


Elements Review: RDO & Weapons Possession

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UNC SOG Research Attorney



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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer



CR CRIMES

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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:



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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully



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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs



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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs
3. A public officer





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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs
3. A public officer
4. Knowing or having reasonable grounds to believe that the victim is a public officer



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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs
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4. Knowing or having reasonable grounds to believe that the victim is a public officer
5. While the officer is discharging or attempting to discharge a duty of his or her office



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Resist Delay Obstruct

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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully Consensual Encounters, Investigatory Stops, and Suspects who Flee
2. Resists, Delays, and Obstructs
3. A public officer
4. Knowing or having reasonable grounds to believe that the victim is a public officer
5. While the officer is discharging or attempting to discharge a duty of his or her office




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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

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5. While the officer is discharging or attempting to discharge a duty of his or her office




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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs Providing False Information; Refusing to Provide Information
3. A public officer
4. Knowing or having reasonable grounds to believe that the victim is a public officer
5. While the officer is discharging or attempting to discharge a duty of his or her office




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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

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Resist Delay Obstruct

Element 1: Willfully and Unlawfully





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Resist Delay Obstruct

Element 1: Willfully and Unlawfully

NC Crimes Notes:
A person does not act unlawfully if his or her action is legally permissible.

Example:
A defendant cannot be convicted of this crime when he or she flees a consensual encounter - State v. Sinclair, 191 N.C. App. 485 (2008)

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Resist Delay Obstruct

Element 1: Willfully and Unlawfully

NC Crimes Notes:
A person does not act unlawfully if his or her action is legally permissible.

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Review:
Encounters With Law Enforcement

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Resist Delay Obstruct

Element 1: Willfully and Unlawfully

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A person does not act unlawfully if his or her action is legally permissible.

Example:
A defendant cannot be convicted of this crime when he or she flees a consensual encounter - State v. Sinclair, 191 N.C. App. 485 (2008)

Review:
Encounters With Law Enforcement

Discuss:
Fleeing Consensual Encounters

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Encounters With Law Enforcement

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Encounters With Law Enforcement

Consensual Encounter

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Encounters With Law Enforcement

Consensual Encounter

Investigatory Stop

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Encounters With Law Enforcement

Consensual Encounter

Investigatory Stop

Custodial Arrest

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Encounters With Law Enforcement

The type of encounter often influences whether a person's actions constitute RDO

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Encounters With Law Enforcement

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Encounters With Law Enforcement

Basis: Reasonable suspicion or probable cause are not required

Scope:
Officer may approach an individual in public, ask questions, or even ask to search the person's belongings so long as a reasonable person would understand that he or she could refuse to cooperate

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Encounters With Law Enforcement

Consensual Encounter

Basis: Reasonable suspicion or probable cause are not required

Scope:
Officer may approach an individual in public, ask questions, or even ask to search the person's belongings so long as a reasonable person would understand that he or she could refuse to cooperate

Investigatory Stop

Basis: Reasonable suspicion is required

Scope:
A temporary stop using the least intrusive means reasonably available to effectuate the purpose of the stop

- Suspect can be detained – it's called a "stop"
- Suspect sometimes may be frisked

Custodial Arrest

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Encounters With Law Enforcement

Consensual Encounter

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- Suspect sometimes may be frisked

Custodial Arrest

Basis: Probable cause is required

Scope:
Officer may take suspect into custody

- Suspect may be searched incident to arrest

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Complicated Situation - Fleeing

Consensual Encounter

Investigatory Stop

Custodial Arrest

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Complicated Situation - Fleeing

A diagram with three boxes on the left: 'Consensual Encounter' (green), 'Investigatory Stop' (yellow), and 'Custodial Arrest' (orange). A line connects 'Consensual Encounter' to a text box on the right that says 'Fleeing is a complicated situation only with respect to consensual encounters'. The background is a faded image of a building.

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Complicated Situation - Fleeing

A diagram with three boxes on the left: 'Consensual Encounter' (green), 'Investigatory Stop' (yellow), and 'Custodial Arrest' (orange). A line connects 'Consensual Encounter' to a text box on the right that says 'Fleeing is a complicated situation only with respect to consensual encounters'. A line connects 'Investigatory Stop' to a larger text box on the right that says 'A person has no right to flee an investigatory stop or a custodial arrest'. The background is a faded image of a building.

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Fleeing & Consensual Encounters

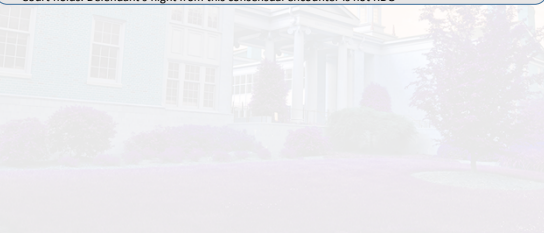
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Fleeing & Consensual Encounters

State v. Sinclair, 191 N.C. App. 485 (2008)

- Officers arrive at a bowling alley known for drug activity
- Approach defendant, who one of the officers is familiar with, and say "let me talk to you"
- Defendant says "Nope. Got to go." and takes off running
- Court holds: Defendant's flight from this consensual encounter is not RDO





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State v. Joe, 213 N.C. App. 148 (2011)

