
10.5 Subject Matter Jurisdiction of District Court

A. Misdemeanors and Infractions

With three principal exceptions—misdemeanors joined with felonies, misdemeanors that are lesser included offenses of felonies for which indictments have been issued, and misdemeanors initiated by presentment—the district court has exclusive original jurisdiction over all misdemeanors. *See* G.S. 7A-271; G.S. 7A-272. Generally, misdemeanors may be tried in superior court only on appeal from district court. *See State v. Wall*, 271 N.C. 675 (1967) (superior court is without jurisdiction to try defendant on misdemeanor charge absent district court conviction and appeal).

G.S. 7A-253 provides that the district court has original, exclusive jurisdiction over infractions. There is one exception to this rule. If the infraction is a lesser included offense of, or a charge related to, a crime within the original jurisdiction of the superior court, then the superior court may hear or accept a plea to the infraction. *See* G.S. 7A-271(d). For example, if a defendant is indicted for involuntary manslaughter for causing a death by vehicle, a plea to a related traffic infraction may be taken in superior court.

For a further discussion of limits on superior court trials of misdemeanors, see *infra* § 10.7B, Misdemeanor Appeals from District Court, and § 10.7C, Misdemeanors Tried Initially in Superior Court.

B. Felony Pleas in District Court

With the consent of the judge and all parties, the district court has jurisdiction to accept guilty pleas to Class H and I felonies. *See* G.S. 7A-272(c). If there is a subsequent probation revocation hearing, the superior court has jurisdiction over the hearing, but the district court may hear the matter with the consent of the State and the defendant. *See* G.S. 7A-271(e); *State v. Matthews*, ___ N.C. App. ___, 832 S.E.2d 261 (2019) (defendant impliedly consented to district court's jurisdiction over felony probation violation by presence and participation in the district court hearing). It may benefit the defendant to have the probation revocation hearing in district court if the State is willing to do so because the defendant has the right, discussed next, to appeal a revocation to superior court for a de novo hearing.

Appeal of a guilty plea to a felony in district court lies in the court of appeals, *not* in superior court. *See* G.S. 7A-272(d). If the superior court holds a revocation hearing on a felony plea originally taken in district court, appeal is to the court of appeals. However, if the district court revokes probation on a felony plea taken in district court, the defendant's appeal is to superior court for a de novo revocation hearing rather than to the appellate division. *See* G.S. 15A-1347; *State v. Hooper*, 358 N.C. 122 (2004) (Court of Appeals lacked jurisdiction to hear defendant's appeal from probation revocation in district court where defendant had been placed on probation following pleas of guilty in district court to felony offenses; defendant's right of appeal was to superior court for de novo revocation hearing); *State v. Harless*, 160 N.C. App. 78 (2003) (same).

Practice note: G.S. 15A-1347(b) provides that if a defendant waives a probation revocation hearing in district court, a finding of a probation violation, activation of a sentence, or imposition of special probation may not be appealed to superior court. Counsel should advise clients facing probation revocation of this consequence of waiving a formal revocation hearing.

C. Motions for Appropriate Relief

A motion for appropriate relief may be brought in district court if the original conviction was in district court. *See* G.S. 15A-1413(a); G.S. 15A-1414(b)(4); G.S. 15A-1417(c); *In re Fuller*, 345 N.C. 157 (1996) (trial court improperly entered judgment on offense that was not a lesser included offense of the offense before the court; prosecutor brought motion for appropriate relief in district court); *State v. Morgan*, 108 N.C. App. 673 (1993) (trial court has authority following conviction to initiate own motion for appropriate relief and change original sentence upon finding that sentence was unsupported by evidence), *cf. State v. Surles*, 55 N.C. App. 179 (1981) (court upheld district court's decision to set aside its own verdict of guilty; however, appellate court remanded case for new trial, holding that district court could not enter verdict of not guilty after setting aside verdict on ground that it was against weight of evidence under G.S. 15A-1414(b)(2)); *accord Morgan*, 108 N.C. App. 673 (following *Surles*).

For a further discussion of the authority of a judge to modify his or her judgment, see *infra* § 10.8G, Modifying Judgment After Session. For a further discussion of motions for appropriate relief, see 2 NORTH CAROLINA DEFENDER MANUAL § 35.3, Motions for Appropriate Relief (2d ed. 2012).

