

## **DWI Basics (1 hour)**

By Scott Casey

Presented for the Watauga County Bar Association

Continuing Legal Education Seminar

Hound Ears Club, Boone, North Carolina

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**College:**

- Appalachian State University, B.A., 1990

**Law School:**

- North Carolina Central University School of Law, J.D., 1994

**Bar Admissions:**

- Virginia Board of Bar Examiners, 1994
- North Carolina Board of Bar Examiners, 1995

**Certifications:**

- North Carolina State Bar Board of Legal Specialization – Board Certified Specialist in State Criminal Law, 2009 and recertified in 2015.
- National Highway Traffic Safety Administration Standardized Field Sobriety Testing, Practitioner Course, Certificate of Completion, 2007

## DWI BASICS

Presented by: Scott C. Casey  
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The initial interview with the client is the first opportunity the attorney has to identify how many different directions the case may go. In about two hours, the attorney can learn that as many as 20 different areas must be explored. Almost every DWI is unique in its approach and the defense strategy will certainly be affected in some way.

The following is a list of some of the major topics that must be evaluated in each DWI case. I have also included a list of case cites that will assist in getting started on researching a number of the relevant issues.

1. Setting Appointment and Timing
  - a. 30 day civil revocation
  - b. Refusal revocation
  - c. Limited Driving Privilege(s)
2. Client Interview
  - a. Age
  - b. Weight
  - c. Prior record (MVR)
  - d. Physical disabilities
  - e. Language difficulties
  - f. Shoes/clothes worn by driver
  - g. Amount of alcohol consumed over what period of time
  - h. Color/make/model of vehicle
  - i. Location of FST's
  - j. Weather
  - k. Time of stop
  - l. Road conditions
  - m. Video camera visible on officer or in officer's vehicle
  - n. # of passengers
  - o. # of officers on scene and # of officer vehicles
  - p. Age of passengers

- q. Had passengers consumed alcohol
  - r. Who owns car
  - s. Class of License
  - t. Out of state driver – do not give legal advice as to home state consequences
  - u. Costs of conviction and SBI lab fees
3. Factual Evaluation
  4. Vehicle in Motion
  5. Reaction to Blue Lights
  6. Personal Contact
  7. Request to exit vehicle
  8. Investigative techniques utilized – SFST, NSFST \*\* HGN currently evolving
  9. Arrest
    - a. What is the driver being arrested for?
    - b. Was there a formal arrest?
  10. BAC testing
    - a. Retrograde extrapolation
    - b. Breath/Blood
      - i. Two consecutive readings
      - ii. One reading
    - c. Refusal
    - d. Blood Draw
    - e. Both Refusal and blood draw
    - f. Confinement of driver (Knoll issues)
  11. Court
    - a. Trial v. plea
    - b. Pre-trial Motions and Notices
    - c. Timing to disposition (trial v. plea)
  12. Sentencing
    - a. Gross aggravating factors
    - b. Aggravating factors
    - c. Mitigating factors

### 13. License Revocation Consequences

- a. 30 day civil revocation
- b. Conviction revocation
- c. Alcohol restriction during revocation
- d. Other restrictions during revocation (i.e. interlock)
- e. Status of license after one year revocation (.04 restriction)

### 14. Limited Driving Privilege(s)

- a. Regular conviction
- b. Interlock
- c. Refusal
- d. Refusal/Interlock

### 15. Speedy Trial Issues

#### Attachments:

1. AIR form
2. Citation
3. Intox Card
4. Rights form
5. Search Warrant
6. Affidavit and Revocation Report
7. Implied Consent Offense Notice
8. Revocation Order
9. Release Order
10. Findings for Sentencing (Mitigating)
11. Grossly and Aggravating factors
12. Judgment
13. Limited Driving Privileges

## REASONABLE SUSPICION

### 1. ANONYMOUS TIP

- a. *State v. Coleman*, 743 S.E.2d 62 (N.C. App., 2013).
- b. *State v. Blankenship*, 748 S.E.2d 616 (2013).
- c. *Navarette v. California*, 572 U.S. \_\_\_\_ 134 S.Ct. 1683 (2014).
- d. *State v. Peele*, 196 N.C. App. 668 (2009).
- e. *State v. McArn*, 159 N.C. App. 209 (2003).
- f. *State v. Merrell*, COA13-244 (N.C. App., Dec. 3, 2013) (unpublished).
- g. *State v. Johnson*, 693 S.E.2d 711 (N.C. App., 2010).
- h. *State v. Veal*, 760 S.E.2d 43 (N.C. App., 2014).

