

Hot Pursuit of a Suspect Within and Outside North Carolina

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This post reviews what is commonly known as “hot pursuit” of a suspect to make an arrest outside an officer’s territorial jurisdiction. Note, however, that the actual term in G.S. 15A-402(d) is the “immediate and continuous flight” by a suspect from an officer’s territory. Also, although the statute is specifically confined to an officer’s arrest authority, court cases include other law enforcement actions such as investigative stops and searches.

Hot pursuit within North Carolina. Local law enforcement officers are normally restricted to arresting suspects within the limits of the unit that employs them and within one mile outside those limits. G.S. 15A-402(c) and 160A-286. However, they may arrest outside that territory at any place within the State of North Carolina when the offender has committed a criminal offense within the officer’s territory, and the arrest is made while the suspect is in immediate and continuous flight from that territory. G.S. 15A-402(d). Officers may pursue the offender throughout the state, but if they are to retain their authority to arrest, they must continue the pursuit and not stop to do something else. They need not keep the offender in sight at all times, however, so long as the offender remains in continuous flight. Officers also may await the arrival of assistance if they would be endangered by making the arrest without additional assistance.

Company and campus police officers also may arrest outside their territorial jurisdiction if they are in hot pursuit of a person who committed an offense within their jurisdiction. G.S. 15A-402(f); 74E-6(c)(3).

A typical hot pursuit is reflected in *State v. Melvin*, 53 N.C. App. 421 (1981). A Burlington city officer was in the city limits when he saw a car involved in a recently-committed robbery of a local motel. The officer pursued the car with his blue light and siren, but it did not immediately stop. When it did stop, the officer was about 1.6 miles beyond Burlington’s city limits. The car was searched and evidence of the robbery was seized, which was introduced at the defendant-passenger’s trial.

The court ruled that the stop and search that occurred more than one mile from the city limits was proper under G.S. 15A-402(d). The court also noted that even if the stop and search had not been authorized under G.S. 15A-402(d), the arrest of the suspect in the car was supported by probable cause under the Fourth Amendment, and thus the evidence seized pursuant to the arrest would have been admissible under the Fourth Amendment. See also *Virginia v. Moore*, 553 U.S. 164 (2008) (search incident to an arrest that was valid under the Fourth Amendment did not violate the Fourth Amendment even though the arrest was invalid under state law).

Remember, however, that a defendant also may ground a suppression motion based on an officer’s substantial violation of a statute under Chapter 15A of the General Statutes, even though the officer did not violate the Fourth Amendment or other constitutional provisions. G.S. 15A-974(a)(2). For case summaries concerning this issue, see pages 97-98 in *Arrest, Search, and Investigation in North Carolina* (5th ed. 2016).

Hot pursuit outside North Carolina. Although North Carolina law enforcement officers normally may not arrest once they leave the state, they may arrest outside the state when they pursue a person who has committed an offense in North Carolina and is fleeing into an adjoining state whose laws permit an arrest to be made under these circumstances. All four border states—Georgia, South Carolina, Tennessee, and Virginia—permit such arrests, but only for felonies (and also certain impaired driving misdemeanors involving pursuit into Georgia and South Carolina; see

footnotes 41 and 42 on page 17 of *Arrest, Search, and Investigation in North Carolina* (5th ed. 2016)).

When officers pursue a person into another state and arrest the person there, they may not simply bring the arrestee back to North Carolina. Instead, they must take the arrestee to a judicial official in that state and follow that state's extradition procedures. An officer who does not follow a state's extradition procedures may be subject to civil liability for violating an arrestee's extradition rights; see *Wirth v. Surles*, 562 F.2d 319 (4th Cir. 1977) (officer's arrest and transportation of arrestee from Georgia back to South Carolina without following state's extradition procedures was actionable under 42 U.S.C. § 1983). However, if probable cause exists under the Fourth Amendment to arrest the suspect, evidence seized pursuant to the arrest likely will be admissible at the criminal trial. See *United States v. Goings*, 573 F.3d 1141 (11th Cir. 2009) (trial court did not err under *Virginia v. Moore*, 553 U.S. 164 (2008), in denying defendant's suppression motion when Georgia officer's arrest of suspect in Florida was supported by probable cause, even if the officer was not authorized to enter Florida to make the arrest).

Officers entering North Carolina in hot pursuit. G.S. 15A-403 permits officers from other states to enter North Carolina to arrest a person fleeing from the other state only to the extent that the other state authorizes a North Carolina officer to enter that state. See the discussion of this authority in footnote 45 on page 18 of *Arrest, Search, and Investigation in North Carolina* (5th ed. 2016).

Resource. See the School of Government's *State of North Carolina Extradition Manual* (3rd ed., 2013).