STATE OF NORTH CAROLINA

_____ County

File No.

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

Name Of Defendant		ORDER ON NON-DEFENDANT OWNER'S PETITION/APPLICATION FOR RELEASE OF SEIZED MOTOR VEHICLE - FELONY SPEEDING TO ELUDE
Defendant's Drivers License No.	State	
Name Of Petitioner/Applicant (Vehicle Owner)		
Petitioner's/Applicant's Drivers License No.	State	

G.S. 20-28.2(e), 20-28.3(e), 20-28.3(e1)

Vehicle Identification No.		Vehicle Type	Make	Year
Vehicle License No.	State	Date Of Seizure	Date Of Offense	

I. CLERK'S ORDER ON PETITION FOR TEMPORARY RELEASE

On the application of the person named above for the temporary release of the motor vehicle described above pending a proceeding before the Clerk on permanent release or pending a hearing on the forfeiture of the vehicle, the undersigned finds as follows:

☐ 1. The applicant is a person in whose name a registration card, an electronic notice of registration, or certificate of title for the motor vehicle was issued **at the time of the seizure**.

☐ 2. The motor vehicle was seized and impounded pursuant to G.S. 20-28.3.

☐ 3. The motor vehicle has been seized for at least 24 hours.

☐ 4. The applicant was not the driver at the time of the underlying offense resulting in the seizure.

☐ 5. The applicant has properly executed an adequate "Bond To Secure Temporary Pretrial Release Of Motor Vehicle - Felony Speeding To Elude," AOC-CR-331B.

☐ 6. The applicant has executed and filed an acknowledgment as defined in G.S. 20-28.2(a1)(8), and a check of the records of the Division of Motor Vehicles indicates that the applicant has not previously executed an acknowledgment naming the defendant named above.

☐ 7. A check of the appropriate records of the Court or the Division of Motor Vehicles indicates that a bond posted by the applicant to secure the release of the motor vehicle described above has not previously been ordered forfeited.

It is ORDERED that: (**NOTE:** *If all findings above are checked, check Order No. 1 below. If any finding is not checked, check Order No. 2 below.*)

☐ 1. The motor vehicle described above be released to the applicant upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of the vehicle, on condition that the applicant return the vehicle, in substantially the same condition as it was at the time of seizure and without any new or additional liens or encumbrances, on the day of any hearing scheduled and noticed by the District Attorney under G.S. 20-28.2(c), unless the motor vehicle has been permanently released.
NOTE: *Failure to return the vehicle will result in forfeiture of the applicant's bond and seizure of the vehicle, and may result in the issuance of an order to show cause why the applicant should not be held in contempt.*

☐ 2. The application is denied and the motor vehicle shall remain impounded pending further orders of the Court.

NOTE TO CLERK: *Do <u>not</u> remove the title hold in STARS upon the entry of an order for temporary release.*

Date	Signature	☐ Assistant CSC ☐ Clerk Of Superior Court

II. ORDER ON PETITION FOR PERMANENT RELEASE

NOTE: *Use Section II to enter an order either after a proceeding before the Clerk on a non-defendant motor vehicle owner's petition for permanent pretrial release of a seized motor vehicle, or after a forfeiture hearing at which a non-defendant motor vehicle owner's petition for release of a seized vehicle is heard.*

FINDINGS OF FACT

This matter is before the Clerk or the Court on petition of the vehicle owner named above for release of the motor vehicle described above. A proceeding was held before the Clerk or a hearing was held before the Court on this date. On the basis of the evidence presented and the entire record in this action, the Clerk or the Court finds by the greater weight of the evidence that:

1. The motor vehicle was seized on the date shown above while being driven by the defendant named above. The defendant was charged with felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

(Over)

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☐ 2. The petitioner is a person in whose name a registration card, an electronic notice of registration, or certificate of title for the motor vehicle described on the reverse side was issued **at the time the vehicle was seized.**

☐ 3. The petitioner was not the driver at the time of the underlying offense resulting in the seizure.

☐ 4. The petitioner is an innocent owner in that:

- ☐ a. The defendant drove the motor vehicle without the petitioner's expressed or implied permission, and the petitioner filed a police report for unauthorized use of the motor vehicle and has agreed to prosecute the unauthorized operator of the motor vehicle.
- ☐ b. The motor vehicle was reported stolen.
- ☐ c. The petitioner is a rental car company as defined in G.S. 66-201 and
  - ☐ the defendant is not listed as an authorized driver on the rental agreement as defined in G.S. 66-201.
  - ☐ the defendant is listed as an authorized driver on the rental agreement as defined in G.S. 66-201, but the rental agreement expressly prohibits use of the vehicle while committing a felony.
- ☐ d. The petitioner is in the business of leasing motor vehicles, and held legal title to the motor vehicle as lessor at the time the vehicle was seized.

5. The Clerk or the Court has been furnished a properly executed form FS-1, a valid DL-123, or other proof of insurance, and is satisfied that the petitioner is financially responsible.
6. The petitioner has executed and filed an acknowledgment as defined in G.S. 20-28.2(a1)(8).
7. A check of the records of the Division of Motor Vehicles indicates that the petitioner:
   - ☐ a. has not previously executed an acknowledgment naming the defendant as the operator of the vehicle described on the reverse side.
   - ☐ b. has previously executed an acknowledgment naming the defendant as the operator of the vehicle described on the reverse side, but has taken all reasonable precautions to prevent the use of the vehicle by the defendant and immediately reported, upon discovery, any unauthorized use of the vehicle to the appropriate law enforcement agency.
8. If the petitioner is a vehicle lessor, the petitioner has agreed not to sell, give, or otherwise transfer possession of the motor vehicle to the defendant or to any person acting on the defendant's behalf.

NOTE: *If all numbered findings above are found, and either Finding 4.a, 4.b, 4.c, or 4.d is checked, the petitioner is an innocent owner entitled to the release of the motor vehicle. If any numbered finding is not found, the petitioner is not an innocent owner and is not entitled to the release of the motor vehicle.*

CONCLUSIONS OF LAW

The petitioner named on the reverse side:

☐ 1. is an innocent owner, as defined in G.S. 20-28.2(a1)(2), and is entitled to the release of the motor vehicle described on the reverse side.

☐ 2. is not an innocent owner, as defined in G.S. 20-28.2(a1)(2), and is not entitled to the release of the motor vehicle described on the reverse side.

ORDER

It is ORDERED that:

☐ 1. The motor vehicle described on the reverse side be released to the petitioner named on the reverse side upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of that vehicle, and the Clerk of Superior Court shall disburse to the petitioner all funds held by the Clerk representing proceeds of insurance or proceeds of the sale of the motor vehicle.

☐ 2. The petition is denied. The motor vehicle shall remain impounded and the Clerk shall continue to hold all funds paid into the Clerk representing proceeds of insurance or proceeds of the sale of the motor vehicle, pending further orders of the Court. If this Order is entered after a proceeding before the Clerk on pretrial release, it may be reconsidered by the Court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d).

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

NOTICE TO PARTY OBTAINING RELEASE: *"[W]ithin 30 days of the date of the court's [release] order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to [the] Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics' lien on the motor vehicle for towing and storage costs." G.S. 20-28.4.*

CERTIFICATION

The foregoing is a true and correct copy of the original on file in this office.

Date	*Signature*	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

NOTE TO CLERK: *The Clerk shall report the entry of an order of permanent release to DMV by electronic means (STARS). G.S. 20-28.8. The Clerk shall also send a copy of the order of release or denial to the county school board attorney and the District Attorney. G.S. 20-28.3(e1).*

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