### 2. CLOSED BUSINESS

- a. *State v. Murray*, 192 N.C. App. 684 (2008).
- b. *State v. Watkins*, 337 N.C. 437 (1994).

### 3. COLLECTIVE KNOWLEDGE

- a. *State v. Shaw*, No. COA14-124 (N.C. App., Dec. 16, 2014).
- b. *State v. Battle*, 109 N.C. App. 367 (1993).

### 4. COMMUNITY CARETAKER

- a. *Rawls v. Peters*, 45 N.C. App. 461 (1980).
- b. *State v. Smathers*, 753 S.E.2d 380 (N.C. App., 2014).

### 5. DRIVER'S IDENTITY

- a. *State v. Hess*, 185 N.C. App. 530 (2007).

### 6. EVASIVE ACTION

- a. *State v. McKnight*, \_\_\_\_ N.C. App. \_\_\_\_, 767 S.E.2d 689 (N.C. App., 2015).
- b. *State v. Mello*, 684 S.E.2d 483 (N.C. App., 2009).

### 7. GREEN LIGHT DELAY

- a. *State v. Barnard*, 362 N.C. 244 (2008).
- b. *State v. Roberson*, 163 N.C. App. 129 (2004).
- c. *State v. Bradshaw*, No. COA08-1534 (N.C. App. Aug. 4, 2009) (unpublished).

## 8. HGN

- a. *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).
- b. *State v. Helms*, 348 N.C. 578 (1998).
- c. *State v. Godwin*, No. COA15-766 (N.C. App., April 19, 2016).
- d. *State v. McGrady*, No. 72PA14 (N.C., June 10, 2016)

## 9. MISTAKE OF LAW

- a. *Heien v. North Carolina*, \_\_\_ U.S. \_\_\_, 135 S.Ct. 530 (2014).
- b. *State v. McLamb*, 649 S.E. 2d 902 (2007).
- c. *State v. Coleman*, 743 S.E.2d 62 (2013).

## 10. PRESENCE IN CRIME AREA

- a. *State v. Brown*, 720 S.E.2d 446 (N.C. App. 2011).
- b. *State v. Chlopek*, 704 S.E.2d 563 (N.C. App. 2011).
- c. *State v. Murray*, 666 S.E.2d 205 (2008).
- d. *State v. Mello*, 684 S.E.2d 483 (N.C. App. 2009).

## 11. ROADBLOCKS

- a. *State v. Haislip*, 186 N.C. App. 275 (2007).
- b. *State v. White*, 753 S.E.2d 698 (N.C. App., 2014).
- c. *State v. Foreman*, 351 N.C. 627 (2000).
- d. *State v. Griffin*, 366 N.C. 473 (2013).
- e. *State v. McDonald*, 768 S.E.2d 913 (N.C. App., 2015).
- f. *State v. Rose*, 170 N.C. App. 284 (2005).
- g. *State v. Jarrett*, 692 S.E.2d 420 (2010) and *State v. Nolan*, 712 S.E.2d 279 (2011).
- h. *State v. Kincer*, No. COA09-1639 (N.C. App. 2010) (unpublished).

## 12. SLOW SPEED

- a. *State v. Bonds*, 139 N.C. App. 627 (2000).
- b. *State v. Aubin*, 100 N.C. App. 628 (1990).
- c. *State v. Jones*, 96 N.C. App. 389 (1989).
- d. *State v. Brown*, No. COA09-1601 (N.C. App. 2010) (unpublished).
- e. *State v. Bradshaw*, No. COA08-1534 (N.C. App. 2008) (unpublished).
- f. *State v. Canty*, 736 S.E.2d 532 (N.C. App. 2012).

