

Published by the
Institute of Government,
The University
of North Carolina
at Chapel Hill

No. 91/01
January 1991
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Administration of Justice Memorandum

Magistrates,
Chief District Court
Judges, and Clerks of
Court

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Misdemeanors and Infractions under the \$50.00-Thirty-Day Jurisdiction of Magistrates

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North Carolina General Statutes (G.S.) Section 7A-273, which sets out the powers of magistrates in infractions or criminal actions, authorizes magistrates to take guilty pleas in four different instances. First, G.S. 7A-273(2) provides that in misdemeanor or infraction cases involving alcohol, traffic, hunting, fishing, or boating offenses, magistrates may accept written appearances, waivers of trial, and pleas of guilty. This authority to accept a guilty plea is generally referred to as the waiver list jurisdiction. Second, G.S. 7A-273(8) allows magistrates to accept written appearances, waivers of trial, and pleas of guilty for violations of G.S. 14-107 (worthless check), when the amount of the check is \$1,000 or less. Third, G.S. 7A-273(9) allows magistrates to accept written appearances, waivers of trial, and pleas of guilty to violations of simple littering as specified in G.S. 14-399(c). In all three of these instances, magistrates may only take pleas of guilty if the defendant signs a written appearance and waiver of trial, and magistrates must enter judgment as the chief district court judge directs (or, for waiver list offenses, as the Conference of Chief District Court Judges directs). G.S. 7A-180 and -181 grant the same powers to accept these three kinds of waivers and pleas of guilty to clerks of superior court and their deputies and assistants.

This memorandum deals with the fourth authorization to take guilty pleas. G.S. 7A-273(1) applies to misdemeanor or infraction cases other than traffic, hunting, fishing, boating, and alcohol offenses, in which the maximum punishment that can be adjudged cannot exceed imprisonment for

thirty days, a fine of \$50.00, or a penalty of \$50.00. In these cases a magistrate may accept guilty pleas or admissions of responsibility and enter judgment. This subsection, often referred to as the \$50.00-thirty-day jurisdiction, is different in its application than the other three instances of accepting guilty pleas. Under this statutory provision, the defendant must appear before the magistrate and plead guilty. He or she does not sign a waiver of appearance and trial. Also under this provision, the magistrate determines the punishment rather than imposing punishment as directed by the chief district judge. And finally, clerks of superior court and their deputies and assistants have no authority to accept guilty pleas for \$50.00-thirty-day misdemeanors or infractions.

To be within the \$50.00-thirty-day jurisdiction, the maximum punishment for the misdemeanor cannot exceed thirty days' imprisonment or a fine of \$50.00. Therefore magistrates may not accept guilty pleas to those misdemeanors that authorize a maximum punishment of both a \$50.00 fine and thirty days' imprisonment, nor may magistrates take guilty pleas when the statutory punishment exceeds a \$50.00 fine or thirty days' imprisonment even though the actual punishment imposed never exceeds that amount. The statute allows the imposition of imprisonment, but in practice magistrates may not impose this punishment when the defendant pleads guilty. In *Argersinger v. Hamlin*, 407 U.S. 25 (1972), the United States Supreme Court ruled that defendants could not be imprisoned for misdemeanors if they were not represented by counsel. Because defendants do not bring

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attorneys with them when they plead guilty, imprisonment is not an option for the magistrate.

The procedure a magistrate should follow in taking guilty pleas under the \$50.00-thirty-day jurisdiction differs from the procedure for taking other guilty pleas because the magistrate must enter a judgment. There are several alternative methods for recording the judgment. The magistrate may use the form entitled "Judgment or Other Disposition" (AOC-CR-305) and indicate that the plea was guilty and the verdict was guilty and enter the amount of the judgment. Another option is for the magistrate to note the plea and judgment on the defendant's (pink) copy of the process. The magistrate should make a notation similar to the following: "Defendant plead guilty; the verdict is guilty; a \$25.00 fine and costs are imposed." (A new citation form will be issued that will have a specific place for entering judgment on the pink copy.)

The magistrate must select the amount of the fine imposed and may choose to impose no fine or any amount of fine up to the maximum allowed by the statute or ordinance. However, in some instances the ordinance or statute will specify a minimum as well as a maximum fine. In those cases, the magistrate should impose at least the minimum fine. Costs must be assessed against the defendant in all cases.

