordered as a condition of probation. The extension may only be during the last six months of the original, unextended period of probation and may not exceed three years beyond the original period.)
☐	2. The defendant's assignment to intensive supervision is terminated and the defendant is continued on supervised probation.
☐	3. The defendant is transferred to ☐ unsupervised ☐ supervised probation.
☐	4. The defendant is allowed until _____ to comply with the following condition(s):

State v. Haney

- Where a defendant disputes or disclaims counsel's admission of probation violations at a revocation hearing, the trial court must inquire further.
- Failure to conduct such an inquiry requires a new revocation hearing.



Contempt

State v. Brinkley, 300 N.C. App. 513 (2025)

State v. Jacobs, 925 S.E.2d 364 (N.C. Ct. App. 2025)

Grounds for criminal contempt

- Disruption of court proceedings.
- Impairing the respect due a court during proceedings.
- Disobedience of or resistance to or interference with a court order.
- Refusal to be sworn as a witness or to testify. Giving false testimony.
- Willful or grossly negligent failure of an officer of the court to perform duties.
- Willful or grossly negligent failure to comply with court schedule or practice.
- Communication with a juror to improperly influence deliberations.
- Refusal to comply with a condition of probation.

Types of criminal contempt

Direct

- Criminal contempt that is committed within sight or hearing of a judicial official, occur in or in immediate proximity to the room where proceedings are being held, and be likely to interrupt or interfere with the proceedings. G.S. 5A13(a).
- May be punished summarily; A plenary proceeding may be used.
- Defendant must be told the basis for the contempt and given an opportunity to respond.

Indirect

- All other criminal contempt
- May NOT be punished summarily; A plenary proceeding must be used.
- Defendant must be told the basis for the contempt and given an opportunity to respond.

State v. Brinkley, p. 12

- Defendant fails to report to the jail on the day his criminal sentence is ordered to begin.
- Is this criminal contempt?
 - Yes – “Willful disobedience of, resistance to, or interference with a court's lawful process, order, directive, or instruction or its execution.” G.S. 5A-11(a)(3).
- Is it direct or indirect?
 - Indirect; Defendant’s failure to report occurred outside the presence of the court. It did not occur during “any matters then before the court” and did not occur “within the sight or hearing of a presiding judicial official.”

State v. Jacobs, p. 13

[Defendant]: Can I put a motion to appeal in? Motion to appeal.

[Trial Court]: You can appeal it all you want.

[Defendant]: On the record. And can I get a transcript sent to the jail where I'm at? And can I have that on the record too? Both transcripts, the one from last time and the one from this time. Thank you so much.

[Trial Court]: I wish you the best.

[Defendant]: Yeah. I'll see you in federal court, bucko.

[Trial Court]: I'm going to hold you in contempt for that threat. I'm going to add 30 days to the 33.

Jacobs

- Court “may summarily impose measures in response to direct criminal contempt when necessary to restore order or maintain the dignity and authority of the court and **when the measures are imposed substantially contemporaneously with the contempt.**” G.S. 5A-14(a).
 - A hearing the next morning was substantially contemporaneous when the defendant had to be removed from a bond hearing for being disruptive. *State v. Johnson*, 52 N.C. App. 592 (1981).
 - A summary hearing two days later was permissible when done to allow the lawyer time to respond to the judge’s basis for holding him in contempt. *In re Nakell*, 104 N.C. App. 638 (1991).

Jacobs

- “Where there is an unnecessary delay between the contemptuous behavior and the imposition of criminal contempt, summary proceedings are no longer appropriate and plenary proceedings in accordance with [G.S.] 5A-15 must be conducted instead.”
 - *State v. Robinson*, 281 N.C. App. 614 (2022).

Sentencing

State v. Santana, (N.C. Ct. App. Oct. 1, 2025)

The Court further Orders: (check all that apply)

1. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below.

Costs	Fine	Restitution*	Attorney's fees	SBM Fee	Appt Fee/Misc
\$ 0.00	\$	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

*See attached "Restitution Worksheet, Notice and Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- ☐ 2. The Court finds that restitution was recommended as part of the defendant's plea arrangement.
- ☐ 3. The Court finds just cause to waive costs, as ordered on the attached ☐ AOC-CR-618. ☐ Other: _____
- ☐ 4. Without objection by the State, the defendant shall be admitted to the Advanced Supervised Release (ASR) program. If the defendant does not accept the risk reduction incentives as identified by the Division of Prisons of the Department of Adult Correction, then he or she will be required to serve the full term of the ASR term specified on Side One. G.S. 15A-1340.18.
- ☒ 5. Other:
ENTER CIVIL JUDGMENT FOR COSTS + CAA FEES OF \$1,615 + \$250,000 FINE.



State v. Santana, p.17

Trial court has no authority to
order a civil judgment for a
fine immediately at
sentencing.

- G.S. 15A-1365
 - When a defendant has defaulted in payment of a fine or costs, the judge may order that the judgment be docketed.
 - Upon being docketed, the judgment becomes a lien on the real estate of the defendant in the same manner as do judgments in civil actions.
- Must first determine that the defendant had defaulted in payment.

North Carolina Criminal Law

A UNC School of Government Blog

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I'm Just a Civil Judgment

October 19, 2017 [Jamie Markham](#)



Print

Many of you probably remember the “[I’m Just a Bill](#)” segment from the *Schoolhouse Rock!* series. It explained—through a musical number that will be stuck in your head all day—how a bill becomes a law. I didn’t compose a song, but in today’s post I’ll attempt to explain what actually happens to the thousands of civil judgments entered for various monetary obligations in criminal court.



First of all, which criminal monetary obligations may be docketed as a civil judgment? In my

Why does this matter?

- G.S. 15A-1362(b)
 - A criminal fine “is payable forthwith” unless the court provides “for the payment to be made within a specified period of time or in specified installments.”
 - Must indicate whether the fine is to be paid within a specific period of time or in specified installments.
 - If no indication, the fine will be due in full immediately.
- G.S. 24-5(b)
 - General statutes do not authorize the recovery of interest on a criminal fine; however, a civil money judgment bears interest from the date of entry.
- Before docketing as a civil judgment, must first determine that the defendant defaulted in payment of the costs or fine.

We recognize that it may be common practice for courts in criminal cases to immediately docket court costs and fines as civil judgments without first determining that the defendant has defaulted in payment. Amending our general statutes to reflect this practice lies within the purview of the Legislature and not the courts.

Offenses

State v. Ford, 388 N.C. 713 (2025)

State v. Horton, No. COA25-888 (N.C. Ct. App. May 6, 2026)

Ford, p. 14

Obstruction of justice does not require as an element that the defendant actually succeed in preventing officers from finding evidence.



Assault on a female is a general intent crime, and the State need not prove that the defendant specifically intended to assault a female victim.

Horton, p. 15