- Officers are patrolling a high crime area in an unmarked van
- When the defendant sees the van, he walks behind a nearby apartment
- An officer follows and sees the defendant running down the street
- Officer yells "police, stop" but the defendant keeps running
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State v. White, 214 N.C. App. 471 (2011)

- Officers are responding to a noise complaint in a high crime area
- As officers exit their unmarked vehicle, the defendant begins running
- Officers yell "Stop! Police!" and chase the defendant
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State v. Holley, ___ N.C. App. ___ (2019)

- An officer responds in a marked patrol car to a report of suspicious activity near a corner store
- The defendant sees the officer arrive and walks to the nearest door of a nearby home
- Officer yells "Stop!" and the defendant runs
- Court holds: Defendant's flight from this consensual encounter is not RDO

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Fleeing & Investigatory Stops







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Fleeing & Investigatory Stops

State v. Goins, 248 N.C. App. 265 (2016)

- Officer observes a car enter a high crime apartment lot, apparently to meet a person standing outside
- Person standing yells a warning to the car, which doesn't stop, speeds up, and leaves the lot
- Court holds: An investigatory stop of the car was justified, in part because the car seemed to be fleeing the officers





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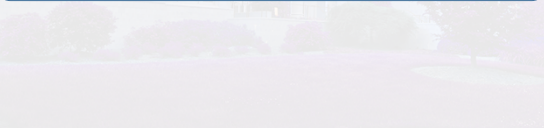
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State v. Jackson, 368 N.C. 75 (2015)

- Officer patrolling a high crime store observes the defendant and another man standing outside
- When the men see the officer approach, they disperse in opposite directions
- Soon thereafter, the officer sees them at the store and they again disperse in opposite directions
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Fleeing & Investigatory Stops

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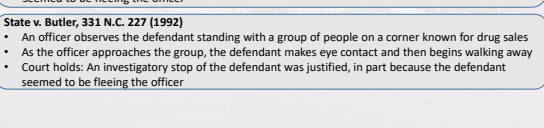
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State v. Butler, 331 N.C. 227 (1992)

- An officer observes the defendant standing with a group of people on a corner known for drug sales
- As the officer approaches the group, the defendant makes eye contact and then begins walking away
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Fleeing & Investigatory Stops

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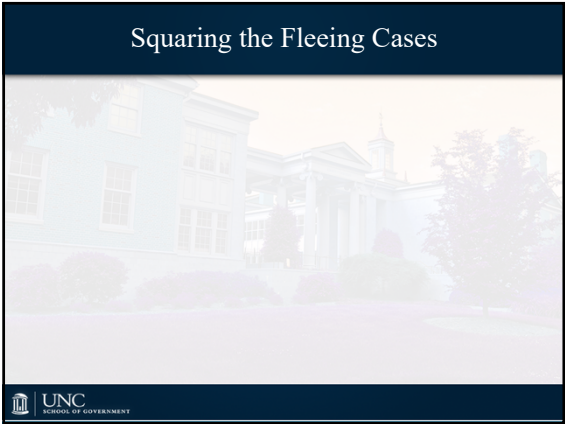
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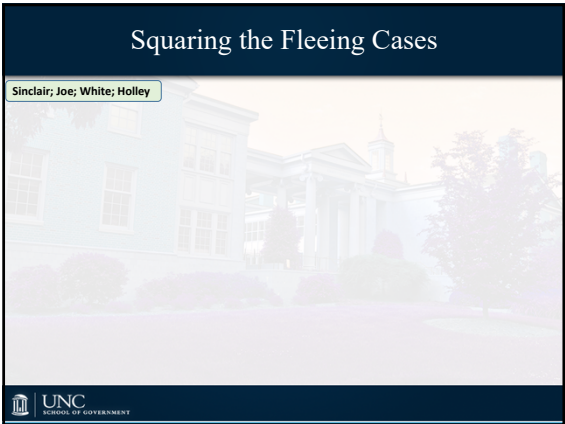
Illinois v. Wardlow, 528 U.S. 119 (2000)

- An officer patrolling a known drug trafficking area observe the defendant holding an opaque bag
- Upon seeing the officers, the defendant runs from the scene
- Court holds: An investigatory stop of the defendant was justified, in part because "headlong flight . . . is the consummate act of evasion"

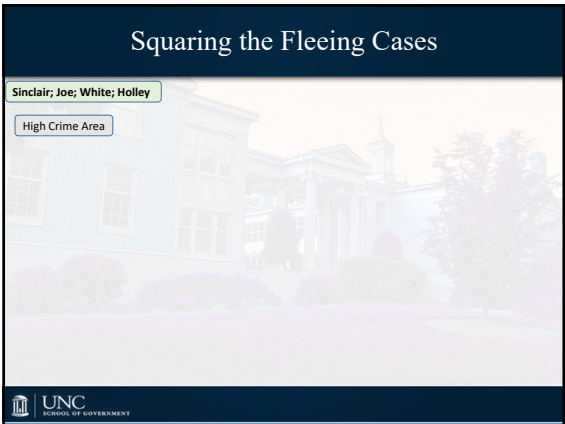
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Squaring the Fleeing Cases

Sinclair; Joe; White; Holley

High Crime Area

Hunch



A slide with a dark blue header and a light blue background image of a building. The text 'Sinclair; Joe; White; Holley' is in a white box. Below it are two white boxes: 'High Crime Area' and 'Hunch'. The UNC School of Government logo is in the bottom left corner.

