

§ 15A-954. Motion to dismiss – Grounds applicable to all criminal pleadings; dismissal of proceedings upon death of defendant.

(a) The court on motion of the defendant must dismiss the charges stated in a criminal pleading if it determines that:

- (1) The statute alleged to have been violated is unconstitutional on its face or as applied to the defendant.
- (2) The statute of limitations has run.
- (3) The defendant has been denied a speedy trial as required by the Constitution of the United States and the Constitution of North Carolina.
- (4) The defendant's constitutional rights have been flagrantly violated and there is such irreparable prejudice to the defendant's preparation of his case that there is no remedy but to dismiss the prosecution.
- (5) The defendant has previously been placed in jeopardy of the same offense.
- (6) The defendant has previously been charged with the same offense in another North Carolina court of competent jurisdiction, and the criminal pleading charging the offense is still pending and valid.
- (7) An issue of fact or law essential to a successful prosecution has been previously adjudicated in favor of the defendant in a prior action between the parties.
- (8) The court has no jurisdiction of the offense charged.
- (9) The defendant has been granted immunity by law from prosecution.
- (10) The pleading fails to charge an offense as provided in G.S. 15A-924(e).

(b) Upon suggestion to the court that the defendant has died, the court upon determining that the defendant is dead must dismiss the charges.

(c) A motion to dismiss for the reasons set out in subsection (a) may be made at any time. (1973, c. 1286, s. 1.)