

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
Superior Court Division

## STATE VERSUS

Name Of Defendant

## FELONY JUDGMENT FINDINGS OF FACTORS IN AGGRAVATION AND MITIGATION OF PUNISHMENT

G.S. 15A-1340.4(a)

**NOTE:** Separate findings of aggravating factors and mitigating factors should be made for each offense. Only one factor should be found under each numbered item for which there are alternatives listed.

### AGGRAVATING FACTORS

- 1. a. The defendant induced others to participate in the commission of the offense.
- b. The defendant occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. a. The offense was committed for the purpose of avoiding or preventing a lawful arrest.
- b. The offense was committed for the purpose of effecting an escape from custody.
- 3. a. The defendant was hired to commit the offense.
- b. The defendant was paid to commit the offense.
- 4. a. The offense was committed to disrupt the lawful exercise of a governmental function or the enforcement of laws.
- b. The offense was committed to hinder the lawful exercise of a governmental function or the enforcement of laws.
- 5. The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties. (NOTE: Strike words that are not applicable.)
- 6. The offense was especially heinous, atrocious or cruel.
- 7. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 8. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 9. a. The defendant was armed with a deadly weapon at the time of the crime.
- b. The defendant used a deadly weapon at the time of the crime.
- 10.a. The victim was very young.
- b. The victim was very old.
- c. The victim was mentally infirm.
- d. The victim was physically infirm.
- 11. The defendant committed the offense while on pretrial release on another felony charge.
- 12. The defendant involved a person under the age of 16 in the commission of the crime.
- 13.a. The offense involved an attempted taking of property of great monetary value.
- b. The offense involved the actual taking of property of great monetary value.
- c. The offense involved damage causing great monetary loss.
- d. The offense involved an unusually large quantity of contraband.
- 14. The defendant took advantage of a position of trust or confidence to commit the offense.
- 15. The defendant has a prior conviction or convictions for criminal offenses punishable by more than 60 days confinement.
- 16. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 17. The offense was committed because of the race, color, religion nationality, or county of origin of another person.
- 18. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

**MITIGATING FACTORS**

- 1. The defendant has no record of criminal convictions.
- 2. The defendant has a record of criminal convictions consisting solely of misdemeanors punishable by not more than 60 days imprisonment.
- 3. The defendant committed the offense under duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 4. The defendant committed the offense under coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 5. The defendant committed the offense under threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 6. The defendant committed the offense under compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 7. The defendant was a passive participant in the commission of the offense.
- 8. The defendant played a minor role in the commission of the offense.
- 9. The defendant was suffering from a mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 10. The defendant was suffering from a physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 11. The defendant's immaturity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 12. The defendant's limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 13. The defendant has made substantial restitution to the victim.
- 14. The defendant has made full restitution to the victim.
- 15. The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct.
- 16. The victim was more than 16 years of age and consented to the defendant's conduct.
- 17. The defendant aided in the apprehension of another felon.
- 18. The defendant testified truthfully on behalf of the state in another prosecution of a felony.
- 19. The defendant acted under strong provocation.
- 20. The relationship between the defendant and the victim was an extenuating circumstance.
- 21. The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
- 22. The defendant exercised caution to avoid serious bodily harm or fear to other persons.
- 23. The defendant reasonably believed that the defendant's conduct was legal.
- 24. Prior to arrest, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
- 25. At an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
- 26. The defendant has been honorably discharged from the United States Armed Services.
- 27. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 28. The defendant is a minor and has reliable supervision available.
- 29. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

**DETERMINATION (NOTE: Check only one)**

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation.
- factors in mitigation outweigh the factors in aggravation.

<i>Date</i>	<i>Name Of Presiding Judge (Type Or Print)</i>	<i>Signature Of Presiding Judge</i>
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