

**§ 15A-1445. Appeal by the State.**

(a) Unless the rule against double jeopardy prohibits further prosecution, the State may appeal from the superior court to the appellate division:

- (1) When there has been a decision or judgment dismissing criminal charges as to one or more counts.
- (2) Upon the granting of a motion for a new trial on the ground of newly discovered or newly available evidence but only on questions of law.
- (3) When the State alleges that the sentence imposed:
  - a. Results from an incorrect determination of the defendant's prior record level under G.S. 15A-1340.14 or the defendant's prior conviction level under G.S. 15A-1340.21;
  - b. Contains a type of sentence disposition that is not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level;
  - c. Contains a term of imprisonment that is for a duration not authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 for the defendant's class of offense and prior record or conviction level; or
  - d. Imposes an intermediate punishment pursuant to G.S. 15A-1340.13(g) based on findings of extraordinary mitigating circumstances that are not supported by evidence or are insufficient as a matter of law to support the dispositional deviation.

(b) The State may appeal an order by the superior court granting a motion to suppress as provided in G.S. 15A-979. (1977, c. 711, s. 1; 1993, c. 538, s. 28; 1994, Ex. Sess., c. 14, s. 28, c. 24, s. 14(b).)