

State of North Carolina

FILED

In the General Court of Justice

Second Judicial District

2013 JAN -7 PM 2:45

District Court Division

HEAD OF DISTRICT COURT, C.S.C.

file # 13-R-3
ref # 13 m-2

BY MTH

Procedures for filing Motions for Appropriate Relief
In Criminal District Court
(Local Rules)

1. Purpose of the Rules

These rules are adopted as a procedural guideline for the filing and hearing of Motions for Appropriate Relief (MAR) in District Court. The purpose and goal is to ensure openness and timeliness in the filing, hearing or other disposition of an MAR. Therefore as a consequence of the General Assembly enacting Session Law 2012-168 at Section 2.(a) and at Section 2.(b) North Carolina General Statutes Sections 15A-1413 and 15A-1420 were modified requiring the following adopted rules.

2. Filing of Motions for Appropriate Relief

All motions for appropriate relief (MAR) must be made in writing, unless said motion is made in open court at the time of the entry of the original judgment pursuant to the terms of North Carolina General Statutes Section 15A-1420.

All such written motions shall be filed with the Clerk of the Superior Court of the County in which the case was tried. Further the said motion shall clearly state the name of the presiding judge from whose judgment relief is being sought and the date of the court session when the judgment was entered.

3. Motions for Appropriate Relief to be heard by the Original Sentencing Judge

Upon the filing of the said MAR, the Clerk shall place the said motion for hearing on the criminal motion calendar for the next criminal session of District Court for that county at which the original sentencing judge is scheduled to preside.

4. Chief District Court Judge to assign MAR for hearing if original Judge not available

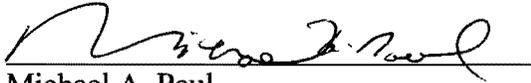
If the original sentencing judge from whose judgment relief is being sought is no longer available in the District, or if the original sentencing judge recuses himself or herself from hearing the said motion, or if the MAR is from a waivable offense without a sentencing judge having heard the case, or for other good cause shown, then the Chief District Court Judge shall be promptly notified of said fact and shall then assign a Judge to hear the said motion.

5. Notice, Service and Procedural Rules of Section 15A-1420 still apply

Nothing in this order is intended to limit or modify the requirements under North Carolina General Statutes Sections 15A-1420 et seq. as the same relate to service or notice to the parties of the motion, including the requirement of the signature of the District Attorney on the MAR noting either consent or objection to the said motion.

This Order shall be filed with the Clerk of Superior Court of each county in this District and shall be maintained with the other Administrative Orders of this court as part of the Local Rules of Practice of the District Court of the Second Judicial District.

This the 7th day of January, 2013.



Michael A. Paul
Chief District Court Judge