

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division

Name Of Defendant

**MOTION AND ORDER
COMMITTING DEFENDANT
TO CENTRAL REGIONAL HOSPITAL -
BUTNER CAMPUS FOR EXAMINATION
ON CAPACITY TO PROCEED
(For Offenses Committed On Or Before Nov. 30, 2013)**

G.S. 15A-1002

Offense (copy of charging document(s) attached)

NOTE: A person charged with a misdemeanor must have a local examination before an examination at Central Regional Hospital - Butner Campus may be ordered. In felony cases, a local examination must be ordered before an examination at Central Regional Hospital - Butner Campus if the court finds that a local impartial medical expert or forensic evaluator certified under the rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services is available and appropriate. To order a local examination for an offense committed on or before November 30, 2013, use form AOC-CR-207A. To order a local examination for an offense committed on or after December 1, 2013, use AOC-CR-207B.

NOTE: The address for Central Regional Hospital - Butner Campus is Forensic Services Unit, Central Regional Hospital - Butner Campus, 300 Veazey Road, Butner, NC 27509. The telephone number is 919-764-5009 and the fax number is 919-764-5012.

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
 Judge

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 _____

FINDINGS

This cause was heard before the undersigned judge upon the motion of the person named on the reverse questioning the defendant's capacity to proceed. Having considered the motion, and after hearing evidence, the Court finds that:

- 1. The defendant's capacity to proceed is in question. is not in question.
- 2. The defendant is charged with a misdemeanor. felony.
- 3. The defendant has been examined in connection with the current charges by one or more local impartial medical experts or forensic evaluators certified under the rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
(NOTE: A person charged with a misdemeanor must have a local examination before an examination at a state facility may be ordered.)
- 4. An examination of the defendant at Central Regional Hospital - Butner Campus to determine the defendant's capacity would be more appropriate under the provisions of G.S. 15A-1002(b)(2) than a local evaluation.

ORDER

It is ORDERED that:

- 1. The defendant be committed to Central Regional Hospital - Butner Campus for a period not to exceed sixty (60) days for observation and treatment, pursuant to G.S. 15A-1002, to determine the defendant's capacity to proceed. The moving party shall provide Central Regional Hospital - Butner Campus with a copy of this Order, the defendant's charging document(s) and any local forensic report on the defendant. The Director of Central Regional Hospital - Butner Campus must direct a written report describing the present state of the defendant's mental health to the defense attorney and to the Clerk of Superior Court for the above referenced county. The sheriff of this county shall transfer the defendant and all relevant documents to Central Regional Hospital - Butner Campus and shall return the defendant to this county when notified that the evaluation has been completed.

Upon presentation of a copy of this Order by the forensic evaluator designated by Central Regional Hospital - Butner Campus, any physician or clinician, licensed health care facility, licensed health care provider, local management entity (LME), area mental health program, the Division of Prisons of the Department of Adult Correction, the Division of Juvenile Justice of the Department of Public Safety, 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 designated by Central Regional Hospital - Butner Campus. Nothing herein shall be construed to require record holders to release information in violation of relevant federal law.

Upon request of the forensic evaluator designated by Central Regional Hospital - Butner Campus, counsel for the State and defendant shall furnish to the forensic evaluator designated by Central Regional Hospital - Butner Campus such records and information in counsel's possession as the evaluator requests, including but not limited to copies of law enforcement reports, investigations, witness statements, statements by defendant, defendant's medical records, and prior psychiatric or psychological evaluations of defendant. Nothing herein shall be construed to require counsel to divulge any information, documents, notes, or memoranda that are protected by attorney-client privilege or work-product doctrine.
- 2. The motion is denied as the defendant's capacity to proceed is not in question.

<i>Name And Address Of Defendant's Attorney</i>	<i>Date</i>
	<i>Signature Of Presiding Judge</i>
<i>Telephone No.</i>	<i>Name Of Presiding Judge (type or print)</i>

RETURN OF SERVICE

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

- By transporting the defendant to Central Regional Hospital - Butner Campus.
- 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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