

## CORPUS DELICTI

Jessica Smith, UNC School of Government (Nov. 2011).

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**I. Generally.** The term “corpus delicti” (sometimes spelled corpus delecti) means the “body of the crime.” BLACK’S LAW DICTIONARY 395 (9th ed. 2009); *State v. Smith*, 362 N.C. 583, 589 (2008). It refers to the substance of the crime, which ordinarily includes two elements: the act and the criminal agency of the act. BLACK’S at 395. Thus, it has been explained that the corpus delicti of murder includes proof of death and proof that the death resulted from the criminal agency of another. *State v. Perdue*, 320 N.C. 51, 56 (1987). Evidence of “criminal agency of another” means evidence showing that the victim died not from natural or accidental causes, but by the hand of another. *Id.* (evidence was sufficient to permit a finding that the infant victim's injuries were not accidental and that the corpus delicti was established); see also *State v. Head*, 79 N.C. App. 1, 9-11 (1986) (although the murder victim’s body was not found, the evidence sufficiently showed that she was dead and that her death resulted from a criminal agency). The concept underpinning the rule grew out of early English cases. *Smith*, 362 N.C. at 590. In one, a defendant confessed to the murder of a missing man, implicating his mother and brother. All three were executed before the alleged victim was discovered alive. *Id.* Public outrage over this case and other similar cases spurred creation of the rule. *Id.*

**II. Corpus Delicti and Extrajudicial Confessions.** Under the corpus delicti rule, the State may not rely solely on the extrajudicial confession of a defendant to obtain a conviction; rather, the State must produce substantial independent corroborative evidence that supports the facts underlying the confession. *Smith*, 362 N.C. at 588 (2008) (citing *State v. Parker*, 315 N.C. 222 (1985)). The independent evidence is sometimes referred to as “evidence aliunde.” See, e.g., *Smith*, 362 N.C. at 592.

As originally interpreted in North Carolina, the rule required some independent evidence of the crime itself—the body of the crime. However, as discussed below, that rule has been relaxed. See Section III below.

**A. Failure to Satisfy the Rule Results in Insufficient Evidence.** Under the corpus delicti rule, an uncorroborated, extrajudicial confession is insufficient to support a criminal conviction. *State v. Trexler*, 316 N.C. 528, 531 (1986).

**B. Rule Applies to Both Confessions and Admissions.** The corpus delicti rule applies with equal force to both confessions and admissions. *Trexler*, 316 N.C. at 531 (reasoning that confessions are types of admissions).

- III. **“Substantial Independent Corroborative Evidence.”** The corpus delicti rule requires that if the defendant’s extrajudicial confession is the only evidence of the crime, the State must produce “substantial independent corroborative evidence” supporting the confession. But what constitutes substantial independent corroborative evidence? Until the North Carolina Supreme Court’s decision in *State v. Parker*, 315 N.C. 222 (1985), North Carolina law had required that there be corroborative evidence, independent of the defendant’s confession, which tended to prove the commission of the charged crime itself. *Trexler*, 316 N.C. at 531 (discussing the history of the rule). In *Parker*, however, the court adopted a new, broader standard providing that the evidence could *either* prove commission of the crime *or* corroborate the confession itself, establishing its trustworthiness. The *Parker* Court explained:

We adopt a rule in non-capital cases that when the State relies upon the defendant’s confession to obtain a conviction, it is no longer necessary that there be independent proof tending to establish the *corpus delicti* of the crime charged if the accused’s confession is supported by substantial independent evidence tending to establish its trustworthiness, including facts that tend to show the defendant had the opportunity to commit the crime.

We wish to emphasize, however, that when independent proof of loss or injury is lacking, there must be *strong* corroboration of essential facts and circumstances embraced in the defendant’s confession. Corroboration of insignificant facts or those unrelated to the commission of the crime will not suffice. We emphasize this point because although we have relaxed our corroboration rule somewhat, we remain advertent to the reason for its existence, that is, to protect against convictions for crimes that have not in fact occurred.

*Parker*, 315 N.C. at 236; *see also Trexler*, 316 N.C. at 532 (clarifying that *Parker* expanded the type of corroboration which may be sufficient); *State v. Cruz*, 173 N.C. App. 689, 691 (2005) (same).

- A. **Capital Cases.** *Parker* expressly limited its statement of a broader rule to noncapital cases. *Parker*, 315 N.C. at 236. Thus, it appears that the old rule, requiring independent corroboration of the crime itself applies in capital cases. *Cf. State v. Johnson*, 317 N.C. 343, 373 (1986) (“Although the rule in *Parker* was expressly limited to noncapital cases, the facts in the instant case do not require us to decide whether the *Parker* rule applies in capital cases.”).
- B. **Strong Corroboration.** *Parker* states that when independent proof of loss or injury is lacking, there must be “*strong* corroboration of *essential* facts of circumstances embraced in the defendant’s confession.” *Parker*, 315 N.C. at 236 (emphasis in original). In *State v. Smith*, 362 N.C. 583 (2008), the court applied that language and held that where an alleged child sexual assault victim expressly denied that the offense occurred, it was “imperative” to require strong corroboration of the defendant’s extrajudicial confession. *Id.* at 593 (going on to find the evidence insufficient).

