

§ 15A-1340.19C. Sentencing; assignment for resentencing.

(a) The court shall consider any mitigating factors in determining whether, based upon all the circumstances of the offense and the particular circumstances of the defendant, the defendant should be sentenced to life imprisonment with parole instead of life imprisonment without parole. The order adjudging the sentence shall include findings on the absence or presence of any mitigating factors and such other findings as the court deems appropriate to include in the order.

(b) All motions for appropriate relief filed in superior court seeking resentencing under the provisions of this Part may be heard and determined in the trial division by any judge (i) who is empowered to act in criminal matters in the superior court district or set of districts as defined in G.S. 7A-41.1, in which the judgment was entered and (ii) who is assigned pursuant to this section to review the motion for appropriate relief and take the appropriate administrative action to dispense with the motion.

(c) The judge who presided at the trial of the defendant is empowered to act upon the motion for appropriate relief even though the judge is in another district or even though the judge's commission has expired; however, if the judge who presided at the trial is still unavailable to act, the senior resident superior court judge shall assign a judge who is empowered to act under subsection (b) of this section.

(d) All motions for appropriate relief filed in superior court seeking resentencing under the provisions of this Part shall, when filed, be referred to the senior resident superior court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions. (2012-148, s. 1.)