

N. C. Criminal Procedure

“From Start to Finish”

Presented by Blair E. Cody III, Attorney at Law

May 11, 2010, CVCC Auditorium, 6:00 pm

Charging Instruments:

1. 15A-302; Citation
2. 15A-303; Criminal summons
3. 15A-304; Warrant for arrest
4. 15A-305; Order for arrest
5. 15A-644; Indictment (information & presentment)
6. 15A-646; Superseding indictments

First Appearance

1. 15A-601 through 607
2. Is it important?
3. Why you want a Court Appointed Attorney!

Setting Bail “Bond”

1. 15A-534; Procedure for determining conditions of pretrial release
2. 15A-534.1; Crimes of domestic violence
3. 15A-535; Issuance of policies on pretrial release
 - a. Handout of local bond policy
4. 15A-538; 539; Motions to modify bond
 - a. Multiple sureties (What is this and why is it important?)
5. Bondsmen (How do they make their money?)
 - a. Standard rates on bonds
 - b. Getting to the client before the bondsman
 - c. Surrender of a defendant by a surety
 - d. Can anyone surrender the defendant?
6. Failure to appear; 15A-543
 - a. Losing your money or theirs’ and picking up a new charge
 - i. Misdemeanor charges = class 2 misdemeanor

- ii. Felony charges = class I felony
 - 1. When the Felony FTA really hurts = Habitual Felon

Probable Cause Hearings

- 1. 15A-611 through 616
- 2. Timing matters! 15 “working” days (don’t be bad at Christmas!); 15A-606
- 3. 15A-614; Judge to review conditions of pretrial release upon finding of Probable Cause
- 4. Practical aspects of Probable Cause
 - a. Why would you ever waive PC?
 - i. What’s supposed to happen if you do?
 - b. Why you always want a hearing!
 - i. Record it!
 - c. When you don’t waive PC
 - d. Superseding Indictments

Disposition of Cases

- 1. Pleas
 - a. Plea transcript in Felony Cases (handout)
 - i. Having the plea transcript prepared before court
 - ii. KEEP TIME! (Your bosses’ money is your money!)
 - b. Can you use a plea transcript in Misdemeanor cases? When would you?
 - i. District Court not a Court of Record
- 2. Dismissal
 - a. With and without leave
- 3. Trial
 - a. Guilty / Not Guilty
- 4. Keeping time.
 - a. Preparing fee applications (handout)
 - b. Time keeping ?s
 - i. Ask your lawyer what you should bill for
 - ii. Stay on your lawyer and give them your opinion on time issues
 - iii. Have your time ready when the case is set for disposition
 - iv. How do you keep up with your lawyer’s time?
- 5. Closing a file

- a. Close out letters
- b. Making sure you've been paid
 - i. Atty. time and cost advanced
- c. Keeping files organized – You've gotta have a system!
 - i. Keeping a file neat after disposition is important too!
 - ii. How long should we keep a file (RPC 209)