

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
Superior Court Division

_____ County

STATE VERSUS

**ORDER OF REMAND
IN NON-IMPLIED-CONSENT
OFFENSE CASES
(For Appeals Filed Before Dec. 1, 2015)**

G.S. 15A-1431(h)

Name Of Defendant

Attorney For Defendant

The defendant has withdrawn his/her appeal after the calendaring of this case for trial de novo in superior court and the Court has consented to that withdrawal with the attachment of costs.

It is ORDERED that the case is remanded to the district court for immediate execution of its judgment with additional superior court costs that attached and

- have been waived, the undersigned having found just cause to waive the costs, as ordered on the attached
- AOC-CR-618. Other: _____.
- have not been waived.

Date

Name Of Superior Court Judge (type or print)

Signature Of Superior Court Judge

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
Superior Court Division**(NOTE: Use for implied-consent offense(s) committed on or after December 1, 2006.)****STATE VERSUS**

Name Of Defendant

**WITHDRAWAL OF APPEAL
ORDER OF REMAND
IMPLIED-CONSENT OFFENSES
(For Appeals Filed Before Dec. 1, 2015)**

Attorney For Defendant

G.S. 20-38.7

The defendant has withdrawn his/her appeal of this case for trial de novo in superior court. The Court and the prosecutor have consented to that withdrawal.

It is ORDERED by the Court that the case is remanded to the district court for resentencing as required by G.S. 20-38.7(c) with additional superior court costs that attached and

 have been waived, the undersigned having found just cause to waive the costs, as ordered on the attached AOC-CR-618. Other: _____. have not been waived.

The defendant is ordered to appear in court at the date, time and location indicated below.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Location Of Court
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PROSECUTOR'S CONSENT

Date	Name Of Prosecutor (type or print)	Signature Of Prosecutor
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JUDGE'S SIGNATURE

Date	Name Of Superior Court Judge (type or print)	Signature Of Superior Court Judge
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NOTE: "Notwithstanding the provisions of G.S. 15A-1431, for any implied-consent offense that is first tried in district court and that is appealed to superior court by the defendant for a trial de novo as a result of a conviction, the sentence imposed by the district court is vacated upon giving notice of appeal. The case shall only be remanded back to district court with the consent of the prosecutor and the superior court. When an appeal is withdrawn or a case is remanded back to district court, the district court shall hold a new sentencing hearing and shall consider any new convictions and, if the defendant has any pending charges of offenses involving impaired driving, shall delay sentencing in the remanded case until all cases are resolved." G.S. 20-38.7(c). (Applies to offenses committed on or after December 1, 2006, but before August 30, 2007.)

NOTE: "Notwithstanding the provisions of G.S. 15A-1431, for any implied-consent offense that is first tried in district court and that is appealed to superior court by the defendant for a trial de novo as a result of a conviction, the sentence imposed by the district court is vacated upon giving notice of appeal. The case shall only be remanded back to district court with the consent of the prosecutor and the superior court. When an appeal is withdrawn or a case is remanded back to district court, the district court shall hold a new sentencing hearing and shall consider any new convictions." G.S. 20-38.7(c). (Applies to offenses committed on or after August 30, 2007.)

NOTE: "Following a new sentencing hearing in district court pursuant to subsection (c) of this section, a defendant has a right of appeal to the superior court only if: (1) The sentence is based upon additional facts considered by the district court that were not considered in the previously vacated sentence, and (2) The defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179. A defendant who has a right of appeal under this subsection, gives notice of appeal, and subsequently withdraws the appeal shall have the sentence imposed by the district court reinstated by the district court as a final judgment that is not subject to further appeal." G.S. 20-38.7(d). (Applies to offenses committed on or after August 30, 2007.)