

§ 15A-1446. Requisites for preserving the right to appellate review.

(a) Except as provided in subsection (d), error may not be asserted upon appellate review unless the error has been brought to the attention of the trial court by appropriate and timely objection or motion. No particular form is required in order to preserve the right to assert the alleged error upon appeal if the motion or objection clearly presented the alleged error to the trial court. Formal exceptions are not required, but when evidence is excluded a record must be made in the manner provided in G.S. 1A-1, Rule 43(c), in order to assert upon appeal error in the exclusion of that evidence.

(b) Failure to make an appropriate and timely motion or objection constitutes a waiver of the right to assert the alleged error upon appeal, but the appellate court may review such errors affecting substantial rights in the interest of justice if it determines it appropriate to do so.

(c) The making of post-trial motions is not a prerequisite to the assertion of error on appeal.

(d) Errors based upon any of the following grounds, which are asserted to have occurred, may be the subject of appellate review even though no objection, exception or motion has been made in the trial division.

- (1) Lack of jurisdiction of the trial court over the offense of which the defendant was convicted.
- (2) Lack of jurisdiction of the trial court over the person of the defendant.
- (3) The criminal pleading charged acts which, at the time they were committed, did not constitute a violation of criminal law.
- (4) The pleading fails to state essential elements of an alleged violation, as required by G.S. 15A-924(a)(5).
- (5) The evidence was insufficient as a matter of law.
- (6) The defendant was convicted under a statute that is in violation of the Constitution of the United States or the Constitution of North Carolina.
- (7) Repealed by Session Laws 1977, 2nd Sess., c. 1147, s. 28.
- (8) The conduct for which the defendant was prosecuted was protected by the Constitution of the United States or the Constitution of North Carolina.
- (9) Subsequent admission of evidence from a witness when there has been an improperly overruled objection to the admission of evidence on the ground that the witness is for a specified reason incompetent or not qualified or disqualified.
- (10) Subsequent admission of evidence involving a specified line of questioning when there has been an improperly overruled objection to the admission of evidence involving that line of questioning.
- (11) Questions propounded to a witness by the court or a juror.
- (12) Rulings and orders of the court, not directed to the admissibility of evidence during trial, when there has been no opportunity to make an objection or motion.
- (13) Error of law in the charge to the jury.
- (14) The court has expressed to the jury an opinion as to whether a fact is fully or sufficiently proved.
- (15) The defendant was not present at any proceeding at which his presence was required.
- (16) Error occurred in the entry of the plea.
- (17) The form of the verdict was erroneous.

- (18) The sentence imposed was unauthorized at the time imposed, exceeded the maximum authorized by law, was illegally imposed, or is otherwise invalid as a matter of law.
- (19) A significant change in law, either substantive or procedural, applies to the proceedings leading to the defendant's conviction or sentence, and retroactive application of the changed legal standard is required. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, s. 28; 1983 (Reg. Sess., 1984), c. 1037, s. 1.)