## 13. TURN SIGNAL

- a. *State v. Styles*, 362 N.C. 412 (2008).
- b. *State v. Ivey*, 360 N.C. 562 (2006).
- c. *State v. Watkins*, 725 S.E.2d 400 (N.C. App. 2012).

#### 14. VISUAL ESTIMATE OF SPEED

- a. *United States v. Sowards*, 690 F.3d 583 (4<sup>th</sup> Cir. 2012).
- b. *United States v. Mubdi*, 691 F.3d 334 (4<sup>th</sup> Cir. 2012).
- c. *State v. Barnhill*, 166 N.C. App. 228 (2004).

#### 15. WEAVING

- a. *State v. Derbyshire*, 745 S.E. 2d 886 (N.C. App., 2013).
- b. *State v. Kochuck*, 366 N.C. 549 (2013).
- c. *State v. Fields*, 723 S.E. 2d 777 (N.C. App., 2012).
- d. *State v. Fields*, 195 N.C. App. 740 (2009).
- e. *State v. Peele*, 196 N.C. App. 668 (2009).
- f. *State v. Otto*, 366 N.C. 134 (2012).
- g. *State v. Adkerson*, 90 N.C. App. 333 (1988).
- h. *State v. Shaw*, No. COA14-124 (N.C. App., Dec. 16, 2014).
- i. *State v. Wainwright*, 770 S.E.2d 99 (N.C. App., 2015).
- j. *State v. Aubin*, 100 N.C. App. 628 (1990); *State v. Jones*, 96 N.C. App. 389 (1989).

#### PROBABLE CAUSE

#### 16. ACCIDENTS

- a. *State v. Overocker*, 762 S.E.2d 921 (N.C. App., 2014).
- b. *Streikrause v. Tatum*, 201 N.C. App. 289 (2009).

#### 17. ODOR OF ALCOHOL w/ "PLUS" FACTORS

- a. *State v. Overocker*, 762 S.E.2d 921 (N.C. App., 2014).
- b. *State v. Sewell*, NO. COA14-269 (N.C. App. 2015) (unpublished).
- c. *State v. Townsend*, 762 S.E.2d 898 (N.C. App., 2014).

#### SCOPE OF STOP

#### 18. DOG SEARCHES

- a. *Illinois v. Caballes*, 543 U.S. 405 (2005)
- b. *State v. Kincer*, No. COA09-1639 (N.C. App. 2010) (unpublished).

## CHEMICAL TESTING

### 19. ANALYST AFFIDAVIT

- a. *Lee v. Gore*, 698 S.E.2d 179 (N.C. App., 2010).
- b. *State v. Harper*, No. COA14-1182 (June 16, 2015) (unpublished).

### 20. BLOOD DRAWS

- a. *Missouri v. McNeely*, 569 U.S. \_\_\_, 133 S.Ct. 1552 (2013).
- b. *State v. Granger*, 761 S.E.2d 963 (N.C. App., 2014).
- c. *State v. Fletcher*, 688 S.E.2d 94 (N.C. App., 2010).
- d. *State v. McCrary*, 764 S.E.2d 477 (N.C. App., 2014).
- e. *State v. Williams*, 759 S.E.2d 350 (N.C. App. 2014).
- f. *State v. Sisk*, 766 S.E.2d 694 (N.C. App., 2014).
- g. *State v. Chavez*, 767 S.E.2d 581 (N.C. App., 2014); *State v. Shepley*, 764 S.E.2d 658 (N.C. App., 2014).

