

In the Matter of District Court Administrative Order

Author : Shea Denning

Categories : [Motor Vehicles](#), [Procedure](#), [Uncategorized](#)

Tagged as : [administrative court](#), [inherent authority](#), [separation of powers](#), [traffic court](#)

Date : February 1, 2012

Among the opinions filed by the North Carolina Supreme Court last Friday was an order captioned "[In the Matter of District Court Administrative Order](#)." Without providing any factual background regarding the order, the court vacated in "each and every respect" an administrative order entered April 25, 2011 by "Judge Jerry A. Jolly in District Court, Brunswick County." Chief Justice Parker and two other justices, Martin and Timmons-Goodson, recused. Most of the court's three-paragraph order recites language from *In re Alamance County Court Facilities*, 329 N.C. 84 (1991), describing the constraints that the separation of powers clause in the state constitution imposes upon a court's exercise of its inherent powers. The supreme court did not explain how these principles applied to its review of the administrative order, though the court's citation of [N.C. Const. art. IV §10](#) (setting forth the duties of the district court), and § 18 (setting forth the duties of the district attorney) (both, incidentally, offices created under the Judicial article of the state constitution) provide some clues about the conflicting sources of authority. The parties' briefs, available [here](#) and [here](#), fill in the missing facts, or, more-precisely, each party's version of the facts, which, on many points, are hotly contested.

A few matters are not in dispute. A little more than a month before entry of the administrative order at issue, a traffic administration court was launched in Brunswick County. Such administrative traffic courts are common throughout the state, though the particulars regarding how such courts are conducted and which offenses are assigned to such courts vary. In fact, the General Assembly in the 2011 State Budget Act required each district to "offer Administrative Court regularly by October 1, 2011." [S.L. 2011-145](#). Brunswick County's administrative court reportedly was designed to expedite the disposition of charges for minor motor vehicle offenses, particularly charges arising from "compliance issues, including charges for not having registration, inspection, or insurance," and also including charges for "stop sign violations, equipment violations, failure to carry a driver's license, and seat belt tickets." (See 3/25/2011 Memorandum from District Attorney Jon David, attached as Ex. D to Appellant's Brief). In addition, certain defendants charged with traffic offenses in Brunswick County were eligible to have their charges reduced after completion of a designated safe driving course administered by a private vendor pursuant to a contract with the Brunswick County Community College. One of the private vendors that contracted with the community college to administer such a course contributed to District Attorney David's 2010 election campaign.

Judge Jolly's order concluded that the relationship between the district attorney and the vendor created, at a minimum, "the appearance of a gross impropriety" that "brings the criminal justice system into disrepute." (April 15, 2011 Administrative Order, attached as Ex. A to Appellant's Brief.) Accordingly, he ordered: (1) the termination of all traffic administration courts in the Thirteenth Judicial District (comprised of Bladen, Brunswick and Columbus counties), (2) that all law enforcement agencies in the district issuing traffic tickets and citations "immediately set all traffic tickets, except for Driving While Impaired cases and associated traffic offenses, on the officer's regularly assigned Court date," (3) that "all sessions previously identified as Traffic Administration Court Days" be "transformed into regular Criminal sessions," and (4) that the district attorney not refer defendants to specified driving classes as a condition to "receive a lesser offense." (Appellant's Brief, Appendix A.)

As previously noted, all aspects of the order were vacated. The opinion is notable for its resolution of this very public conflict between two elected officials. Given, however, the North Carolina Supreme Court's failure to explain its rationale as applied to the various components of the administrative order, I'm not sure that the high court's ruling

sheds much light on how to resolve other controversies of this nature that may arise.

For example, given that [G.S. 7A-146](#) grants the chief district court judge administrative supervision and authority over the operation of the district courts, must a chief district court judge approve the establishment of any administrative court? That seems likely, though the answer may depend upon how one defines “administrative court.” Once such a court is established, may a chief district court judge restructure the court over a district attorney’s objection by requiring, for example, that a district court judge preside over the court? May a chief district court judge order that certain types of traffic offenses be scheduled for a session of regular criminal court rather than administrative court, a term the General Assembly used in S.L. 2011-145 to refer to sessions “for the purpose of hearing Chapter 20 infractions”? May the district attorney unilaterally decide to add other types of offenses to such court sessions pursuant to his or her authority to prepare the trial docket pursuant to [G.S. 7A-61](#)? Are there any circumstances under which a chief district court judge may prohibit a district attorney from referring defendants to driving schools or other programs in order to obtain a reduction in or dismissal of the charges?

If you practice in or preside over an administrative court and have thoughts about the relevant balance of authority related to such courts and the charges addressed therein, please write in to share your perspective.