D. District Court Responsibilities for Felonies before Indictment

Generally. Often defendants are arrested on warrants before indictment. If an arrestee is indicted for a felony, or the district court finds probable cause that the defendant committed a felony or the defendant waives a probable cause hearing, jurisdiction over the case moves to superior court. *See* G.S. 7A-271(a); G.S. 15A-606(c); G.S. 15A-612(a)(1). Several months may elapse between a defendant's arrest on a felony charge and the transfer of jurisdiction to superior court. During this time the district court will have various administrative responsibilities for the case, including setting conditions of

pretrial release. The district court also will hold the probable cause hearing if one is required. There are statutory timeframes for holding a probable cause hearing, but they are not always easy to enforce. For a discussion of possible remedies for violation of those timelines, see *supra* § 3.2C, Scheduling Requirements; *see also* Alyson Grine, *No Probable Cause?*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Apr. 23, 2009), (discussing probable cause hearing requirement).

Motions. District court judges may hear motions before indictment, and there may be times when an early hearing before a district court judge is advisable. For example, if the defendant's mental status is at issue, counsel may want to seek a capacity examination or funds for a psychological expert. *See supra* § 2.4, Obtaining an Expert Evaluation (2d ed. 2013). Additionally, the defendant may need to make a motions to obtain other expert services or to preserve evidence of a fleeting nature, such as a recording of a 911 call; or the defendant may need access to records held by third parties and may want to move for their production and disclosure. *See supra* § 4.2C, Preserving Evidence for Discovery (2d ed. 2013); § 4.6A, Evidence in Possession of Third Parties (2d ed. 2013); § 5.5, Obtaining an Expert Ex Parte in Noncapital Cases (2d ed. 2013). The district court has jurisdiction to hear such motions. *See State v. Jones*, 133 N.C. App. 448 (1999), *rev'd in part on other grounds*, 353 N.C. 159 (2000).

In contrast, defense counsel ordinarily should seek to have evidentiary motions in felony cases heard by a superior court judge because those proceedings are recorded, allowing for later review. Additionally, the superior court may be authorized to issue a new ruling, which could negate the district court's initial determination. *See State v. Lay*, 56 N.C. App. 796 (1982) (granting of motion to suppress in district court in misdemeanor case on basis that search warrant was invalid did not bar State from asserting validity of same search warrant in felony prosecution). Generally, the superior court will hear such motions after indictment, although it may hear some motions in felony matters before indictment. *See State v. Jackson*, 77 N.C. App. 491 (1985) (holding that superior court had authority to order capacity examination before indictment).

E. Powers of Magistrates and Clerks of Court

District court judges have general jurisdiction over all matters that are heard in district court. Magistrates and clerks of court have similar responsibilities in some circumstances. *See* G.S. 7A-180; G.S. 7A-181 (setting out powers of clerks); G.S. 7A-273 (powers of magistrates).

Magistrates. Under G.S. 7A-273, magistrates have the power to:

- accept pleas of guilty or admissions of responsibility for minor infractions (where the maximum fine is less than $50), Class 3 misdemeanors, and offenses for which the defendant may waive a court appearance and plead guilty ("waivable offenses");
- try worthless check cases when the amount of the check is $2,000 or less and under the conditions set out in the statute;
- issue search warrants, valid in the county of issue;

- issue arrest warrants, valid anywhere in the state;
- set conditions of pretrial release for noncapital offenses; and
- conduct initial appearances.

Clerks. Clerks of court may issue warrants, set bail under some conditions, accept guilty pleas to minor infractions, and take other actions as authorized by statute. *See* G.S. 7A-180; *State v. Pennington*, 327 N.C. 89 (1990) (deputy clerk of court has jurisdiction to issue search warrant valid within county of issue); *see also* G.S. 20-28.3(e1) (authorizing clerks to determine whether to release to "innocent owner" vehicle forfeited because driver was driving while impaired with revoked license for impaired driving offense); *cf.* G.S. 15A-544.5(d)(4) (clerk of court must enter an order setting aside forfeiture of bond, regardless of the basis for relief asserted in the motion, the evidence attached, or the absence of either, if neither the district attorney nor the attorney for the board of education files a written objection to the motion by the twentieth day after the motion is served).