### 21. INTOX WITNESS

- a. *State v. Hatley*, 661 S.E.2d 43 (N.C. App., 2008).
- b. *McDaniel v. DMV*, 96 N.C. App. 495 (1989).
- c. *State v. Buckner*, 34 N.C. App. 447 (1977).
- d. *State v. Ferguson*, 90 N.C. App. 513 (1988).
- e. *State v. Buckheit*, 735 S.E.2d 345 (N.C. App. 2012).
- f. *State v. Myers*, 118 N.C. App. 452 (1995).
- g. *State v. Chavez*, 767 S.E.2d 581 (N.C. App. 2014); *State v. Shepley*, 764 S.E.2d 658 (N.C. App. 2014).

### 22. REFUSAL

- a. *Tolbert v. Hall*, 95 N.C. App. 380 (1989).
- b. *Streikrause v. Tatum*, 201 N.C. App. 289 (2009).
- c. *State v. Summers*, 132 N.C. App. 636 (1999), *aff'd State v. Summers*, 351 N.C. 620 (2000).

## PROCEDURAL ISSUES

### 23. CIVIL REVOCATION PROCEEDINGS

- a. *Combs v. Robertson*, 767 S.E.2d 925 (N.C. App., 2015).
- b. *Lee v. Gore*, 698 S.E.2d 179 (N.C. App., 2010).
- c. *State v. McKenzie*, 750 S.E.2d 521 (N.C., 2013).

Name: \_\_\_\_\_  
 DOB: \_\_\_\_\_  
 Approx. Wt.: \_\_\_\_\_ Gender:  M  F  
 Minors in Vehicle:  Yes  No  
 Blood / Breath Results: 0. / 0.  
 Vehicle Crash:  Yes  No | Injuries:  Yes  No  
 Arrest Date: \_\_\_\_\_ Time: \_\_\_\_\_  am  pm

# Driving While Impaired Report (DWIR)

**Department of Health and  
Human Services, Forensic  
Tests for Alcohol Branch**

Agency: \_\_\_\_\_  
 Officer's Name: \_\_\_\_\_  
 Officer No.: \_\_\_\_\_  
 Case No.: \_\_\_\_\_  
 DRE Officer: \_\_\_\_\_  
 City / County: \_\_\_\_\_  
 Street / Highway: \_\_\_\_\_  
 Area No.: \_\_\_\_\_

**Phase I**

**Initial Observations:** What drew your attention to the vehicle (wide turns, weaving, violations of law, etc.). Unusual driver's actions, blank stare, etc.

**Observation of Stop:** Describe vehicle maneuvers during the stop, delays in stopping, unusual manner of parking, etc.:

**Phase II**

**General Observation:** Observation of driver, condition of clothing, attitude, speech, ability to follow instruction, etc.:

**Breath:** Describe the odor of alcohol on driver's breath:

**Statements:** Any statement made by the driver from time of stop to arrest:

**Observation Prior to Arrest:** Describe any difficulty with motor skills, retrieving drivers license, getting out of vehicle, walking, standing, etc.:

**Odors:** Describe any significant odors other than alcohol:

**Phase III**

**Psychophysical Tests**  
 Location Performed: \_\_\_\_\_ Time: \_\_\_\_\_  am  pm

Horizontal Gaze Nystagmus (HGN)		Walk and Turn Test	
<input type="checkbox"/> Glasses	<input type="checkbox"/> Contact Lenses	Instruction Stage	
Remove Glasses <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Hard <input type="checkbox"/> Soft	<input type="checkbox"/> Cannot Keep Balance <input type="checkbox"/> Starts Too Soon	
Tracking Equal?	<input type="checkbox"/> Yes <input type="checkbox"/> No	First 9 Steps      Second 9 steps	
Able to Follow Stimulus?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Stops Walking	
	Left Eye      Right Eye	Misses Heel to Toe	
Lack of Smooth Pursuit		Steps Off Line	
Maximum Deviation		Uses Arms To Balance	
Onset Prior 45°		Actual Steps Taken	
Vertical Nystagmus?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Improper Turn (Describe):	
Explain:		Cannot Do Test (Explain):	

