

## Corpus Delicti

**Author :** Jessica Smith

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According to my teenaged kids, “corpus delicti” sounds like something that will get you in trouble if you write about it on a government-sponsored blog. It is, however, an issue that arises in criminal cases.

The term “corpus delicti” (sometimes spelled corpus delecti) means the body of the crime. Black’s Law Dictionary 310 (5<sup>th</sup> ed. 1979); *State v. Smith*, 362 N.C. 583, 589 (2008). It refers to the substance of the crime, which ordinarily includes two elements: the act and the criminal agency of the act. Black’s at 310. Thus, it has been explained that the corpus delicti of murder includes proof of death and proof that the death resulted from the criminal agency of another. *State v. Perdue*, 320 N.C. 51, 56 (1987). Evidence of “criminal agency of another” means evidence showing that the victim died not from natural or accidental causes, but by the hand of another. *Id.* (evidence was sufficient that the infant victim’s injuries were not accidental and that the corpus delicti was established); *see also State v. Head*, 79 N.C. App. 1, 9-11 (1986) (although the murder victim’s body was not found, the evidence showed that she was dead and that her death resulted from a criminal agency). The concept underpinning the rule grew out of early English cases. *Smith*, 362 N.C. at 590. In one, a defendant confessed to the murder of a missing man, implicating his mother and brother. All three were executed before the alleged victim was discovered alive. Public outrage over this case and other similar cases spurred creation of the rule.

Under the corpus delicti rule, the State may not rely solely on the extrajudicial confession (or admission) of a defendant to obtain a conviction; rather, the State must produce substantial independent corroborative evidence that supports the facts underlying the confession. *State v. Smith*, 362 N.C. 583, 588 (2008) (citing *State v. Parker*, 315 N.C. 222 (1985)). The independent evidence is sometimes referred to as “evidence aliunde.”

What constitutes substantial independent corroborative evidence? Until the North Carolina Supreme Court’s decision in *State v. Parker*, 315 N.C. 222 (1985), North Carolina law had required that there be corroborative evidence, independent of the defendant’s confession, which tended to prove the commission of the charged crime itself. In *Parker*, however, the court adopted a new, broader standard providing that the evidence could *either* prove commission of the crime *or* corroborate the confession itself, establishing its trustworthiness. The *Parker* Court explained:

We adopt a rule in non-capital cases that when the State relies upon the defendant’s confession to obtain a conviction, it is no longer necessary that there be independent proof tending to establish the *corpus delicti* of the crime charged if the accused’s confession is supported by substantial independent evidence tending to establish its trustworthiness, including facts that tend to show the defendant had the opportunity to commit the crime.

We wish to emphasize, however, that when independent proof of loss or injury is lacking, there must be *strong* corroboration of essential facts and circumstances embraced in the defendant’s confession. Corroboration of insignificant facts or those unrelated to the commission of the crime will not suffice. We emphasize this point because although we have relaxed our corroboration rule somewhat, we remain advertent to the reason for its existence, that is, to protect against convictions for crimes that have not in fact occurred.

*Parker*, 315 N.C. at 236. *Parker* expressly limited its statement of a broader rule to noncapital cases. *Id.* Thus, it appears that the old rule, requiring independent corroboration of the crime itself applies in capital cases. Also, *Parker* states that when independent proof of loss or injury is lacking, there must be “strong corroboration of essential facts of circumstances embraced in the defendant’s confession.” *Parker*, 315 N.C. at 236. In *State v. Smith*, 362 N.C. 538 (2008), the court applied that language and held that where an alleged child sexual assault victim expressly denied that the offense occurred, it was “imperative” to require strong corroboration of the defendant’s extrajudicial confession. *Id.* at 593 (going on to find the evidence insufficient).

As with many criminal rules, illustrative cases can facilitate understanding. Here are a few cases on point from the last five years:

#### **Cases in Which the Evidence Was Insufficient.**

- *State v. Smith*, 362 N.C. 583 (2008) (in a sexual offense case the court rejected the argument that evidence of opportunity was sufficient to corroborate the confession, instead requiring strong corroboration where the victim denied that the conduct occurred).

#### **Cases in Which the Evidence Was Sufficient.**

- *State v. Sweat*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (Oct. 18, 2011) (over a dissent, the court held in this sex offense case that the evidence corroborated the defendant’s confession to fellatio; the victim told two people on two occasions that the conduct occurred, the defendant had an opportunity to commit the crime, and he was convicted of related crimes occurring at the same time and against the same victim).
- *State v. Blue*, \_\_\_ N.C. App. \_\_\_, 699 S.E.2d 661 (2010) (as to a robbery, aspects of the defendant’s confession were corroborated with physical evidence found at the scene and by the medical examiner’s testimony; as to a rape, the victim’s body was partially nude, an autopsy revealed injury to her vagina, rape kit samples showed spermatozoa, and a forensic analysis showed that the defendant could not be excluded as a contributor of the weaker DNA profile).
- *State v. Ash*, 193 N.C. App. 569, 575 (2008) (the evidence sufficiently supported the defendant’s confession in an armed robbery and felony murder case; evidence as to the weapon was linked to the defendant and after the crime the defendant hid in hotel rooms, which were paid with cash and reserved in his mother’s name).
- *State v. Shelly*, 181 N.C. App. 196 (2007) (testimony that the victim died as a result of multiple gunshot wounds sufficiently corroborated the confession).