Turner Reversed

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Last week, the state supreme court unanimously reversed *State v. Turner*, __ N.C. App. __, 793 S.E.2d 287 (2016), and held that any "any criminal pleading that establishes jurisdiction in the district court should toll the two-year statute of limitations" set forth in G.S. 15-1. It did so in a case named State v. Curtis. This post recaps the *Turner* controversy and unpacks the ruling in *Curtis.*

Refresher on *Turner*. Shea wrote about *Turner* here. In brief, it was a DWI case in which an officer issued a citation that a magistrate subsequently converted into a magistrate's order. At that time, G.S. 15-1 provided that a misdemeanor must be "presented or found by the grand jury within two years." After the case had been pending for more than two years, the defendant moved to dismiss, contending that because he had not been charged in an indictment or presentment within two years, the misdemeanor statute of limitations in G.S. 15-1 had run. Further, while the Supreme Court of North Carolina had ruled in *State v. Underwood*, 244 N.C. 68 (1956), that an arrest warrant was also sufficient to toll the statute, the defendant pointed out that there hadn't been one of those, either: there was a just a citation that became a magistrate's order, two pleadings not listed in G.S. 15-1.

A district court judge, a superior court judge, and the court of appeals agreed with the defendant that the statute had run, with the appellate court stating expressly that the "issuance of a citation did not toll the statute of limitations." The state supreme court stayed the ruling, and the legal community has been waiting for its review.

Curtis. Like *Turner*, *Curtis* was a DWI case. The defendant was arrested and was charged in a magistrate's order. Two and a half years later, the defendant effectively moved to dismiss based on the statute of limitations. A district court judge and a superior court judge agreed with the defendant's argument, and the court of appeals affirmed based on *Turner*.

Last week, the state supreme court reversed, noting that since G.S. 15-1 was adopted, a number of relevant procedures have changed: the state constitution has been amended to create the district courts; the district courts have been given jurisdiction over misdemeanors; and the legislature has allowed citations, summonses, arrest warrants, and magistrates' orders to be used as the state's pleadings in misdemeanor cases. In light of these changes, the court viewed the defendant's argument that pleadings other than indictments and presentments fail to toll the statute of limitations as "overly technical." The court indicated that "the purpose of the statute of limitations" -- to prevent long delays in charging -- is satisfied by the issuance of any valid criminal process.

What about *Turner*? *Turner* itself was reversed last week as well, in a one-paragraph opinion that relied on "the reasons stated in *State v. Curtis.*" I don't know why the court chose *Curtis* rather than *Turner* as the vehicle for its reasoning. If anyone has any thoughts about that, please post a comment.

Amendment of G.S. 15-1. It is important to remember that during the 2017 legislative session, the General Assembly amended G.S. 15-1 to provide in part that "misdemeanors shall be charged within two years," removing any reference to the grand jury, presentments, and so on, and allowing the issuance of any valid process to satisfy the statute. Shea blogged about that amendment here. It is effective for offenses committed on or after December 1, 2017, so for new cases, *Curtis* is only of academic interest.

Effect on Pipeline Cases and *Turner* Work-Arounds. Of course, there are plenty of misdemeanor charges based on offenses allegedly committed before December 1, 2017, still pending in the courts of North Carolina. For those cases, *Curtis* removes the "*Turner* issue" and should eliminate the state's incentive to pursue some of the *Turner* work-arounds that have been tried, such as seeking presentments and then indictments in misdemeanor cases that are approaching the two-year mark or dismissing those cases and seeking to re-charge them via arrest warrant. Shea's post about the work-arounds is here. There is disagreement about the the propriety of the work-arounds and some defendants have successfully challenged the use of presentments as being inconsistent with the historical function of those documents, but I will leave the details of that debate for another post. The litigation may continue with respect to cases in which a work-around has already been employed, but seems sure to diminish in frequency as the need for the work-arounds fades.