What should the magistrate do if upon specifying amount of fine and costs, the defendant states that he or she

does not have the cash necessary to pay the fine and costs? Although the statute does not speak to that issue, the magistrate should refuse to accept the guilty plea and indicate to the defendant that he or she may appear before a magistrate to plead guilty at a later time when he or she has sufficient cash to comply with that magistrate's judgment or may appear before the district court judge at the time set for trial.

Listed below are all of the misdemeanors and infractions that fall within the magistrate's \$50.00-thirty-day jurisdiction. Most of the offenses are charged rarely. The only frequently charged offenses are violations of a city or county ordinance (G.S. 14-4) and simple assault (G.S. 14-33). Even though writing a worthless check when the amount of the check is \$50.00 or less is within the \$50.00-thirty-day jurisdiction, in practice most worthless-check guilty pleas are accepted under the G.S. 7A-273(8) provision (discussed above). Being drunk and disruptive (G.S. 14-444) is punishable by a \$50.00 fine or thirty days' imprisonment; however, the statute specifically prohibits magistrates from accepting guilty pleas to that offense. Finally, the \$50.00-thirty-day jurisdiction does not apply to "traffic, hunting, fishing, boating, and alcohol offenses." Therefore many chapter 20 or 113 offenses that have a maximum punishment of \$50.00 or thirty days are not covered by this guilty plea authority and are not included on the list. The few chapter 20 and 113 provisions that are not traffic, hunting, or fishing violations are on the list.

Infractions and Misdemeanors Covered by G.S. 7A-273(1)

If the statutory citation is followed by another statutory cite in parentheses, the first citation indicates the substantive provision and the second citation is to the punishment provision. Unless otherwise noted, all offenses are misdemeanors.

G.S. Section	Offense	Maximum Punishment
14-4	(1) Violating any city or county ordinance other than (2) below. [Chapters 71 and 118 (1983 Session Laws) authorize the city of Charlotte and Mecklenburg County to adopt ordinances with punishments of up to \$500.]	\$50.00 fine or thirty days
	(2) Violating any city or county ordinance regulating the operation or parking of vehicles.	Infraction: \$50.00 penalty
14-33	Committing simple assault or affray.	\$50.00 fine or thirty days
14-68	Owner of property failing to comply with orders of public authorities.	\$50.00 fine (\$10.00 minimum)
14-104	Obtaining advances under promise to work.	\$50.00 fine or thirty days

G.S. Section	Offense	Maximum Punishment
14-107	Writing a worthless check when the check is for \$50.00 or less.	\$50.00 fine or thirty days
14-117	Committing fraudulent and deceptive advertising.	\$50.00 fine or thirty days
14-129	Taking certain wild plants.	\$50.00 fine (\$10.00 minimum)
14-138	Setting fire to woodlands with campfires.	\$50.00 fine (\$10.00 minimum) or thirty days
14-140	Setting certain fires without a watchman.	\$50.00 fine (\$10.00 minimum) or thirty days
14-145	Unlawfully posting advertisements.	\$50.00 fine or thirty days
14-152	Injuring fixtures and other property of gas companies.	\$50.00 fine or thirty days
14-155	Making unauthorized connections with telephone or telegraph.	\$10.00 fine or ten days
14-159	Injuring buildings or fences; taking possession of house without consent.	\$50.00 fine or thirty days
14-171	Defacing word "rental" on battery.	\$50.00 fine or thirty days
14-172	Selling a rental battery.	\$50.00 fine or thirty days
14-173	Repairing another's rental battery.	\$50.00 fine or thirty days
14-174	Retaining possession of rental battery past ten days without written consent.	\$50.00 fine or thirty days
14-195	Using profane or indecent language on passenger trains.	\$50.00 fine or thirty days
14-197	Using profane or indecent language on public highways.	\$50.00 fine or thirty days
14-201	Permitting stone-horses and stone-mules to run at large.	\$50.00 fine or thirty days
14-255	Hired prisoners escaping from custody.	\$50.00 fine or thirty days
14-275.1	Engaging in disorderly conduct at bus or railroad station or airport.	\$50.00 fine or thirty days
14-285	Failing to enclose a marl bed.	\$50.00 fine or thirty days
14-288	Polluting with unclean substances any bottles used for beverages.	First offense: \$1.00 per bottle; subsequent offense: \$10.00 per bottle
14-288.12	Violating a city ordinance to deal with states of emergency.	\$50.00 fine or thirty days
14-288.13	Violating a county ordinance to deal with states of emergency.	\$50.00 fine or thirty days
14-288.14	Violating proclamation of chair of board to county commissioners extending emergency restrictions imposed in municipality.	\$50.00 fine or thirty days
14-316	Permitting young children to use dangerous firearms.	\$50.00 fine or thirty days
14-317	Permitting minors to enter barrooms or billiard rooms.	\$50.00 fine or thirty days
14-321	Failing to pay a minor for doing certain work.	\$50.00 fine or thirty days

