Jurisdiction and Judicial Authority

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Roadmap

- What is your jurisdiction?
- What is your authority?
  - When may you overrule another judge?
  - When may you correct an error in a criminal judgment?
  - When may you complete another judge's work?

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Jurisdiction

- Unless a statute provides otherwise, **the superior court has original general jurisdiction throughout the state**. N.C. Const. Art. IV, § 12(3).

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Jurisdiction

- To implement the constitutional principle of rotating superior court judges among the various districts of a division (N.C. Const. Art. IV, § 11), the Chief Justice assigns superior court judges to **terms** (six-month assignments) and **sessions** (one-week assignment within term) of court.
- While assigned, a judge has the same powers in the county as a resident judge – until the session expires. G.S. 7A-45.1(c) (special judge); 7A-47 (regular judge).
- A judge's jurisdiction over matters in a district to which the judge is not assigned and in which the judge is not a resident is limited.

What you need to know

A superior court judge may not enter an order in a civil or criminal case outside of the ***term*** in which a motion is heard without the consent of the parties.

- Such an order is void.
- In a criminal case, the parties' consent to taking the matter under advisement is not consent to the order being entered out of term.
- In a civil case, consent will be deemed to have been given unless an express objection is made on the record.

State v. Trent, 359 N.C. 583 (2005)

- Trial court heard MTS in January and took matter under advisement.
- Trial court announced ruling on eve of trial in August (after new term began).
- NC Supreme Court: Trial court was required to enter its ruling by announcing its decision in open court or filing its order during the Spring term in which hearing was held.
  - Defendant's failure to object was not implied consent.
  - Defendant is entitled to a new trial.
  - "*Requiring all judges to enter orders in term and in session . . . preserves standards, uniformity, stability, and fairness in criminal prosecution and furthers the policy motivation for the rule*."

State v. Ivey, 296 N.C. App. 440 (2024) (unpublished)

- Court heard MTS in May 2022. Took matter under advisement.
- Court denied motion in open court in September 2022.
- Written order filed in February 2023.
- Bench trial in August 2023.
- Ct of Appeals:
  - Rendering and entry of order were outside of the term in which motion was heard.
  - Conviction vacated and matter remanded for rehearing on MTS.

"A superior court order must be entered during the term, during the session, and in the county where the hearing is held."

In-Chambers Jurisdiction (G.S. 7A-47.1)

- A superior court judge may hear and decide at any time non-jury matters (civil and criminal) arising from the judge's home district, regardless of where the judge is assigned.
  - For **criminal** matters, the **hearing must be in the county** where the case is pending (unless a statute or rule says otherwise or the parties consent).
  - In **civil** cases, the **hearing may be in any county within the district**.
- Assigned judges also have in-chambers jurisdiction in the district where they are assigned.

State v. Collins, 234 N.C. App. 398 (2014)

- D filed motion for post-conviction DNA testing in December 2009.
- Hearing held in March 2013. Court told parties by email later that day that the motion was denied.
- Written order filed in April 2013 – out of session.
- Ct. App.: Trial court not divested of jurisdiction.
  - "A trial court may exercise in chambers jurisdiction in a nonjury matter arising in his or her district to enter an order out of session and without the consent of the parties."

What about remote issuance of search warrants?

- You are resident in Cumberland County and are assigned to Wake County. An officer from Johnston County contacts you regarding the remote issuance of a search warrant. May you conduct a remote hearing and issue the search warrant?
  - G.S. 7A-49.6: Proceedings of all types may be by audio and video transmission.
  - G.S. 15A-243: Superior court judge may issue search warrant valid throughout NC
  - G.S. 7A-47.1: In-chambers jurisdiction over non-jury matters.
  - What about requirement for holding hearing in county? No case is pending and arguably G.S. 7A-49.6 says otherwise.

As for Civil Cases: See N.C. R. Civ. Pro. 6(c)

The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a session of court.

The continued existence or expiration of a session of court in no way affects the power of a court to do any act or take any proceeding, but no issue of fact shall be submitted to a jury out of session.

See also N.C. R. Civ. P. 58

- Subject to the provisions of Rule 7(b)(4), consent for the signing and entry of a judgment out of term, session, county, and district shall be deemed to have been given unless an express objection to such action was made on the record prior to the end of the term or session at which the matter was heard.

What you need to know

- **Civil cases.** A judge may decide a matter and enter an order after the session has expired and while the judge is out of district if the hearing was held **during the session** and the judge's **term has not expired**.
  - The parties do not have to consent, but they can stop the judge from acting out of session or out of district by objecting before the session concludes.
  - If the term has expired, the parties must consent.

Continuing jurisdiction until end of session

- Orders and judgments of the trial court remain *in fieri* and subject to further action until the end of a session of court
  - Even if the parties have given notice of appeal

One Trial Judge May Not Overrule Another

- A superior court judge may only modify, overrule, or change the order of another superior court judge if it is
  (1) interlocutory,
  (2) discretionary, and
  (3) there has been a substantial change of circumstances since the entry of the prior order.

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You have been assigned to court in another district. The prosecutor submits for your review a plea agreement that has been rejected by another superior court judge. May you accept it?

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In the same session, a prosecutor seeks to argue that an earlier judge erred in suppressing evidence in a criminal case. You see the earlier order in the file. The prosecutor states that his colleague failed to advance the appropriate theory at the earlier hearing.

May you rehear and decide the suppression issue?

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Another superior court judge denied the defendant's motion to continue at an administrative hearing last week. The defendant subsequently asks you, the trial judge, to continue the case.

- May you grant the continuance?
- Yes – if the circumstances have changed in a substantial way.

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You are presiding over a civil trial. Several months ago, another judge dismissed claims against two plaintiffs for lack of standing. Those parties have now filed a motion before you to intervene.

- May you consider the motion?
- Yes. The legal questions and the required showing are different for standing and permissive intervention.

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Correcting Errors after Entry of Judgment in a Criminal Case

Before the session ends

- A judge may correct a **clerical or legal error** before the session ends.
  - A judgment is *in fieri* until the session ends; thus a judge may amend it or set it aside (even if the defendant already has filed notice of appeal).

After the session ends

- A judge may correct **a clerical error** if the case is still in the trial division.
- A judge may correct **a legal error** in sentencing.
  - The defendant must be present for resentencing.

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Completing another judge's work

Civil cases.

- N.C. R. Civ. P. 63 authorizes a designated substitute judge (typically the senior resident) to perform certain ministerial duties—including entry of judgment—following a trial or hearing presiding over by a judge who can no longer perform his or her duties.
- Rule 63 provides that if the substituted judge is satisfied that he/she cannot perform duty because he/she did not preside at the trial or hearing, judge may grant a new trial or hearing.

Completing another judge's work

Criminal cases.

G.S. 15A-1224

(a) If by reason of sickness or other disability a judge before whom the defendant is being tried is unable to continue presiding over the trial without the necessity of a continuance, he may in his discretion order a mistrial.

(b) If by reason of absence, death, sickness, or other disability, the judge before whom the defendant is being or has been tried is unable to perform the duties required of him before entry of judgment, and has not ordered a mistrial, any other judge assigned to the court may perform those duties, but if the other judge is satisfied that he cannot perform those duties because he did not preside at an earlier stage of the proceedings or for any other reason, he must order a mistrial.

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