**Walk and Turn Test**

<p><b>One Leg Stand</b></p> <p>Sways While Balancing: <input type="checkbox"/> L <input type="checkbox"/> R        Uses Arms for Balance: <input type="checkbox"/> L <input type="checkbox"/> R        Hopping: <input type="checkbox"/> L <input type="checkbox"/> R        Puts Foot Down: <input type="checkbox"/> L <input type="checkbox"/> R        Type of Footwear: _____</p>	<p><b>Optional Tests</b></p> <p><b>Finger to Nose Test</b></p> <p>Draw Lines Spots Touched</p>	<p><b>Romberg Balance</b></p> <p style="text-align: center;">Internal Clock</p> <p style="text-align: center;">Estimated as 30 Seconds</p>
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**Alcohol Screening Test Device** (if test result is 0.08 or greater, wait 5 minutes and administer an additional test)

Make / Model	Serial #
<b>Test 1</b>	<b>Test 2</b>
Time: _____ <input type="checkbox"/> am <input type="checkbox"/> pm      Result: 0.	Time: _____ <input type="checkbox"/> am <input type="checkbox"/> pm      Result: 0.

**Miranda Rights**

**Driver's Name:**

Miranda Rights Advised:  Yes  No  
 Location: \_\_\_\_\_ Date: \_\_\_\_\_  
 Miranda Rights Waived:  Yes  No  
 Time: \_\_\_\_\_  am  pm

**Questionnaire**

Were you operating a vehicle?  Yes  No  
 Describe: \_\_\_\_\_  
 Were there any mechanical problems with that vehicle?  Yes  No  
 Where were you going? \_\_\_\_\_ Where were you coming from? \_\_\_\_\_  
 What street or highway were you on? \_\_\_\_\_ What city are you in now? \_\_\_\_\_  
 Without looking at a watch, what time is it now? \_\_\_\_\_  am  pm What is the date? \_\_\_\_\_  
 What is the day of the week? \_\_\_\_\_ Actual Time \_\_\_\_\_  am  pm Actual Date \_\_\_\_\_ Actual Day \_\_\_\_\_  
 When did you last eat? \_\_\_\_\_  am  pm  
 What did you eat? \_\_\_\_\_  
 What time did you begin drinking? \_\_\_\_\_  am  pm Last drink? \_\_\_\_\_  am  pm  
 What did you drink? \_\_\_\_\_  
 How many? \_\_\_\_\_ What size? \_\_\_\_\_ Where? \_\_\_\_\_  
 Have you smoked Marijuana lately?  Yes  No Used any other drug?  Yes  No  
 On a scale of 0 to 10, with 0 being completely sober and 10 being completely drunk, where do you fit? (Check one.)  
 0  1  2  3  4  5  6  7  8  9  10  
 In your opinion, should you have been operating a vehicle?  Yes  No  
 Do you have any physical defects?  Yes  No If so, what? \_\_\_\_\_  
 Are you sick?  Yes  No If so, what's wrong? \_\_\_\_\_  
 Do you limp?  Yes  No Why do you limp? \_\_\_\_\_  
 Have you been injured lately?  Yes  No If so, what type of injury? \_\_\_\_\_  
 Were you involved in a crash today?  Yes  No When did the crash occur? \_\_\_\_\_  am  pm  
 Did you get a bump on your head?  Yes  No Have you had any alcoholic beverage(s) since the crash?  Yes  No  
 If so, what? \_\_\_\_\_ How many? \_\_\_\_\_  
 When? \_\_\_\_\_ Where? \_\_\_\_\_  
 Have you seen a doctor or dentist lately?  Yes  No If so, who? \_\_\_\_\_  
 What for? \_\_\_\_\_ When? \_\_\_\_\_  
 When did you last go to sleep? \_\_\_\_\_ How much sleep did you have? \_\_\_\_\_  
 Are you wearing false teeth?  Yes  No Are you wearing oral jewelry?  Yes  No Do you have a glass eye?  Yes  No  
 Are you taking medication(s) of any kind?  Yes  No How much taken? \_\_\_\_\_  
 If so, what kind? \_\_\_\_\_  
 Last dose? \_\_\_\_\_  am  pm  
 Do you have epilepsy?  Yes  No Do you have diabetes?  Yes  No  
 Do you take insulin?  Yes  No If so last dose? \_\_\_\_\_  
 Have you had any injections of any other drugs lately?  Yes  No If so, what for? \_\_\_\_\_  
 What kind of drug? \_\_\_\_\_ Last dose? \_\_\_\_\_  am  pm

**Passengers**

	Name	Age	Relationship
1.			
2.			
3.			