G.S. Section	Offense	Maximum Punishment
14-357	Issuing nontransferable script to laborers.	\$50.00 fine (\$10.00 minimum) or thirty days
14-358	Violating certain contracts between landlord and tenant.	\$50.00 fine or thirty days
14-359	Tenant neglecting crop; landlord failing to make advances; person harboring or employing a delinquent tenant.	\$50.00 fine or thirty days
14-384	Injuring notices and advertisements.	\$25.00 fine or thirty days
14-385	Defacing or destroying public notices and advertisements.	\$50.00 fine or thirty days
14-395	Commercializing American Legion emblem; wearing by nonmembers.	\$50.00 fine or thirty days
14-396	Dogs on "Capitol Square" worrying squirrels.	\$50.00 fine or thirty days
14-401.9	Parking vehicle in private parking space without permission.	\$10.00 fine
20-58.6	Secured party failing to disclose information to Division of Motor Vehicles.	\$50.00 fine or thirty days
20-59	Lienor who holds certificate of title failing to surrender title when lien satisfied.	\$50.00 fine or thirty days
20-63(e)	Neglecting or refusing to clean dirty registration plate after request by an officer to do so.	\$50.00 fine or thirty days
58-81-1 (58-81-10)	Placing decorations in a public place in a hotel without permit from the fire chief.	\$50.00 fine (\$10.00 minimum)
62-319	Riding on a train unlawfully.	\$50.00 fine or thirty days
62-320	Failing to place name on box of produce offered for sale.	\$50.00 fine or thirty days
66-10	Junk dealers failing to keep record of purchases.	\$50.00 fine
66-12 to -16	Violating Article 2, regarding the manufacture and sale of matches.	First offense: \$25.00 fine (\$5.00 minimum)
66-68 (66-71)	Engaging in business under an assumed name without filing a certificate.	\$50.00 fine or thirty days
67-2	Permitting a dog in heat to run at large.	\$50.00 fine or thirty days
67-3	Owner refusing to kill sheep-killing dogs.	\$50.00 fine or thirty days
67-4	Failing to kill a dog bitten by a rabid dog.	\$50.00 fine or thirty days
67-12	Permitting dogs to run at night.	\$50.00 fine or thirty days
72-7	Admitting dogs to hotel bedrooms.	\$50.00 fine or thirty days
76-41	Obstructing waters of Currituck Sound.	\$50.00 fine (\$10.00 minimum) or thirty days
76-42	Lumbermen failing to remove obstructions in Albemarle Sound.	\$50.00 fine (\$1.00 minimum)
76-43	Anchoring in range of lighthouses.	\$50.00 fine
76-47	Acting as pilot of vessel without a license.	\$50.00 fine (\$25.00 minimum) or thirty days

G.S. Section	Offense	Maximum Punishment
76-57	Operators of rafts failing to exercise care in passing buoys.	\$50.00 fine
77-13	Willfully obstructing a stream.	\$50.00 fine or thirty days
79-4	Failing to comply with law on stray livestock.	\$50.00 fine or thirty days
87-14	Building inspectors failing to comply with regulations as to the issue of a building permit.	\$50.00 fine
89B-15	Using term "registered forester" when not registered or otherwise violating the chapter on foresters.	\$50.00 fine or thirty days
90-12	Practicing medicine beyond the boundaries in a limited medical license.	\$50.00 fine (\$25.00 minimum)
96-4(i)	Failing or refusing without just cause to attend and testify, to answer any lawful inquiry, or to produce documents in obedience to a subpoena of the Employment Security Commission.	\$50.00 fine or thirty days
103-2	Hunting on Sunday with a gun.	\$50.00 fine or thirty days
105-86(c)	Placing outdoor advertising to property without consent of owner of property.	\$50.00 fine or thirty days
105-296	County assessor disclosing information obtained in listing or assessing taxes.	\$50.00 fine
106-197	Shipping fruit or vegetables not having grower's or shipper's name stamped on receptacle.	\$50.00 fine or thirty days
106-255	Violating Article 26, Chapter 106, establishing and requiring standards of cleanliness for ice cream plants, creameries, and cheese factories.	First offense: \$25.00 fine
106-310	Failing to bury hogs dying a natural death.	\$10.00 fine (\$5.00 minimum)
106-311	Failing to segregate and confine hogs affected with cholera.	\$50.00 fine or thirty days
106-404	Failing to kill animals affected with glanders.	\$50.00 fine or thirty days
106-423.1	Preventing inspection of premises or interfering with Department of Agriculture in performing duties under plant pest provisions, as set out in G.S. 106-419 to -423.1.	\$50.00 fine (\$5.00 minimum) or thirty days (ten-day minimum)
106-451	Public cotton ginneries failing to number cotton bales.	\$50.00 fine or thirty days
106-461 (106-464)	Selling nested, shingled, or overhung tobacco.	\$50.00 fine or thirty days
106-462 (106-464)	Selling tobacco under name other than that of true owner.	\$50.00 fine or thirty days
106-463 (106-464)	Person when weighing tobacco allowing weight of baskets and trucks to vary from standard weight.	\$50.00 fine or thirty days
106-514	Unlawfully entering fairgrounds of agricultural or horticultural society.	\$50.00 fine or thirty days

