

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
APPOINTING LOCAL CERTIFIED
FORENSIC EVALUATOR
(For Offenses Committed On Or After Dec. 1, 2013)**

G.S. 15A-1002

Offense(s) (copy of charging document(s) attached)

MOTION QUESTIONING DEFENDANT'S CAPACITY TO PROCEED

The undersigned moves that the above named defendant be examined to determine whether by reason of mental illness or defect the defendant is unable to understand the nature and object of the proceedings against the defendant, to comprehend his/her own situation in reference to the proceedings, or to assist in his/her defense in a rational or reasonable manner. The specific conduct that leads the moving party to question the defendant's capacity to proceed is as follows:

Date _____ Signature _____ Prosecutor Defendant's Attorney
 Defendant Judge

Name And Address Of Defendant's Attorney _____ District Attorney's Office Address _____

Telephone No. _____ Telephone No. _____

CERTIFICATE OF SERVICE BY MOVING PARTY

I certify that a copy of this Motion was served by:
 delivering a copy personally to the defendant's attorney. prosecutor. defendant.
 depositing a copy, enclosed in a postpaid properly-addressed envelope, in a post office or official depository under the exclusive care and custody of the U.S. Postal Service directed to the defendant's attorney. prosecutor. defendant.
 leaving a copy at the office of the defendant's attorney with an associate or employee. prosecutor with an associate or employee.

Name And Title Of Person With Whom Copy Left

Service accepted by: defendant's attorney. prosecutor. defendant.

Signature Of Person Accepting Service _____ Date Served _____ Signature Of Person Serving _____ Title _____

ORDER APPOINTING LOCAL CERTIFIED FORENSIC EVALUATOR

A motion questioning the defendant's capacity to proceed having been made and considered, the Court finds that the defendant's capacity to proceed is in question. The Court Orders that:

1. One or more Forensic Evaluators of the Local Management Entity named below, certified by the North Carolina Forensic Services, shall screen the defendant within seven (7) days after receiving this Order and determine the questions set forth in the motion.
2. The Area Director of the Local Management Entity shall cause a written report of findings and recommendations to be submitted to the Court.
3. If the screening examination reveals a need for evaluation by a medical expert which can be done at the Local Management Entity, the evaluator shall arrange for this evaluation and notify the Clerk of Superior Court in writing. The medical expert's evaluation summary shall be transmitted to the Court in the manner described later in this Order. If the defendant is charged with a felony and the screening evaluation reveals that the evaluation by medical experts at the forensic unit of Central Regional Hospital - Butner Campus is needed, the evaluator shall notify the Court immediately.
(NOTE: Effective for offenses committed on or after December 1, 2013, an examination at a state facility may not be ordered for a person charged only with misdemeanors.)
4. The Order required by items 2 and 3 of this report shall be transmitted to the Court in the following manner:
 - (a) A brief covering statement (containing only the facts of the examination and any conclusions) shall be prepared in duplicate and enclosed in an envelope addressed to the Clerk of Superior Court in this county.
 - (b) Three copies of the complete report shall be prepared. Two copies are to be enclosed in a separate sealed envelope addressed to the attention of the undersigned Judge and marked "confidential," one copy is to be forwarded to defense counsel, or to the defendant, if the defendant is not represented by counsel.
 - (c) The envelope containing the covering statement and the sealed envelope addressed to the Judge shall be enclosed in a larger envelope which shall be addressed to the Clerk of Superior Court of this county. All envelopes shall show the file number of the case.
 - (d) The Clerk shall open and file the covering statement with the Court file. The complete report shall be retained unopened in the envelope addressed to the undersigned Judge until requested by the Court.
5. The moving party shall immediately advise the Local Management Entity named below of the entry of this Order and shall provide the Local Management Entity with a copy of this Order and the defendant's charging document(s). The moving party shall transmit an additional copy of this Order to the jailer of this county if the defendant is confined.
6. a. The Sheriff is Ordered to transport the defendant and all relevant documents to the Certified Local Forensic Evaluator designated by the Local Management Entity and return the defendant afterwards.
 b. The defendant shall present himself/herself to the Certified Local Forensic Evaluator designated by the Local Management Entity for evaluation.
7. Upon presentation of a copy of this Order by the forensic evaluator, any physician or clinician, licensed health care facility, licensed health care provider, local management entity, area mental health care program, the North Carolina Division of Adult Correction and Juvenile Justice, the Juvenile Justice Section, any county detention facility, or any school district is hereby authorized and required to furnish copies of all records, including school records and records containing information relating to alcohol abuse, drug abuse and psychological or psychiatric conditions, concerning defendant to the forensic evaluator. Nothing herein shall be construed to require record holders to release information in violation of relevant federal law.

<i>Name Of Local Management Entity</i>	<i>Date</i>
	<i>Signature Of Judge</i>
	<i>Name Of Judge (type or print)</i>

RETURN OF SERVICE

I certify that this Order was received and served as follows:

- By transporting the defendant to the Certified Local Forensic Evaluator designated by the Local Management Entity.
 Other: *(specify)*

<i>Date Received</i>		<i>Signature Of Deputy Sheriff Making Return</i>	
<i>Date Served</i>	<i>Date Of Return</i>	<i>Name Of Deputy Sheriff Making Return (type or print)</i>	
<i>Name Of Sheriff (type or print)</i>		<i>County Of Sheriff</i>	

CAPACITY DETERMINATION

Following a hearing under G.S. 15A-1002, and a review of the record in this case, including the forensic evaluation of the defendant, the Court has determined that *(check one)*

1. the defendant is **ABLE** to understand the nature and object of the proceedings against him/her, to comprehend his/her own situation in reference to the proceedings, and to assist in his/her defense in a rational and reasonable manner. Accordingly, this matter shall proceed.
2. by reason of mental illness or defect, the defendant is **UNABLE** to *(check all that apply)*
- understand the nature and object of the proceedings against him/her
 comprehend his/her own situation in reference to the proceedings
 assist in his/her defense in a rational or reasonable manner
 and therefore the defendant lacks capacity to proceed.

<i>Date</i>	<i>Name Of Presiding Judge (type or print)</i>	<i>Signature Of Presiding Judge</i>
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