

STATE OF NORTH CAROLINA

Special Proceeding File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF

NOTIFICATION OF CHANGE
IN STATUS FOR DEFENDANT PREVIOUSLY
FOUND INCAPABLE TO PROCEED AND
INVOLUNTARILY COMMITTED TO A STATE
MENTAL HEALTH FACILITY

Name Of Defendant/Respondent

State Mental Health Facility Where Defendant/Respondent Is Committed

Criminal File No.

G.S. 15A-1002 to -1008; Chapter 122C

INSTRUCTIONS: The Assistant Attorney General at a State Mental Health facility completes the NOTIFICATION section below to notify the court:
- that the defendant/respondent has been re-evaluated and is thought to be capable to proceed or to be non-restorable to capacity; and/or
- that the defendant/respondent's charges may be eligible for dismissal under G.S. 15A-1008(a); and/or
- of the current status of the defendant/respondent's involuntary commitment.

After receiving the notification, the clerk of superior court must complete, place in the criminal case file, and distribute copies of form AOC-CR-430, "Notification By Clerk For Defendant Previously Found Incapable To Proceed." The clerk should not place this form AOC-SP-310 in the defendant/respondent's criminal case file. Form AOC-SP-310 should appear only in the defendant/respondent's special proceeding file.

NOTIFICATION BY ASSISTANT ATTORNEY GENERAL

This is to notify the court of a change in status for the above-named defendant/respondent, who is charged in the above-named county with (specify offense(s))

who was previously found by the court to be incapable to proceed to trial pursuant to G.S. 15A-1002, and who was involuntarily committed pursuant to Chapter 122C of the General Statutes of North Carolina.

- 1. Pursuant to G.S. 122C-278, the defendant/respondent has been re-evaluated by (forensic examiner) on (date). A copy of the examiner's report is attached. The examiner is of the opinion that the defendant/respondent is CAPABLE to proceed. NON-RESTORABLE to capacity to proceed.
2. It appears to the Assistant Attorney General that one or more criteria for dismissal may have been met, pursuant to G.S. 15A-1008(a), which states that the court shall dismiss the defendant/respondent's charges upon the earliest of the following conditions:
when it appears to the satisfaction of the court that the defendant/respondent will not gain capacity to proceed.
when as a result of incarceration, involuntary commitment to an inpatient facility, or other court-ordered confinement, the defendant has been substantially deprived of his/her liberty for a period of time equal to or in excess of the maximum term of imprisonment permissible for prior record Level VI for felonies or prior conviction Level III for misdemeanors for the most serious offense charged.
upon the expiration of a period of five years from the date of determination of incapacity to proceed in the case of misdemeanor charges or ten years have elapsed from the date of determination of incapacity to proceed in the case of felony charges.
3. The defendant is currently involuntarily committed to the State Mental Health Facility named above. Treating clinicians at that facility recommend that the defendant/respondent's involuntary commitment be
Continued. The commitment currently expires on (date). If the defendant is required to appear in court while he/she remains committed, the court may contact the Assistant Attorney General named below to make arrangements for the defendant to attend court hearings.
Discontinued. A hearing to discharge the defendant/respondent from the State Mental Health Facility to custody of the County Sheriff is currently scheduled in the County Court on (date).

Date Name Of Assistant Attorney General (type or print) Signature Of Assistant Attorney General