

## Limits on PJC's

**Author :** Jamie Markham

**Categories :** [Sentencing](#), [Uncategorized](#)

**Tagged as :** [PJC](#), [prayer for judgment continued](#)

**Date :** May 31, 2018

Judges can continue prayer for judgment in any case. Except when they can't.

In North Carolina, when a defendant is convicted, either after a trial or by guilty plea, the court is generally viewed as having the authority to continue prayer for judgment in the case. A prayer for judgment continued (PJC) can serve different purposes. It can be a mere continuance of sentencing in the case, allowing the court to obtain additional information about the defendant before entering judgment. It can take on the character of a suspended sentence, with the PJC set to continue "from term to term" for some specified period on condition of the defendant's good behavior, with the understanding that the State will pray judgment and the court will sentence the defendant in response to any reported misconduct. Often, however, it is everyone's understanding that a PJC will be the last thing that happens in a case—an exercise of judicial mercy that will leave the defendant with a conviction but no punishment for it. I sometimes refer to that last type of PJC as a dispositional PJC. Practice on all types of PJC's varies across the State.

The precise legal underpinnings of the dispositional PJC are hard to pinpoint. I walked through some of the history of PJC's in [this post](#), noting that the modern appellate courts generally approve of a trial judge's broad authority to continue prayer for judgment. See *State v. Van Trusell*, 170 N.C. App. 33 (2005) ("North Carolina courts have the power to continue prayer for judgment . . ."). If you look carefully at the cases cited in support of that authority, they are mostly talking about a probation-like, term-to-term type of PJC. But suffice it to say that at this point, the baseline rule is that a judge can continue prayer for judgment in any case unless some legal authority says otherwise.

There are a small number of legal authorities that say otherwise.

In a few circumstances, PJC's are prohibited by statute.

Under [G.S. 20-141\(p\)](#), a driver charged with speeding in excess of 25 miles per hour shall be ineligible for a PJC.

Under [G.S. 14-205.1\(a\)](#), any defendant who solicits another for prostitution—be it a first offense, a second or subsequent offense, an offense against a minor, or an offense against a severely or profoundly mentally disabled person—shall not be eligible for a PJC under any circumstances.

Under [G.S. 20-217\(e\)](#), a defendant who passes a stopped school bus shall not receive a PJC under any circumstances.

In one important circumstance, a dispositional PJC is prohibited by case law. As Shea discusses in *The Law of Impaired Driving and Related Implied Consent Offenses in North Carolina* (p. 145–46), our the appellate courts have interpreted the sentencing provisions for impaired driving in G.S. 20-179 to be a "mandatory" sentencing regime that prohibits dispositional PJC's in DWI cases. In *re Greene*, 297 N.C. 305 (1979) ("We hold that the Courts at North Carolina do not have an 'inherent' power to continue prayer for judgment on conditions or to suspend sentence where the sentence is made mandatory by the General Assembly."). Now, one could argue that all of North Carolina's sentencing laws, not just G.S. 20-179, are "mandatory," but cases like *Van Trusell* show that the *Greene* rule has been limited to impaired driving.

In 2012, the General Assembly enacted a final statutory limit on PJC's in [G.S. 15A-1331.2](#). Under that law, the court shall not dispose of any Class B1–E felony by ordering a PJC that exceeds 12 months. Any PJC ordered in those cases must include as a condition that the State shall pray judgment within some specific time not to exceed 12 months. Once that time has expired, the court must enter a final judgment, unless it finds that it is in the interest of justice to continue the order for some additional time not to exceed 12 more months. The court may not extend the PJC beyond that one additional 12-month period.

This relatively new rule obviously precludes a dispositional PJC for any serious felony. That's not something you hear about very often in any event, but it used to happen from time to time.

The parties should also be aware of this requirement when a defendant in a serious felony case is granted a PJC to allow him or her time to demonstrate good behavior before sentencing. Sometimes 24 months will not be long enough for the defendant to do whatever he or she agreed to do. There is some argument that the law applies only to truly dispositional PJC's (the statute uses the word "dispose"), and not to mere delays in sentencing. But until we have case law interpreting the provision, the new timeline is something you may wish to take into account.