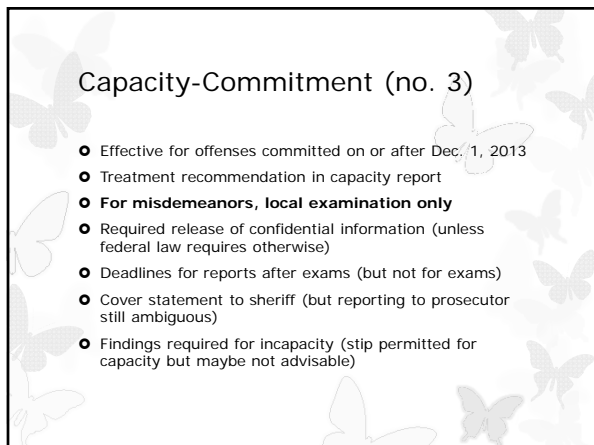


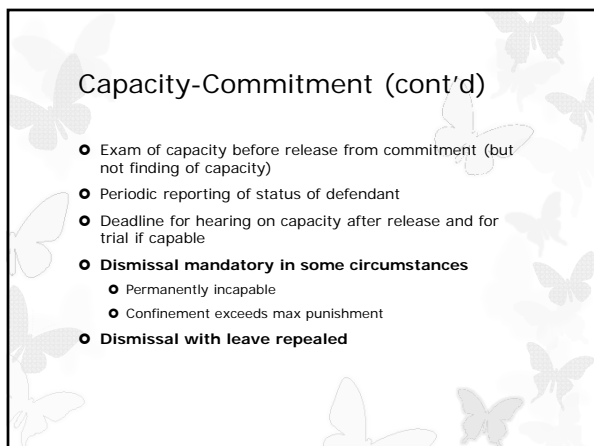
The Rest of the Criminal
Law Update (Part 1)

John Rubin
UNC School of Government



Capacity-Commitment (no. 3)

- Effective for offenses committed on or after Dec. 1, 2013
- Treatment recommendation in capacity report
- **For misdemeanors, local examination only**
- Required release of confidential information (unless federal law requires otherwise)
- Deadlines for reports after exams (but not for exams)
- Cover statement to sheriff (but reporting to prosecutor still ambiguous)
- Findings required for incapacity (stip permitted for capacity but maybe not advisable)



Capacity-Commitment (cont'd)

- Exam of capacity before release from commitment (but not finding of capacity)
- Periodic reporting of status of defendant
- Deadline for hearing on capacity after release and for trial if capable
- **Dismissal mandatory in some circumstances**
 - Permanently incapable
 - Confinement exceeds max punishment
- **Dismissal with leave repealed**

JRA changes

- CRV time must be consecutive (no. 22) (eff. June 12, 2013)
- 90-96(a) discretionary . . . again (no. 54) (eff. for offenses on or after Dec. 1, 2013)

JRA and Other Sentencing Cases

- *State v. Nolen* (p. 18-19)
 - Absconding revocation applies to offenses on or after Dec. 1, 2011
- *State v. Kornegay* (p. 19)
 - Allegation that defendant used controlled substance in violation of probation conditions is not same as allegation of commission of criminal offense authorizing revocation
- *State v. Romero* (p. 19)
 - No right to appeal CRV (except perhaps terminal CRV)
- *Walters v. Cooper* (Oct. 4, 2013) (per curiam)
 - PJC for sexual battery is not a reportable conviction

Pretrial release changes

- Bail bond by professional bondsman is same as cash except in child support contempt matters (no. 29) (eff. Dec. 1, 2013)
 - Professional or surety bond is also same as "U.S. currency," "green money," "I really mean cash"
- Mandatory bond provisions (no. 73) (eff. for pretrial conditions set on or after Dec. 1, 2013)
 - Preventive detention for felony or Class A1 misdemeanor involving firearm if certain conditions present
 - If FTA and no prior bond, minimum of \$1,000 secured
 - If new offense while on pretrial release, secured bond at least twice the amount of prior bond or \$1,000 if no prior bond

Other selected revisions

- No prosecution for underage drinking by person seeking medical assistance for another person (no. 4) (eff. April 9, 2013)
- Docketing judgments for indigent defendants (no. 9) (eff. May 2, 2013)
- Failure to report that juvenile is abused, neglected or dependent, as defined in 7B-101, made a crime (no. 12) (eff. for offenses on or after Dec. 1, 2013)
- Prostitution revisions (no. 90) (eff. for offenses on or after Oct. 1, 2013)
 - "Sexual acts" as well as intercourse covered
 - Penalty for solicitation increased: punishment may include "John" school
 - New offense of patronizing a prostitute if "with a person not his or her spouse"

State v. Poole (p. 16)

- Violation of ex parte DVPO triggers criminal consequences for violations
 - Statutory analysis
 - Byrd analysis of 50B was dicta
 - Legislative fix
 - Constitutional analysis
 - Byrd statements about Due Process were dicta
 - No violation of Due Process

State v. Cooper (p. 11)
State v. Gamez (p. 12)

- What's the difference between *Howerton* and revised N.C. R. of Evid. 702?