G.S. Section	Offense	Maximum Punishment
106-515	Assisting unlawful entry on fairgrounds.	\$20.00 fine or ten days
106-516 (106-518)	Vendors and exhibitors near fairs failing to pay license.	\$50.00 fine or thirty days
106-517 (106-518)	Vendors near fairs failing to make application to county commissioners for license.	\$50.00 fine or thirty days
106-644	Interfering with a Department of Agriculture employee carrying out an inspection under the Bee and Honey Act.	\$50.00 fine or thirty days
112-36	Taking fees for acknowledgments by Confederate pensioners.	\$50.00 fine or thirty days
113-25	Manufacturing mineral products without notifying the Department of Environment, Health, and Natural Resources.	\$25.00 fine (\$5.00 minimum)
113-34, -35	Violating the rules of the Department of Environment, Health, and Natural Resources pertaining to public use of state forests and parks.	\$50.00 fine or thirty days
113-58	Maliciously or willfully destroying, defacing, removing, or disfiguring any sign, poster, or notice put up by a forest ranger.	\$50.00 fine (\$10.00 minimum) or thirty days
113A-42	Violating provision of Natural and Scenic Rivers Act.	\$50.00 fine
113A-195	Failing to disclose information obtained in primary forest product assessment.	\$50.00 fine
115C-45	Willfully refusing to appear and testify before school board.	\$50.00 fine or thirty days
115C-534	School board failing to perform duty to insure property.	\$50.00 fine or thirty days
119-41	Persons engaged in transporting gasoline violating inspection laws.	\$25.00 fine
121-4	Violating Historical Commission regulations on public uses of historical and cultural properties.	\$50.00 fine or thirty days
122C-406	Violating Camp Butner ordinances adopted by the secretary of human resources.	\$50.00 fine or thirty days
125-11	Failing to return books to the state library.	\$50.00 fine or thirty days
127A-153	Militia member improperly wearing a military uniform.	\$50.00 fine or thirty days
131E-90	Failing to leave hospital upon discharge.	\$50.00 fine or thirty days
136-94	Gates projecting over rights-of-way of state highway.	\$50.00 fine or thirty days
136-102	Billboard obstructing view at entrance to school, church, or public institution on public highway.	\$10.00 fine
143-138	Violating the State Building Code, except for occupancy limits.	\$50.00 fine
143-153	Keeping swine near state institutions.	\$50.00 fine (\$10.00 minimum)

G.S. Section	Offense	Maximum Punishment
143-214.4	(1) Manufacturing or selling certain cleaning agents containing phosphorous. (2) Using such cleaning agents.	\$50.00 fine Infraction: \$50.00 penalty
143-355	Failing to report well digging.	\$50.00 fine
146-13	Violating restrictions on the erection of piers on state lakes.	\$50.00 fine or thirty days
156-19	Obstructing a canal or ditch dug under agreement.	\$50.00 fine or thirty days
156-24	Obstructing a drain cut by consent.	\$50.00 fine or thirty days
156-25	Failing to clean up damage to canals, ditches, and natural drains.	\$50.00 fine (\$10.00 minimum) or thirty days (ten-day minimum)
156-32	Refusing to act as drainage commissioner when summoned by county surveyor.	\$50.00 fine or thirty days
156-138	Violating law as to drainage districts.	\$50.00 fine or thirty days

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