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Squaring the Fleeing Cases

Sinclair; Joe; White; Holley

High Crime Area

Hunch

Encounter Not Supported by Suspicion



A slide similar to slide 43, but with a green box containing the text 'Encounter Not Supported by Suspicion' and a blue arrow pointing to the right.

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Squaring the Fleeing Cases


Sinclair; Joe; White; Holley

High Crime Area

Hunch

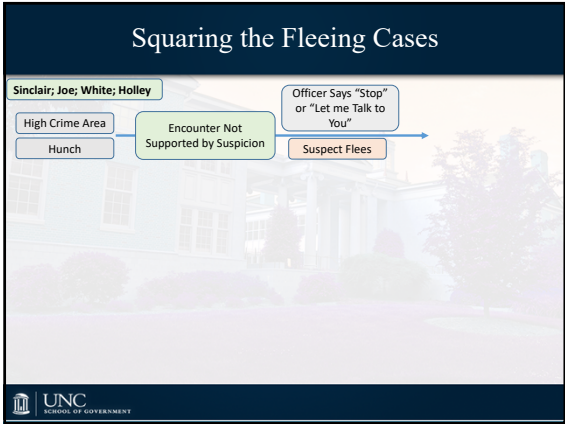
Encounter Not Supported by Suspicion

Suspect Flees

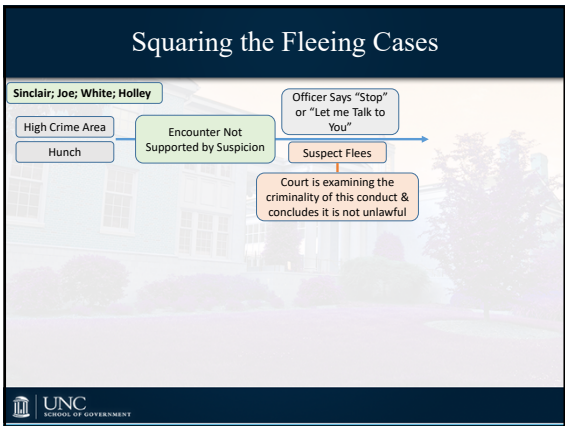


A slide similar to slide 44, but with a pink box containing the text 'Suspect Flees' and a blue arrow pointing to the right.