**Witnesses**

	Name	Address	Phone
1.			
2.			
3.			

**Notes**

AOC-CR-500, Rev. 12/15, © 2015 Administrative Office of the Courts

**NOTE:** (If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DAC or MCP, use AOC-CR-602. If supervised probation, use AOC-CR-604.)

**MAGISTRATE'S ORDER - MISDEMEANOR ONLY**

The named defendant has been arrested without a warrant. It is probable cause for the defendant's detention on the stated charges. This Magistrate's Order is based upon information furnished under oath by the named officer. A copy of this Order has been delivered to the defendant.

Date: 1/15/16 Nature Of Magistrate/Deputy/Assistant/CSC: \_\_\_\_\_

**COURT USE ONLY**

District Attorney: \_\_\_\_\_ Attorney For Defendant At Time Of Trial Or Plea: \_\_\_\_\_

Appointed  Retained  Waived

**PRIOR CONVICTIONS:**  
No./Level: 0  I (0)  II (1-4)  III (5+)

PLEA:  guilty/resp.  no contest \_\_\_\_\_ VERDICT:  guilty/resp. \_\_\_\_\_  
 guilty/resp.  no contest \_\_\_\_\_ FINDING:  guilty/resp. \_\_\_\_\_ MISD. CLASS:  A1  1  2  3  
 not guilty/resp. \_\_\_\_\_  not guilty/resp. \_\_\_\_\_ MISD. CLASS:  A1  1  2  3  
 V/D \_\_\_\_\_

**JUDGMENT:** The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict/finding, it is ORDERED that the defendant:  pay costs and a fine/penalty of \$ \_\_\_\_\_  be imprisoned for a term of \_\_\_\_\_ days in custody of the sheriff. Pretrial credit \_\_\_\_\_ days served.  The Court finds that a longer  shorter period of probation than specified in G.S. 15A-1343.2(d) is necessary.  Execution of sentence is suspended and the defendant is placed on unsupervised probation for \_\_\_\_\_ months, subject to the regular conditions of probation and the following:  (1) pay costs and a fine/penalty of \$ \_\_\_\_\_;  (2) not operate a motor vehicle until properly licensed by DMV;  (3) complete \_\_\_\_\_ hours of community service within \_\_\_\_\_ days and pay the fee;  (4) Other: \_\_\_\_\_

It is ORDERED that this:  Judgment is continued upon payment of costs.  case be consolidated for judgment with \_\_\_\_\_  
 sentence is to run at expiration of sentence in \_\_\_\_\_  The Court finds just cause to waive costs as ordered on attached  AOC-CR-618.  Other: \_\_\_\_\_  
**COMMITMENT:** It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.  
 The defendant in open court, gives notice of appeal to the Superior Court.  The current pretrial release order is modified as follows: \_\_\_\_\_

Date: \_\_\_\_\_ Signature Of District Court Judge: \_\_\_\_\_ I certify that this Judgment is a true copy. Date: \_\_\_\_\_ Signature Of Deputy/Assistant/CSC: \_\_\_\_\_

In The General Court Of Justice District Court Division

File No. 1

**NORTH CAROLINA UNIFORM CITATION**

Defendant Is To Appear In District Court

Day Of Week: \_\_\_\_\_ Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ Time:  AM  PM

