STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
☐ District ☐ Superior Court Division

STATE VERSUS

Name Of Defendant

MOTION AND ORDER TO ENFORCE RIGHTS OF CRIME VICTIM

G.S. 15A-832.1(d), -834.5

INSTRUCTIONS TO VICTIM OR PERSON ASSERTING RIGHTS ON BEHALF OF VICTIM: *Carefully review the NOTE at the top of Side Two of this form, then complete Side One of this form and file it with the Clerk of Superior Court in the county in which the criminal proceeding is pending. The clerk will not assess you any fees for filing this motion. If you are alleging that the Office of the District Attorney or a law enforcement agency failed to comply with the rights of a victim, then* ***before filing this motion****, you first must file a written complaint with the Office of the District Attorney or the agency, as applicable, and allow the Office of the District Attorney or agency an opportunity to act in a timely manner to resolve the issue. If you believe the Office of the District Attorney or the agency has not resolved the issue in a timely manner and therefore are filing this motion alleging a Crime Victims' Rights Act violation by the Office of the District Attorney or agency, you must attach a copy of the written complaint that you previously filed with the District Attorney or agency.*

MOTION AND DESCRIPTION OF RIGHT(S) VIOLATED

The undersigned hereby moves the Court to enforce the rights of the victim named below in this matter. Described immediately below is(are) the specific right(s) that I believe has(have) been violated, and the substance of the violation(s): ***(describe in detail the right(s) violated and the nature of the violation(s))***

☐ *(select if applicable)* I am alleging that the Office of the District Attorney failed to comply with the rights of the victim in this case, and I have attached a copy of the written complaint that I previously filed with the Office of the District Attorney.

☐ *(select if applicable)* I am alleging that a law enforcement agency failed to comply with the rights of the victim in this case, and I have attached a copy of the written complaint that I previously filed with that agency.

☐ *(select if applicable)* The family member of the victim who has first priority to exercise the victim's rights in this case, *(provide name of this family member)* _____ has instead designated me as the family member to assert the victim's rights, in accordance with G.S. 15A-830(c).

☐ *(select if applicable)* Although I otherwise would be entitled to assert the rights of the victim, the Office of the District Attorney has determined that I would not act in the best interests of the victim. I am hereby petitioning the Court to review this determination, pursuant to G.S. 15A-830(d).

Name Of Victim	*Name Of Person Filing Motion*	☐ *Victim* ☐ *Victim's Attorney* ☐ *Prosecutor* ☐ *Other: (specify relationship to victim)* _____
Date	*Signature Of Person Filing Motion*	

NOTE TO CLERK: *Place the original in the case file, and provide copies in accordance with "PROVISION OF COPIES BY CLERK" on Side Two. Do not assess any fees for this motion.*

(Over)

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NOTE TO VICTIM OR PERSON ASSERTING RIGHTS ON BEHALF OF VICTIM

NOTE: *A victim may assert the rights under Article 46 ("Crime Victims' Rights Act") of Chapter 15A by filing a motion within the same criminal proceeding that gave rise to the rights of the victim. Any of the following persons may file the motion:*

- *the victim;* - *the victim's attorney;* - *the prosecutor, at the request of the victim;*
- *a parent, guardian, or legal custodian of the victim, if the victim is a minor or is legally incapacitated;*
- *a spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim (in that order of priority, with the victim's spouse having first priority), if the victim is deceased. (If the deceased victim was a minor, then the guardian or legal custodian of the minor has priority over any other family member.)*

*The defendant may **not** assert the rights of the victim. An individual who has first priority to exercise the victim's rights as a family member (spouse, child, parent, guardian, legal custodian, sibling, or grandparent) may designate another family member to act on behalf of the victim. A victim has the right to consult with an attorney regarding an alleged violation of the Crime Victims' Rights Act, but a victim does not have a right to counsel provided at State expense. If the judge fails to review the motion and dispose of it or set it for hearing in a timely manner, the victim may petition the NC Court of Appeals for a writ of mandamus as provided in G.S. 15A-834.5(h).*

PROVISION OF COPIES BY CLERK

The undersigned hereby certifies that the Office of the Clerk of Superior Court, on the date listed below, provided copies of this motion to the prosecutor in this case (if other than the elected District Attorney), the elected District Attorney, the presiding judge in this case, and (if this motion alleges that a law enforcement agency failed to comply with the rights of the victim) the head of the law enforcement agency referenced in the motion. G.S. 15A-834.5(f).

Date	*Name (type or print)*	*Signature*	☐ *Deputy CSC* ☐ *Asst. CSC* ☐ *Clerk Of Superior Court*

ORDER OF JUDGE DISPOSING OF MOTION WITHOUT HEARING OR SETTING HEARING FOR MOTION

The undersigned, having reviewed this motion as required by G.S. 15A-834.5(g), hereby ORDERS that *(select one)*

☐ 1. this motion be set for hearing, and that the clerk complete and provide the NOTICE OF HEARING below to the person filing the motion, to the prosecutor in this case (if the prosecutor is not the person filing the motion), and (if this motion alleges that a law enforcement agency failed to comply with the rights of the victim) the head of the law enforcement agency referenced in the motion.

☐ 2. this motion be disposed without hearing as follows: _____

_____

_____.

Date	*Name Of Presiding Judge (type or print)*	*Signature Of Presiding Judge*

NOTICE OF HEARING (IF NECESSARY)

Date Of Hearing	*Time Of Hearing* ☐ AM ☐ PM	*Location Of Hearing*	
Date	*Name (type or print)*	*Signature*	☐ *Deputy CSC* ☐ *Asst. CSC* ☐ *Clerk Of Superior Court*

ORDER OF JUDGE FOLLOWING HEARING ON MOTION (IF NECESSARY)

This matter is before the Court on the motion of the person named on the reverse. A hearing was held before the Court on the date below. On the basis of the information presented and the entire record in this case, the Court enters the following ORDER:

☐ The Court enters its ORDER on form AOC-CR-305 ("Judgment/Order Or Other Disposition"), which is attached and incorporated herein by reference.

Date	*Name Of Presiding Judge (type or print)*	*Signature Of Judge*

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