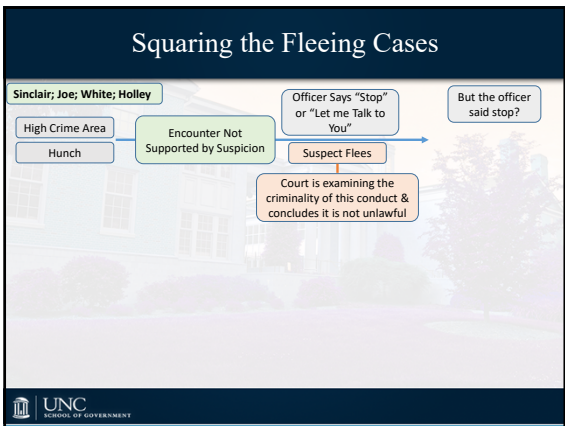
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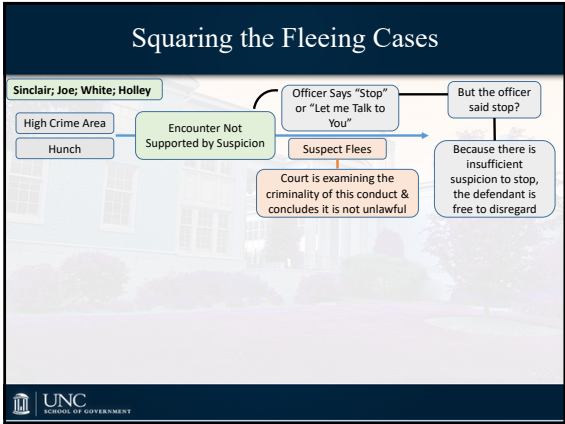
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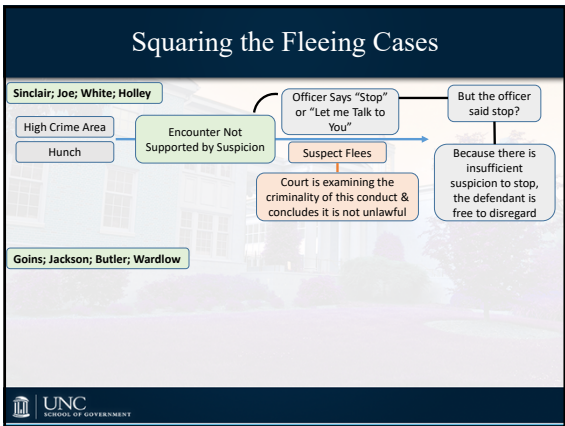
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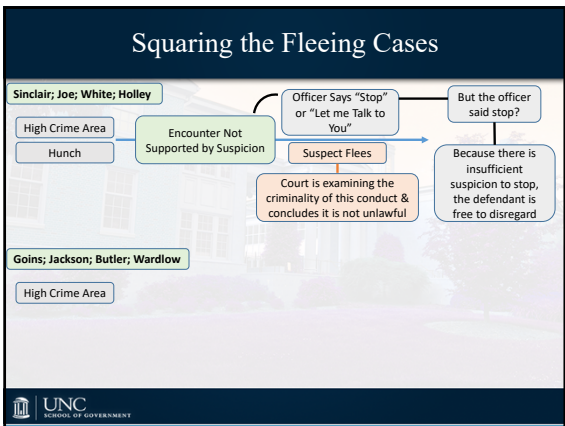
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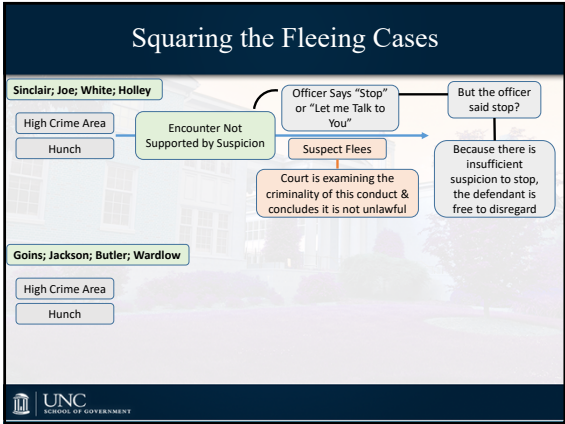
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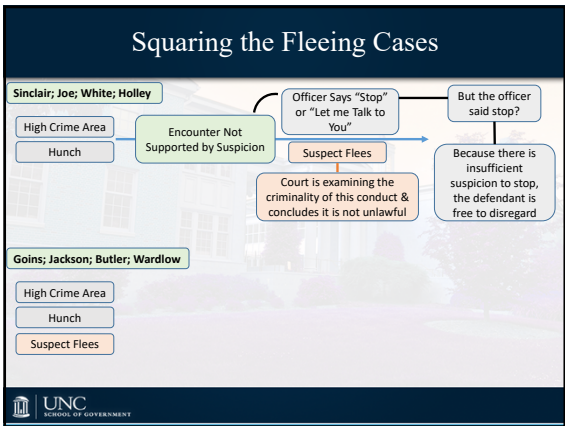
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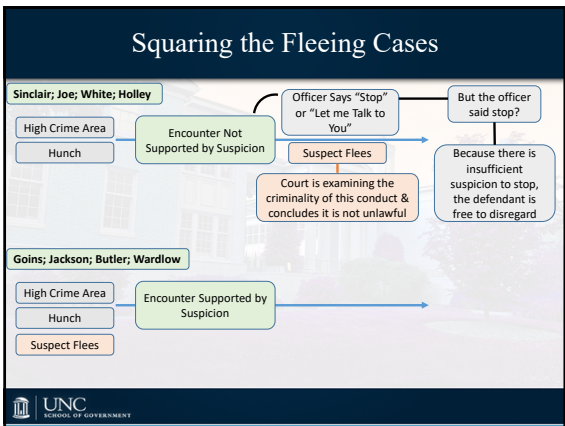
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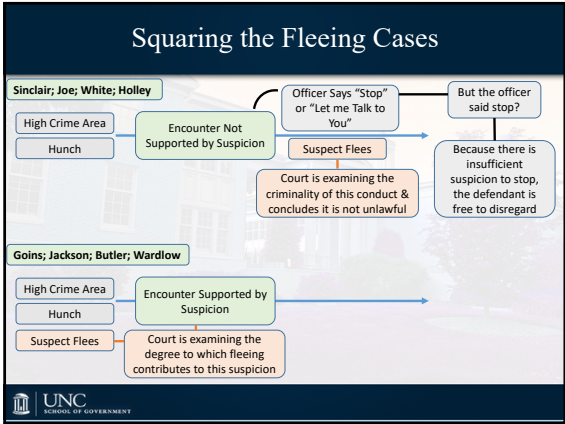
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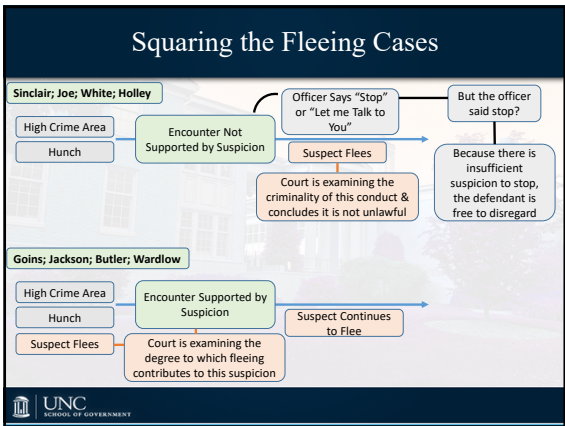
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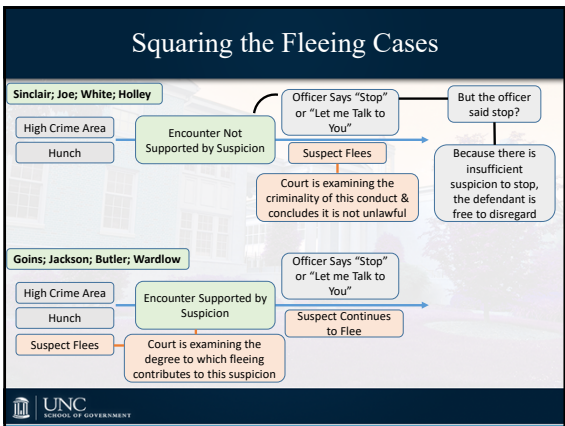
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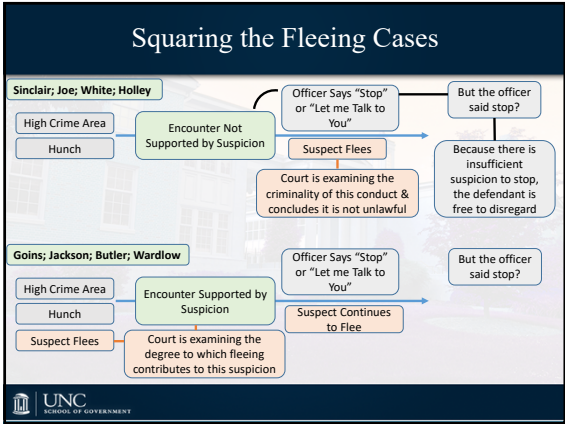
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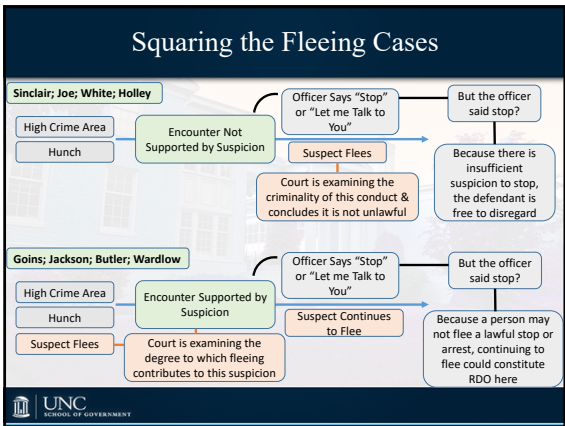
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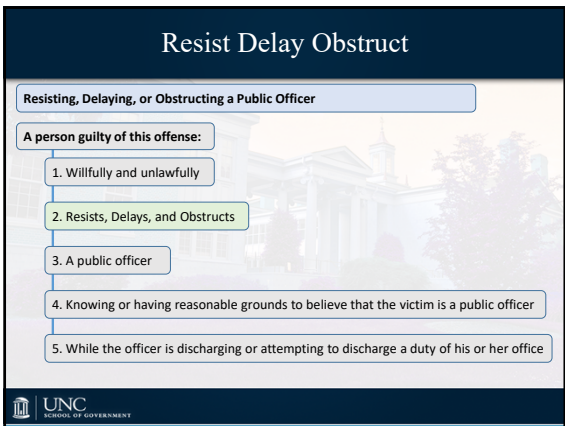
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Resist Delay Obstruct