DL  DCJ  Other # Of Chgs: \_\_\_\_\_ Interpreter Needed  SP  OTS  ASI

**THE STATE OF NORTH CAROLINA VS.**

Name Of Defendant: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Drivers License No. \_\_\_\_\_ State: \_\_\_\_\_ CDL \_\_\_\_\_ Class \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Date Of Birth: \_\_\_\_\_ Age: \_\_\_\_\_

Vehicle License No. \_\_\_\_\_ Telephone No. \_\_\_\_\_ State: \_\_\_\_\_

Vehicle Type: \_\_\_\_\_ Trailer Type: \_\_\_\_\_ GMV \_\_\_\_\_ Haz. Mat. \_\_\_\_\_ Make \_\_\_\_\_ Year \_\_\_\_\_

Name And Telephone No. Of Defendant's Employer: \_\_\_\_\_

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card) \_\_\_\_\_

**ACKNOWLEDGMENT/RESIDENT PERSONAL RECOGNIZANCE FOR APPEARANCE**

I acknowledge receipt of this Citation  and I promise to appear in the named court at the time and place designated herein to answer the charge(s). I understand that my failure to appear or to dispose of this Citation by other acceptable legal means, such as waiver, will result in my operator's license issued by my state of residence being suspended until I have done so. Also, I may go before a magistrate and make bail in lieu of my personal recognizance.

Date: \_\_\_\_\_ Signature Of Defendant: \_\_\_\_\_

**DEPARTMENTAL USE ONLY**

Office: \_\_\_\_\_ No. \_\_\_\_\_ Troop \_\_\_\_\_ District \_\_\_\_\_

SHP Code  N.C. Patrol \_\_\_\_\_

Area: \_\_\_\_\_ Wea. \_\_\_\_\_ Vis. \_\_\_\_\_ Traffic \_\_\_\_\_ Accident \_\_\_\_\_ Police/Shift: \_\_\_\_\_

On Highway No./Street: \_\_\_\_\_  Injury Or Serious Injury \_\_\_\_\_ Speed \_\_\_\_\_

In Vicinity/City Of: \_\_\_\_\_  Passenger(s) Under 18 \_\_\_\_\_

Wil. \_\_\_\_\_  Chemical/Analyst \_\_\_\_\_  O. Level AC \_\_\_\_\_  Refused \_\_\_\_\_

DEPENDANT'S COPY (SEE IMPORTANT NOTICE ON REVERSE)

**STATE OF NORTH CAROLINA** \_\_\_\_\_ County

The undersigned officer has probable cause to believe that on or about \_\_\_\_\_ day of \_\_\_\_\_, 2016, in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area)

1. At a speed of \_\_\_\_\_ MPH in a \_\_\_\_\_ MPH zone, G.S. 20-141. 77.  work zone, G.S. 20-141(2). 88.  school zone, G.S. 20-141-1. 2. In forward motion without having the provided seat belt properly fastened about the defendant's body, G.S. 20-135.2A. 3. By transporting a passenger of less than 16 years of age without having the passenger in a (weight appropriate child passenger restraint system) (seat belt), G.S. 20-137.1. 4. By transporting a child of less than five years of age and less than 40 pounds in weight without the child being secured in the rear seat, when the vehicle was equipped with an active passenger-side front air bag and the vehicle had a rear seat, G.S. 20-137.1(a1). 5. While subject to an impairing substance, G.S. 20-138.1. 6. Without being licensed as a driver by the Division of Motor Vehicles of North Carolina, G.S. 20-7(a). 7. While the defendant's driver's license was revoked, G.S. 20-28(a), 33  was revoked for an impaired driving revocation as defined in G.S. 20-28-2(a), G.S. 20-28(a1), 8. While displaying an expired registration plate on the vehicle knowing the same to be expired, G.S. 20-111(b2). 9. Without displaying thereon a current approved inspection certificate (having a current electronic inspection authorization for the vehicle), such vehicle requiring inspection in North Carolina, G.S. 20-183.8. Month Expired: \_\_\_\_\_ 10. By failing to see before (starting) (stopping) (turning from a direct line) that such movement could be made in safety, G.S. 20-154. 11. By failing to stop at a duly erected (stop sign) (flashing red light), G.S. 20-156(b)(1) (b)(3). 12. By entering an intersection while a traffic signal was emitting a steady red circular light for traffic in defendant's direction of travel, G.S. 20-158(b)(2). 13. Without having in full force and effect the financial responsibility required by G.S. 20-313. The defendant was the owner of the motor vehicle that was (registered) (required to be registered) in this State, G.S. 20-313. 14. (Possess an open container of) (Consume) an alcoholic beverage in the passenger area of a motor vehicle, G.S. 20-136.1(a1). (NOTE: Strike "operate a (motor) vehicle" and "(public vehicular area)" above.) 15. Without decreasing speed as necessary to avoid colliding with a (vehicle) (person), G.S. 20-141(m).  16. \_\_\_\_\_

