



DVPO ≠ Search Warrant

Although there may be many other reasons that an ex parte DVPO is not a de facto search warrant, one reason is that the district court made no determination regarding probable cause for the search.

Elder, p. 7
writ allowed

Sometimes You Need to Be Home

- * Consent to search
- * Fernandez v. California, p. 10

CRIMINAL PROCEDURE



Right to Counsel

- * Right to counsel
- * Resentencing: State v. Rouse, p. 11
- * Probation revocation: State v. Jacobs, p. 24

Step Up and Sign the Waiver

“One moment. Let’s get a waiver in the file. You indicated you didn’t want an attorney, I’m going to let you sign a waiver that you don’t want an attorney.”

For model colloquy, see *State v. Moore*, 362 N.C. 319 (2008)

Other Counsel Issues

- * Forfeiture of right to counsel
 - * *State v. Mee*, p. 11-12
 - * See also *State v. Minyard*, p. 14-15 (forfeiture of right to presence)



Amendment of Pleadings

District Court Pleading

- * Acting as agent for illegal lottery in violation of 14-291

Amended in District Court

- * Possessing tickets in operation of illegal lottery in violation of 14-290

Carlton, p. 13

More Pleadings

- * Double jeopardy and fatal variance
 - * *State v. Chamberlain*, p. 14



Denial of Continuance for State

* State requests continuance; judge denies.

* *Martinez v. Illinois*, p. 13-14

Trial begins;
State presents no evidence

State takes
dismissal

~~State unilaterally
reopens case~~

Defender Manual, Vol. 1., Pretrial, § 7.4E
www.ncids.org (under Reference Manuals)

Evidence

§ 8C-1. Rules of Evidence.
The North Carolina Rules of Evidence are as follows:

Expert Testimony

* NC is a *Daubert* state

* *State v. McGrady*, p. 16

- * Reliability
- * Expert qualifications
- * Factual basis

* Admissibility of capacity evaluation at trial

* *Kansas v. Cheever*, p. 18-19



Criminal Offenses



Intimidating Witness

- * Intimidating witness
- * State v. Shannon, p. 19

Constructive Possession



**NOT MY
PANTS
TRUCK**

Velazquez-Perez, p. 19
temp. stay

Constructive Possession

**MY CAR BUT
NOT MY GUN
IN IT**

**P.S. I'm not
driving!**



Bailey, p. 21-22

Sex Offenses

- * Right to instruction on accepted medical purpose defense to sex offense charge
 - * State v. Stepp, 753 S.E.2d 485 (Jan. 21, 2014), writ allowed
- * Requirement that act by force and against person's shown by "surprise" in circumstances of case
 - * State v. Henderson, p. 22
- * PJC for sexual battery not a reportable conviction
 - * Walters v. Cooper, p. 23

Bonus Material

- * Withdrawn opinion
 - * State v. McColloch, p. 26
- * Admissibility of default judgment
 - * State v. Young, p. 21