Element 2: Resists, Delays, or Obstructs

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Resist Delay Obstruct

Element 2: Resists, Delays, or Obstructs

NC Crimes Notes:
 In addition to resisting an arrest, this element covers any resistance, delay, or obstruction of an officer acting in the course of his or her duties including

- Executing a search warrant
- Conducting an investigatory stop, and
- Investigating a crime

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Resist Delay Obstruct

Element 2: Resists, Delays, or Obstructs

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Discuss:
 Refusing to Provide
 Information & Providing
 False Information

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Refusals & False Information

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Refusals & False Information

In re J.L.B.M., 176 N.C. App. 613 (2006)

- Officer responding to suspicious person report at gas station stops a juvenile for walking away
- During a pat down, officer finds that juvenile possess spray paint and a box cutter
- Juvenile repeatedly gives the officer a false name
- Court holds: The stop is illegal based on insufficient suspicion of criminal activity
- Court holds: Though the stop was illegal, the officer nevertheless was conducting an investigation and the juvenile obstructed and delayed that investigation by giving a false name

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Refusals & False Information

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State v. Peters, 255 N.C. App. 382 (2017)

- Officer responding to a shoplifting complaint asks the defendant for her identification
- Defendant provides an ID with a false identification number
- After confusion caused by the false number, the defendant maintains that the number is correct
- Court holds: The false number obstructed and delayed the officer's investigation

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Refusals & False Information

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State v. Swain, 126 N.C. App. 712 (1997)

- Officer conducts an illegal arrest based on insufficient probable cause of criminal ticket scalping
- While arrested, the defendant repeatedly refused to provide his social security number
- Court holds: Refusing to provide the social security number did not in any way hinder or prevent the officer's completion of the arrest or the issuance of a criminal citation



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Refusals & False Information

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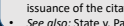
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State v. Friend, 237 N.C. App. 490 (2014)

- Defendant lawfully stopped for a seatbelt violation refused to provide officer with identification
- Court holds: Refusing to provide the necessary information obstructed and delayed the officer's issuance of the citation
- See also: State v. Pavkovic, N.C. App. (2019) (same result in ordinance violation case)



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Refusals & False Information - General Rules




Consensual Encounter

↓

Investigatory Stop

↓

Custodial Arrest



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Refusals & False Information - General Rules

Consensual Encounter

Investigatory Stop

Custodial Arrest

False Information:

Generally, if an officer is discharging a duty of his or her office, it is unlawful to provide false information to the officer regardless of the nature of the encounter

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Refusals & False Information - General Rules

Consensual Encounter

Investigatory Stop

Custodial Arrest

False Information:

Generally, if an officer is discharging a duty of his or her office, it is unlawful to provide false information to the officer regardless of the nature of the encounter

Refusals:

Generally, it is unlawful to refuse to provide information to an officer when that information is necessary for the officer to accomplish a duty of his or her office

However, it is not unlawful to refuse to provide unnecessary information

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Refusals & False Information - General Rules

Consensual Encounter

Investigatory Stop

Custodial Arrest

False Information:

Generally, if an officer is discharging a duty of his or her office, it is unlawful to provide false information to the officer regardless of the nature of the encounter

Refusals:

Generally, it is unlawful to refuse to provide information to an officer when that information is necessary for the officer to accomplish a duty of his or her office

However, it is not unlawful to refuse to provide unnecessary information

Consensual Encounters

Check carefully whether the officer is discharging a duty of his or her office

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Refusals & False Information - General Rules

<p>Consensual Encounter</p> <hr/> <p>Investigatory Stop</p> <hr/> <p>Custodial Arrest</p>	<p>False Information:</p> <p>Generally, if an officer is discharging a duty of his or her office, it is unlawful to provide false information to the officer regardless of the nature of the encounter</p>	<p>Refusals:</p> <p>Generally, it is unlawful to refuse to provide information to an officer when that information is necessary for the officer to accomplish a duty of his or her office</p> <p>However, it is not unlawful to refuse to provide unnecessary information</p>	<p>Consensual Encounters</p> <p>Check carefully whether the officer is discharging a duty of his or her office</p> <p>Example: Officer asks a witness which way the perpetrator ran and the witness intentionally points the wrong direction</p>
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Refusals & False Information

High Crime Area

Hunch

Suspect Flees

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Refusals & False Information

High Crime Area

Hunch

Suspect Flees

Encounter Supported by Suspicion

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Refusals & False Information

The diagram features a central green box labeled "Encounter Supported by Suspicion" with an arrow pointing to the right. To its left are four stacked boxes: "Refusal/ False Info", "High Crime Area", "Hunch", and "Suspect Flees". Lines connect each of these four boxes to the central box. The background is a faded image of a classical building.

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Refusals & False Information

This diagram is identical to slide 76 but includes an additional callout box. An orange box with a curved arrow pointing to the "Refusal/ False Info" box contains the text: "Regardless of whether the act itself constitutes RDO, refusing to provide information or providing false information maybe a factor that contributes to reasonable suspicion or probable cause".

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Resist Delay Obstruct

Resisting, Delaying, or Obstructing a Public Officer

A person guilty of this offense:

1. Willfully and unlawfully
2. Resists, Delays, and Obstructs
3. A public officer
4. Knowing or having reasonable grounds to believe that the victim is a public officer
5. While the officer is discharging or attempting to discharge a duty of his or her office

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Resist Delay Obstruct


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5. While the officer is discharging or attempting to discharge a duty of his or her office

NC Crimes Notes:
The statute applies to all public officers.

State v. Nickens, 262 N.C. App 353 (2018)
NC DMV Inspector is as a public officer




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Resist Delay Obstruct

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Resist Delay Obstruct


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5. While the officer is discharging or attempting to discharge a duty of his or her office

NC Crimes Notes:
The defendant must know or have reasonable grounds to believe the victim is a public officer.

In re T.T.E., 260 N.C. App. 378 (2018)
Juvenile did not commit RDO where officer snuck up behind him because he didn't know he was being restrained by an officer




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Resist Delay Obstruct

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Resist Delay Obstruct

Element 5: Discharging or attempting to discharge a duty of office





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Resist Delay Obstruct

Element 5: Discharging or attempting to discharge a duty of office

NC Crimes Notes:
 This element presupposes lawful conduct of the officer in discharging or attempting to discharge a duty

- Officers usually are acting lawfully even when they are acting from a mistaken belief
- If an officer is acting unlawfully then the officer is not discharging a duty of his or her office

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Resist Delay Obstruct

Element 5: Discharging or attempting to discharge a duty of office

NC Crimes Notes:
 This element presupposes lawful conduct of the officer in discharging or attempting to discharge a duty

- Officers usually are acting lawfully even when they are acting from a mistaken belief
- If an officer is acting unlawfully then the officer is not discharging a duty of his or her office

Discuss:
Mistakes of Fact



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Resist Delay Obstruct


Element 5: Discharging or attempting to discharge a duty of office

NC Crimes Notes:
 This element presupposes lawful conduct of the officer in discharging or attempting to discharge a duty

- Officers usually are acting lawfully even when they are acting from a mistaken belief
- If an officer is acting unlawfully then the officer is not discharging a duty of his or her office

Discuss:
Mistakes of Fact

Discuss:
Unlawful Stops



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Resist Delay Obstruct

Element 5: Discharging or attempting to discharge a duty of office

Mistakes of Fact



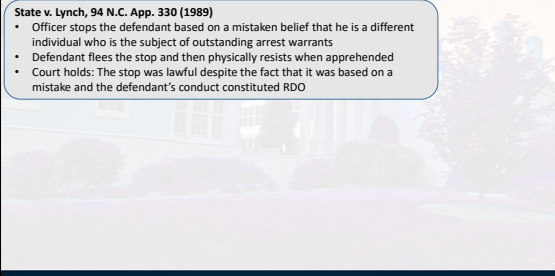

87


Resist Delay Obstruct

Element 5:
Discharging or attempting to discharge a duty of office
Mistakes of Fact

