

Consideration of Juvenile Information at Sentencing

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A defendant's prior North Carolina juvenile adjudications never count for sentencing points. That is true for felonies and misdemeanors alike. The definition of a "prior conviction" in Structured Sentencing ([G.S. 15A-1340.11\(7\)](#)) includes only a previous "conviction" for a "crime." By law in North Carolina, a juvenile adjudication is not a conviction at all, and so it cannot be a prior conviction. [G.S. 7B-2412](#) ("An adjudication that a juvenile is delinquent or commitment of a juvenile to the Division for placement in a youth development center shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.").

What about a prior out-of-state juvenile adjudication for an offense committed when the defendant was 16 or 17 years old? Had the defendant been in North Carolina, that behavior likely would have constituted a crime. Does that open the door for it to count for points here on a theory of "substantial similarity"? No. The substantial similarity analysis of [G.S. 15A-1340.14\(e\)](#) (described [here](#)) applies only to prior "convictions" in another jurisdiction when the other jurisdiction classifies the offense as a felony or misdemeanor. If the other state calls it an adjudication, then it seems to me it's not a conviction for an offense classified as a misdemeanor or felony there. Failing that threshold determination, you don't even proceed to the point of analyzing how a substantially similar offense would be categorized in North Carolina.

Just as a juvenile adjudication may not count as a prior conviction, a defendant who commits a felony while on juvenile probation or post-release supervision is probably not eligible for the additional sentencing point available under G.S. 15A-1340.14(b)(7). That point applies to defendants who commit their offense while on supervised or unsupervised probation, parole, post-release supervision, or while the offender was serving a sentence of imprisonment, or while the offender was on escape. In *State v. Tucker*, 154 N.C. App. 653 (2002), the court of appeals held that juvenile training school was not a "sentence of imprisonment" within the meaning of G.S. 15A-1340.14(b)(7). Given the court's focus on the "fundamental legal difference" between the adult and juvenile systems, my sense is that it would reach a similar conclusion regarding juvenile supervision, even though those statutes use words common to the juvenile and adult systems.

None of this is to say that juvenile adjudications are entirely off limits for adult sentencing. Under [G.S. 15A-1340.16\(d\)\(18a\)](#), a prior adjudication for an offense that would be a Class A–E felony if committed by an adult may be alleged as an aggravating factor. A similar aggravator applies for capital sentencing. [G.S. 15A-2000\(e\)\(2\)](#). A person's juvenile record can also shape other aspects of his or her sentence. A probation officer has limited access to the juvenile record of a person on probation for an offense committed while the person was less than 25 years old. The supervising officer may, without a court order, examine the record of any adjudication for an offense that would be a felony if committed by an adult for the purpose of assessing the offender's risk. [G.S. 15A-1341\(e\)](#); [7B-3000\(e1\)](#). Finally, properly obtained juvenile information can, in felony and Class A1 misdemeanor cases, be used by prosecutors and the courts for, among other things, "plea negotiating decisions and plea acceptance decisions." G.S. 7B-3000(b) and (e).