

**§ 15A-1442. Grounds for correction of error by appellate division.**

The following constitute grounds for correction of errors by the appellate division.

- (1) Lack of Jurisdiction. –
  - a. The trial court lacked jurisdiction over the offense.
  - b. The trial court did not have jurisdiction over the person of the defendant.
- (2) Error in the Criminal Pleading. – Failure to charge a crime, in that:
  - a. The criminal pleading charged acts which at the time they were committed did not constitute a violation of criminal law; or
  - b. The pleading fails to state essential elements of an alleged violation as required by G.S. 15A-924(a)(5).
- (3) Insufficiency of the Evidence. – The evidence was insufficient as a matter of law.
- (4) Errors in Procedure. –
  - a. There has been a denial of pretrial motions or relief to which the defendant is entitled, so as to affect the defendant's preparation or presentation of his defense, to his prejudice.
  - b. There has been a denial of a trial motion or relief to which the defendant is entitled, to his prejudice.
  - c. There has been error in the admission or exclusion of evidence, to the prejudice of the defendant.
  - d. There has been error in the judge's instructions to the jury, to the prejudice of the defendant.
  - e. There has been a denial of a post-trial motion or relief to which the defendant is entitled, to his prejudice. This provision is subject to the provisions of G.S. 15A-1422.
- (5) Constitutionally Invalid Procedure or Statute; Prosecution for Constitutionally Protected Conduct. –
  - a. The conviction was obtained by a violation of the Constitution of the United States or of the Constitution of North Carolina.
  - b. The defendant was convicted under a statute that is in violation of the Constitution of the United States or the Constitution of North Carolina.
  - c. The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.
- (5a) Insufficient Basis for Sentence. – The sentence imposed on the defendant is not supported by evidence introduced at the trial and sentencing hearing.
- (5b) Violation of Sentencing Structure. – The sentence imposed:
  - a. Results from an incorrect finding of the defendant's prior record level under G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;
  - b. Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or
  - c. Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class or offense and prior record or conviction level.

- (6) Other Errors of Law. – Any other error of law was committed by the trial court to the prejudice of the defendant. (1977, c. 711, s. 1; 1979, c. 760, s. 3; 1993, c. 538, s. 26; 1994, Ex. Sess., c. 24, s. 14(b).)