State v. Lynch, 94 N.C. App. 330 (1989)

- Officer stops the defendant based on a mistaken belief that he is a different individual who is the subject of outstanding arrest warrants
- Defendant flees the stop and then physically resists when apprehended
- Court holds: The stop was lawful despite the fact that it was based on a mistake and the defendant's conduct constituted RDO





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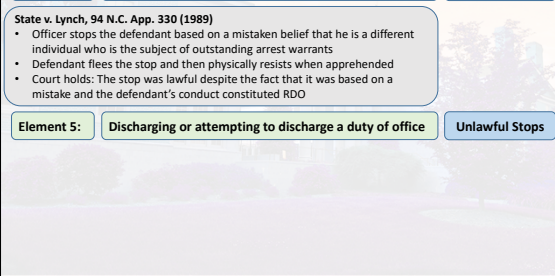
Resist Delay Obstruct


Element 5:
Discharging or attempting to discharge a duty of office
Mistakes of Fact

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Element 5:
Discharging or attempting to discharge a duty of office
Unlawful Stops





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Resist Delay Obstruct

Element 5:
Discharging or attempting to discharge a duty of office
Mistakes of Fact

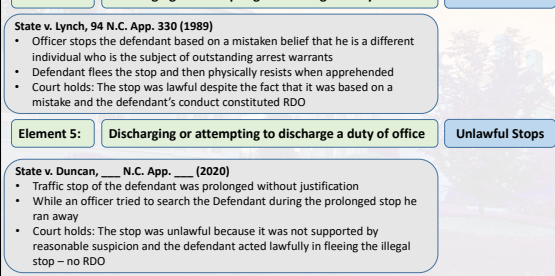
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Element 5:
Discharging or attempting to discharge a duty of office
Unlawful Stops

State v. Duncan, ___ N.C. App. ___ (2020)


- Traffic stop of the defendant was prolonged without justification
- While an officer tried to search the Defendant during the prolonged stop he ran away
- Court holds: The stop was unlawful because it was not supported by reasonable suspicion and the defendant acted lawfully in fleeing the illegal stop – no RDO






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Resist Delay Obstruct

Element 5: Discharging or attempting to discharge a duty of office	Mistakes of Fact	
State v. Lynch, 94 N.C. App. 330 (1989) <ul style="list-style-type: none"> Officer stops the defendant based on a mistaken belief that he is a different individual who is the subject of outstanding arrest warrants Defendant flees the stop and then physically resists when apprehended Court holds: The stop was lawful despite the fact that it was based on a mistake and the defendant's conduct constituted RDO 		
Element 5: Discharging or attempting to discharge a duty of office	Unlawful Stops	Noting these situations for completeness Not issues that typically would be sorted out at the charging phase
State v. Duncan, ___ N.C. App. ___ (2020) <ul style="list-style-type: none"> Traffic stop of the defendant was prolonged without justification While an officer tried to search the Defendant during the prolonged stop he ran away Court holds: The stop was unlawful because it was not supported by reasonable suspicion and the defendant acted lawfully in fleeing the illegal stop – no RDO 		



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Possession Issues

RDO & reasonable suspicion for a stop were not the big issue for the defendants in most of the cases we've discussed




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Weapons Possession

RDO & reasonable suspicion for a stop were not the big issue for the defendants in most of the cases we've discussed

Holley; Jackson; Wardlow –
Defendants were charged with possession of a firearm by a felon

Sinclair; Joe; White –
Defendants were charged with possession or PWISD cocaine



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Weapons Possession

RDO & reasonable suspicion for a stop were not the big issue for the defendants in most of the cases we've discussed

Holley; Jackson; Wardlow –
Defendants were charged with possession of a firearm by a felon

Sinclair; Joe; White –
Defendants were charged with possession or PWISD cocaine

Discuss:
Actual & Constructive Possession



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Weapons Possession


RDO & reasonable suspicion for a stop were not the big issue for the defendants in most of the cases we've discussed

Holley; Jackson; Wardlow –
Defendants were charged with possession of a firearm by a felon

Sinclair; Joe; White –
Defendants were charged with possession or PWISD cocaine



Discuss:
Actual & Constructive Possession

New Cases:
Possession of a Weapon on School Grounds
Possession of WMD



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The Element of Possession

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The Element of Possession

Possession is a common element in many criminal offenses




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The Element of Possession

Possession is a common element in many criminal offenses

Possession of a Firearm by a Felon



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The Element of Possession

Possession is a common element in many criminal offenses

Possession of a Firearm by a Felon

Possession of a Weapon of Mass Death & Destruction




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The Element of Possession

Possession is a common element in many criminal offenses

- Possession of a Firearm by a Felon
- Possession of a Weapon of Mass Death & Destruction
- Possession of a Weapon on School Grounds




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The Element of Possession

Possession is a common element in many criminal offenses

- Possession of a Firearm by a Felon
- Possession of a Weapon of Mass Death & Destruction
- Possession of a Weapon on School Grounds
- Possession of a Controlled Substance




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The Element of Possession

Possession is a common element in many criminal offenses

- Possession of a Firearm by a Felon
- Possession of a Weapon of Mass Death & Destruction
- Possession of a Weapon on School Grounds
- Possession of a Controlled Substance
- Possession With Intent to Sell or Distribute




