

22.3 Control of Proceedings

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22.3 Control of Proceedings

A. In General

It is the duty of the trial judge to regulate the conduct and the course of business during trial. *State v. Spaulding*, 288 N.C. 397 (1975), *vacated in part on other grounds*, 428 U.S. 904 (1976). “Generally, in the absence of controlling statutory provisions or established rules, all matters relating to the orderly conduct of the trial or which involve the proper administration of justice in the court, are within his [or her] discretion.” *State v. Rhodes*, 290 N.C. 16, 23 (1976). Judges may take whatever legitimate steps are necessary to maintain proper decorum and an appropriate atmosphere in the courtroom during a trial. *State v. Dickerson*, 9 N.C. App. 387 (1970).

For a collection of cases addressing the measures taken by trial judges to preserve proper decorum in the courtroom, see 1 KENNETH S. BROUN, BRANDIS & BROUN ON NORTH CAROLINA EVIDENCE § 168, at 626 n.551 (8th ed. 2018).

B. Control of Examination of Witnesses

The trial judge has the power and duty to control the examination and cross-examination of the witnesses both for the purpose of conserving the time of the court and protecting the witness from prolonged, needless, or abusive examination. *See State v. Fleming*, 350 N.C. 109 (1999); *State v. Arnold*, 284 N.C. 41 (1973). He or she may ban unduly repetitious and argumentative questions as well as inquiry into matters of tenuous relevance. *State v. Satterfield*, 300 N.C. 621 (1980); *see also* 1 KENNETH S. BROUN, BRANDIS & BROUN ON NORTH CAROLINA EVIDENCE § 168, at 623–25 (8th ed. 2018) (discussing method of examination and order in the courtroom).

C. Control of Examination of Potential Jurors

The trial judge has the power to regulate and supervise jury selection so that the defendant and the State receive the benefit of a trial by a fair and impartial jury. *See State v. Brady*, 299 N.C. 547 (1980). Regulation of the manner and extent of the questions of a potential juror regarding his or her fitness rests in the trial judge’s discretion and that decision will not be disturbed on appeal in the absence of a showing of an abuse of discretion and prejudice to the defendant. *State v. Johnston*, 344 N.C. 596 (1996); *State v.*

Hunt, 37 N.C. App. 315 (1978). For a further discussion of jury selection, see *infra* Ch. 25, Selection of Jury.

D. Control of Witnesses and Spectators

A trial judge has the power and duty to control the conduct of witnesses and spectators in the courtroom. See *State v. Maness*, 363 N.C. 261, 282 (2009) (no abuse of discretion by trial judge in denying defendant’s motion for mistrial based on the “troubling” conduct of three uniformed law enforcement officers who approached the jury box and stood very close to jurors when autopsy photographs of the victim, a slain officer, were passed to the jury); *State v. Braxton*, 344 N.C. 702 (1996) (trial judge properly denied motion for mistrial based on the spectators wearing buttons allegedly depicting a victim where defendant failed to show sufficient facts, including whether the jury even noticed the buttons); *State v. Higginbottom*, 312 N.C. 760 (1985) (judge did not improperly express opinion when, outside the presence of the jury, he admonished defendant’s witnesses and warned them that their actions could result in their being jailed).

For a discussion of the trial judge’s authority to remove witnesses or spectators from the courtroom, see *infra* § 22.4D, Removal of Disruptive Witnesses or Spectators. For a discussion of the constitutional implications of spectator conduct, focusing particularly on the wearing of buttons at criminal trials, see Scott Kitner, Note, *The Need and Means to Restrict Spectators From Wearing Buttons at Courtroom Trials*, 27 REV. LITIG. 733 (2008).

E. Control of Attire

For a discussion of a trial judge’s authority to regulate courtroom attire, see Michael Crowell, [*Inherent Authority*](#), N.C. SUPERIOR COURT JUDGES’ BENCHBOOK (Jan. 2015); Jeff Welty, [*Limits on Defendants’ Courtroom Attire*](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (July 16, 2015); Jeff Welty, [*What Not to Wear . . . If You’re a Juror*](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (June 16, 2014); Shea Denning, [*The Way These Women Dress Is Criminal*](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (March 25, 2014).