- IV. **Illustrative Cases.** Illustrative cases applying the corpus delicti rule are summarized in this section.

- A. **Cases in Which the Evidence Was Insufficient.**
- *State v. Smith*, 362 N.C. 583, 595 (2008) (in a sexual offense case the court rejected the argument that evidence of opportunity was sufficient to

corroborate the confession, instead requiring strong corroboration where the victim denied that the conduct occurred).

**B. Cases in Which the Evidence Was Sufficient.**

- State v. Corbett, 339 N.C. 313, 335 (1994) (in a case involving charges of murder and discharging a firearm into an occupied vehicle, evidence showed that the victim accused the defendant of fathering her child, intended to seek child support from him, argued intensely with him before her death, admitted that she feared for her life, and died from a gunshot wound to her head; also, a .38–caliber bullet was removed from her scalp, a .38–caliber pistol was recovered from defendant, and the defendant washed his hands with gasoline after agreeing to, but before submitting to, a gunshot residue test).
- State v. Shook, 327 N.C. 74, 80 (1990) (in a case in which the defendant, a nurse, confessed to improperly mixing the victim's medication, the evidence showed, among other things, that the victim's first solution contained no medication, her second solution contained one-tenth of the prescribed amount of medication, each solution had been prepared and labeled by the defendant, and cause of death was removal of pharmacological support).
- State v. Johnson, 317 N.C. 343, 372-74 (1986) (as to a kidnapping, the evidence corroborating the defendant's confession included, among other things, the location of the victim's body, bruises, and bloodstains; as to a rape, corroborating evidence included, among other things, bruises, bloodstain patterns, semen, and the defendant's possession of a knife with traces of blood on it).
- State v. Sloan, 316 N.C. 714, 725-26 (1986) (in a rape case, the evidence corroborating the confession included the victim's testimony that after being beaten the defendant began removing her clothes, a witness noticed that she was partially naked and that her clothes appeared to have been "stripped off," and there was semen and spermatozoa on her clothes).
- State v. Trexler, 316 N.C. 528, 533 (1986) (in an impaired driving case, evidence corroborating the confession included that the overturned car was lying in the middle of the road and a single person was seen exiting it, when the defendant returned to the scene he appeared to be impaired, he blew 0.14 on a breathalyzer, and the wreck was otherwise unexplained).
- State v. Parker, 315 N.C. 222, 237-38 (1985) (although there was no independent evidence proving the crime, the trustworthiness of the confession was "amply established by the overwhelming amount and convincing nature of the corroborative evidence . . . of more serious crimes committed . . . at the time of the robbery").
- State v. Sweat, \_\_\_ N.C. App. \_\_\_, 718 S.E.2d 655, 660-61, *rev. allowed*, \_\_\_ N.C. \_\_\_, 719 S.E.2d 31 (2011) (over a dissent, the court held in this sex offense case that the evidence corroborated the defendant's confession to fellatio; the victim told two people on two occasions that the conduct occurred, the defendant had an opportunity to commit the crime, and he was convicted of related crimes occurring at the same time and against the same victim).
- State v. Blue, \_\_\_ N.C. App. \_\_\_, 699 S.E.2d 661, 669 (2010) (as to a robbery, aspects of the defendant's confession were corroborated with physical evidence found at the scene and by the medical examiner's testimony; as to a rape, the victim's body was partially nude, an autopsy revealed injury to her vagina, rape kit samples showed spermatozoa, and a forensic analysis

showed that the defendant could not be excluded as a contributor of the weaker DNA profile).

- State v. Ash, 193 N.C. App. 569, 575 (2008) (the evidence sufficiently supported the defendant's confession in an armed robbery and felony murder case; evidence as to the weapon was linked to the defendant and after the crime the defendant hid in hotel rooms, which were paid with cash and reserved in his mother's name).
- State v. Shelly, 181 N.C. App. 196, 207 (2007) (testimony that the victim died as a result of multiple gunshot wounds sufficiently corroborated the confession).
- State v. Cruz, 173 N.C. App. 689, 695-97 (2005) (in an impaired driving and driving while license revoked case, the evidence supported the defendant's confession).
- State v. Sims, 174 N.C. App. 829, 831-33 (2005) (the evidence corroborated the defendant's admission to purchasing a half kilo of cocaine on three occasions; cocaine and paraphernalia were found in the defendant's possession and an informant purchased cocaine from the defendant).
- State v. Highsmith, 173 N.C. App. 600, 603-04 (2005) (in an impaired driving case, sufficient evidence corroborated the defendant's admission that he had been given pain medication at his dentist office; an expert testified about the effects of the medication and a trooper testified about the defendant's behavior).
- State v. Patterson, 146 N.C. App. 113, 130-32 (2001) (in a case in which the defendant confessed to stabbing the victim in the back and chest and taking property, the State presented evidence of, among other things, the defendant's presence at the scene and the number and location of the victim's stab wounds).
- State v. Brown, 87 N.C. App. 13, 21-22 (1987) (substantial evidence established the trustworthiness of the defendant's admission that he was intoxicated and had consumed too much beer; evidence showed that he was an experienced drinker, drank often, and generally did not drink more than eight beers per night).