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The Element of Possession

Possession is a common element in many criminal offenses



- Possession of a Firearm by a Felon
- Possession of a Weapon of Mass Death & Destruction
- Possession of a Weapon on School Grounds
- Possession of a Controlled Substance
- Possession With Intent to Sell or Distribute
- And Many Others



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Actual & Constructive Possession

NC Crimes Notes on Possession:
Possession may be actual or constructive





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Actual & Constructive Possession

NC Crimes Notes on Possession:
Possession may be actual or constructive

Actual Possession:
Actual possession is when a person has physical or personal custody of an item

- Gun in a waistband
- Drugs in a pocket
- Gun being carried in a backpack



105

Actual & Constructive Possession


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Actual possession is when a person has physical or personal custody of an item

- Gun in a waistband
- Drugs in a pocket
- Gun being carried in a backpack

Circumstantial Evidence of Actual Possession:

- A warm gun is found near a suspect after a chase on a cold night
- Drugs are found in an abandoned backpack the suspect had been seen carrying



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Actual Possession Cases Tend to Be Easier Than Constructive Possession Cases




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Actual & Constructive Possession

NC Crimes Notes on Possession:
Possession may be actual or constructive

Constructive Possession:
Constructive possession is when the person does not have physical custody of the item but does have the power and intent to control its disposition

- Sawed off shotgun in a gun safe
- Drugs in a house where the defendant is the sole occupant



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Actual & Constructive Possession

NC Crimes Notes on Possession:
Possession may be actual or constructive

Constructive Possession:
Constructive possession is when the person does not have physical custody of the item but does have the power and intent to control its disposition

- Sawed off shotgun in a gun safe
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Shared Spaces and Multiple Occupants are the Tricky Cases



109

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Constructive possession is when the person does not have physical custody of the item but does have the power and intent to control its disposition

- Sawed off shotgun in a gun safe
- Drugs in a house where the defendant is the sole occupant


Shared Spaces and Multiple Occupants are the Tricky Cases

NC Crimes Notes on Shared Spaces:

When the defendant does not have exclusive control of the location where an illegal item is found, constructive possession requires other incriminating circumstances

Constructive possession depends on the totality of the circumstances – highly fact specific



Defendant's presence standing alone is not sufficient to establish constructive possession



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Other Incriminating Circumstances

Facts to Consider:


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Other Incriminating Circumstances

Facts to Consider:

Multi-occupant Houses

- Who sleeps in the room where the item is found?
- Does the defendant store other items in the room?
- Does the defendant stay at the house regularly?



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Other Incriminating Circumstances


Facts to Consider:

Multi-occupant Houses

- Who sleeps in the room where the item is found?
- Does the defendant store other items in the room?
- Does the defendant stay at the house regularly?

Multi-occupant Vehicles

- Who owns the car or is the authorized renter?
- Where is the item found?
 - Glovebox in front of the defendant passenger?
 - Under the driver's seat of the defendant driver?
 - In the back near the defendant back-seat passenger?
- Among the other belongings of a particular occupant?



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Other Incriminating Circumstances

Facts to Consider:

Multi-occupant Houses


- Who sleeps in the room where the item is found?
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Multi-occupant Vehicles

- Who owns the car or is the authorized renter?
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 - In the back near the defendant back-seat passenger?
- Among the other belongings of a particular occupant?

Bottom Line:

A case-by-case evaluation of the totality of the circumstances



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Finally – Two New Cases

State v. Carey, 373 N.C. 445 (2020)

- Possession of a Weapon of Mass Death and Destruction Case
- Is a flash bang grenade a weapon of mass death and destruction under G.S. 14-288.8?
- Court of Appeals had focused on the degree to which a flash bang grenade is capable of causing mass death and destruction as a factual matter
- Court of Appeals found that since the purpose of a flash bang grenade is to stun, it is not a WMD
- NC Supreme Court Holds: Just look at the list of items, don't conduct a searching factual inquiry regarding the capabilities of a particular weapon – the statute prohibits possession of "grenades"

The term "weapon of mass death and destruction" includes:

- (1) Any explosive or incendiary:
 - a. Bomb; or
 - b. Grenade; or
 - c. Rocket having a propellant charge of more than four ounces; or
 - d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or
 - e. Mine; or
 - f. Device similar to any of the devices described above; or
- (2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, except a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or
- (3) Any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; or
- (4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

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Finally – Two New Cases

State v. Conley, 374 N.C. 209 (2020)

- Possession of a Weapon on Educational Property case
- Defendant was discovered simultaneously possessing five guns
- Sole issue: how many convictions are proper?

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Finally – Two New Cases

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G.S. 14-269.2(b)
It shall be a Class I felony for any person knowingly to possess or carry, whether openly or concealed, **any gun, rifle, pistol, or other firearm of any kind** on educational property or to a curricular or extracurricular activity sponsored by a school.

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NC Supreme Court Holds:

The grammatical structure of G.S. 14-269.2(b) is ambiguous regarding the appropriate unit of prosecution for the offense.

Under the rule of lenity, a defendant may be convicted only of a single count of the offense where he or she possess more than one firearm on a single occasion in violation of the statute.



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Finally – Two New Cases

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Only one conviction is proper when a statute is constructed in this manner



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The End

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