

NCGS §15A-1201(c)

(c) A defendant seeking to waive the right to trial by jury under subsection (b) of this section shall give notice of intent to waive a jury trial by any of the following methods:

(1) Stipulation, which may be conditioned on each party's consent to the trial judge, signed by both the State and the defendant and served on the counsel for any co-defendants.

(2) Filing a written notice of intent to waive a jury trial with the court and serving on the State and counsel for any co-defendants within the **earliest** of (i) 10 working days after arraignment, (ii) 10 working days after service of a calendar setting under G.S. 7A-49.4(b), or (iii) 10 working days after the setting of a definite trial date under G.S. 7A-49.4(c).

(3) Giving notice of intent to waive a jury trial on the record in open court by the earlier of (i) the time of arraignment or (ii) the calling of the calendar under G.S. 7A-49.4(b) or G.S. 7A-49.4(c).

The cases below provide some insight as to how strictly the time limitations for notification of intent to waive a jury trial have been followed. A violation of subsection (c), shown above, was not raised on appeal in any of the cases.

- *State v. Jones*, 789 S.E.2d 651 (2016)
- Shortly after case called for jury trial, Defendant informed the court that he was voluntarily waiving his right to a jury trial. “A bench trial then took place.”
- *State v. Swink*, 797 S.E.2d 330 (2017)

Defendant waived jury trial on March 2, 2015. Bench trial started on April 28, 2015, after judge confirmed Defendant still wished to waive jury trial.

- *State v. Lineberger*, 803 S.E.2d 700 (2017)

When Defendant’s case “came on for trial” on August 31, 2015, Defendant waived his right to a jury trial. (Waiver form dated September 1, 2015)

- *State v. Thomas*, 803 S.E.2d 871 (2017)

Case called for trial on July 11, 2016. After Defendant’s pretrial motion to dismiss was denied, Defendant waived a jury trial. (Waiver form dated July 12, 2016)

- *State v. Boderick*, 2018 N.C. App LEXIS 256

After case mistried on March 16, 2016, the same day, the parties stipulated to a bench trial. Bench trial began on March 18, 2016. (Waiver form dated March 16, 2016)

Note: Unable to access waiver form from appellate record, if no waiver form referenced.

