



A T T O R N E Y S

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## NCGS 50C CIVIL NO-CONTACT ORDERS

*By Ralph B. Strickland, Jr.*

### **The Purpose of This New Statute**

The purpose of this statute, enacted in 2004, was to solve the problem of a person who needed a civil no-contact order for personal security but did not meet the requirements to secure a 50B Domestic Violence Protection Order. As you know, to secure a 50B DVPO there must be a special relationship between the plaintiff and the defendant as defined in 50B-1(b), plus some form of “domestic violence” as defined in 50B-1(a).

To secure a 50C CN-CO the plaintiff does not have to be in any type of relationship with the defendant. The necessary requirements for the issuance of order relate to the behavior of the defendant toward the plaintiff. A 50C orders the defendant to have no further contact with the plaintiff where there is evidence of previous unlawful conduct, either nonconsensual sexual contact or stalking. See 50C-1.

### **An Example**

Obviously a man she has never met can stalk a woman. Before 50C became law her only recourse was a criminal charge against him for the stalking. Now she can also secure a 50C CN-CO against him as well. Of course, the 50C, like the 50B, is no absolute guarantee against future contact. However, most defendants will obey it, as they do a 50B, and that is certainly important to the plaintiffs.

### **Enforcement**

Enforcing a 50C violation is far more difficult than enforcing a 50B violation (for the plaintiff, that is—not for the police). Any violation of a 50B is a criminal misdemeanor for which you may make a misdemeanor arrest. For a violation of 50C you must refer to 50C-10:

NCGS 50C-10. Violation

A knowing violation of an order entered pursuant to this Chapter is punishable as contempt of court.

That is correct: you may NOT arrest a person for a criminal misdemeanor under the authority of a 50C court order. A violation of the order is contempt of court. Civil contempt of court is governed in North Carolina by NCGS 5A-21 through 25.

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What you need to know is that you have no arrest authority under 50C and the plaintiff must return to court to secure a hearing that will determine if the defendant is in contempt of court. That can be a lengthy process and understandably not an entirely satisfactory (or quick) remedy for a plaintiff already in fear of the defendant. But such is the language of the statute.

### **But Wait! There is Something Else to Consider!**

The other day I happened to be talking to Sergeant Rob Hight of the Durham County Sheriff's Office, one of the finest law enforcement officers in North Carolina. Now the Sheriff of Durham County is Worth Hill and he and I have been good pals since we served together in the Durham Police Department. The Sheriff is an excellent man and has put together an excellent office, and Sgt. Hight exemplifies that fact – bright, knowledgeable, aggressive and hardworking.

And Sgt. Hight said to me that almost every violation of a 50C is also a violation of some criminal statute in Chapter 14 of the General Statutes. He said that while you cannot criminally charge a 50C defendant under the authority of 50C, you could probably criminally charge him under Chapter 14 for stalking or whatever crime he has committed.

If I may quote Captain Marvel and Gomer Pile, "SHAZAM!" I'd have probably figured that out in about a gazillion years. Maybe.

### **Some Points I Want to Make:**

- 1 You cannot arrest a defendant under the authority of a 50C Civil No-Contact Order for a violation of that order.
2. A violation of a 50C CN-CO is punishable as contempt of court.
3. If the behavior of the defendant in violating a 50C order is also a crime under Chapter 14, then you may arrest that defendant where you have probable cause to believe that he has violated a criminal statute.
4. You probably may make a warrantless arrest of the defendant under the authority of NCGS 15A-401(b)(2)b.2. because he may cause physical injury to the 50c plaintiff if he is not immediately arrested. I would think a person who is a defendant in a 50C action would be considered by the court to be a person dangerous to the plaintiff.
5. You may make the arrest of the defendant or take out a warrant merely on the statement of the plaintiff in a 50C assuming she appears credible to you and what she says establishes probable cause for the commission of a crime. As Reece Trimmer says, we believe the clerk in a convenience store when he says someone drove off without paying for gas. Shouldn't we extend this plaintiff the same courtesy?
6. The plaintiff may also secure the warrant as well.

Thank you Rob Hight and Worth Hill. I close by pointing out that the Sheriff in Durham County has a juvenile investigator, Sgt. Will Oakley, who handles the juvenile investigations in Durham County so well that he even impresses the judges in Orange County. I mention this because Will's daddy was in my high school class! Lordy, Lordy, I wish I were forty.

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