Limits on the Use of Statements of Charges in Superior Court

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This week, the court of appeals decided a case that is a good reminder about the limits of the State's authority to address problems in charging documents by filing a misdemeanor statement of charges.

In State v. Wall, Richmond County officers sought to arrest William Wall, Sr. based on a Florida warrant and to serve an emergency child custody order for William Wall, Jr. They went to the Walls' neighborhood, spotted the elder Wall, and arrested him. The officers then proceeded to the Walls' house, where several family members resided. The family members allegedly refused to identify William Wall, Jr. among the children present and made several false statements about the identity and whereabouts of William Wall, Jr. The officers were eventually able to identify the child based on a photograph sent by Florida authorities. They took custody of the child and arrested the adults in the home, charging them with resisting, obstructing, and delaying officers in violation of G.S. 14-223.

The defendant in *Wall* was one of the adults present. She was charged in a magistrate's order that alleged that she "refuse[d] to let [Richmond County] deputies serve a child custody order." She was convicted in district court and appealed for trial de novo. The State filed a misdemeanor statement of charges in superior court, changing the allegation to "lying to [Richmond County] deputies about the whereabouts of" William Wall, Jr. The opinion doesn't indicate why the State made the change, but it seems that the officers never actually produced the custody order when talking to the family members, so the State may have been concerned that alleging interference with service of the order was an overreach. In any event, the defendant was convicted again and appealed.

The court of appeals reversed the conviction, concluding that the State lacked the authority to file the statement of charges. Under G.S. 15A-922, a prosecutor may file a statement of charges "at any time prior to arraignment in district court," and such a statement of charges may add new offenses or make any change whatsoever to the existing charges. (I sometimes tell prosecutors that they have superpowers to fix charging problems before trial in district court.) Past that point, a prosecutor may file a statement of charges only if "the defendant . . . objects to the sufficiency [of a warrant, summons, or magistrate's order] and the judge rules that the pleading is insufficient," and such a statement of charges can't "change the nature of the offense." (Arraignment in district court is like Kryptonite, robbing prosecutors of their superpowers.) In this case, the State filed the statement of charges well after arraignment in district court, and not based on any objection by the defendant to the sufficiency of the magistrate's order. Because the statement of charges was not filed properly, the defendant was tried on a faulty charging document and the superior court lacked jurisdiction, so the defendant's conviction was reversed.

A better maneuver by the prosecutor would have been moving to amend the magistrate's order. That may be done "at any time prior to or after final judgment when the amendment does not change the nature of the offense charged." G.S. 15A-922(f). There might be some debate about whether the amendment in this case changed the nature of the offense. But if it did, a statement of charges wouldn't have been any help – remember that one filed after arraignment in district court "may not change the nature of the offense."

The power to file a statement of charges without limitation is indeed a superpower for prosecutors. But as *Wall* reminds us, even superpowers have limits.

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