17. And on or about the date and time shown above in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area)

Date: \_\_\_\_\_ Signature Of Officer: \_\_\_\_\_

Intox EC/IR-II: Subject Test

WATAUGA COUNTY WATAUGA JAIL 940

Serial Number: 008715

Test Date: 05/25/2016

Citation Number: 4

Subject's Name:

Subject's Date of Birth:

Subject's Sex: Male

Driver's License State: NC

Driver's License Number:

Analyst's Name:

Permit Number:

Effective:

02/01/2015-02/01/2017

Officer's Name:

Type of Agency: SD

Agency: WATAUGA

Test Type: Breath Test

Lot Number: AG434201

Exp Date: 12/08/2016

Test	g/210L	Time
DIAG	Pass	3:40am
AIR BLK	.00	3:41am
ACCY CHK	.08	3:42am
AIR BLK	.00	3:43am
SUB TEST	.12	3:45am
AIR BLK	.00	3:47am
SUB TEST	.13	3:48am
AIR BLK	.00	3:50am

Reported ~~AC:~~ .12 g/210L

~~Signature of Chemical Analyst~~

Defendant's Copy

North Carolina Department of Health and Human  
Services • Division of Public Health • Chronic  
Disease and Injury Section • Forensic Tests for  
Alcohol Branch • DHHS 4082 (12/07)

North Carolina Department of Health and Human Services

Rights of Person Requested to Submit to a Chemical Analysis to Determine Alcohol Concentration or Presence of an Impairing Substance Under N.C.G.S.20-16.2(a)

\_\_\_\_\_  
Last First MI  
\_\_\_\_\_  
Driver License Number / State Date of Birth Citation Number

Breath  Blood  Subsequent Test

- 1. You have been charged with an implied-consent offense. Under the implied-consent law, you can refuse any test, but your drivers license will be revoked for one year and could be revoked for a longer period of time under certain circumstances, and an officer can compel you to be tested under other laws.
- 2. The test results, or the fact of your refusal, will be admissible in evidence at trial.
- 3. Your driving privilege will be revoked immediately for at least 30 days if you refuse any test or the test result is 0.08 or more, 0.04 or more if you were driving a commercial vehicle, or 0.01 or more if you are under the age of 21.
- 4. After you are released, you may seek your own test in addition to this test.
- 5. You may call an attorney for advice and select a witness to view the testing procedures remaining after the witness arrives, but the testing may not be delayed for these purposes longer than 30 minutes from the time you are notified of these rights. You must take the test at the end of 30 minutes even if you have not contacted an attorney or your witness has not arrived.

Date \_\_\_\_\_ Time \_\_\_\_\_  a.m.  p.m. \_\_\_\_\_  
Signature of Person Charged

Did defendant call an attorney and/or witness?  NO  YES Time \_\_\_\_\_  a.m.  p.m.

Blood Sample Taken \_\_\_\_\_  a.m.  p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, a person qualified to withdraw the blood sample pursuant to N.C.G.S. 20 - 139.1

Refused Test \_\_\_\_\_  a.m.  p.m.

\_\_\_\_\_  
Signature of Chemical Analyst

\_\_\_\_\_  
Permit Number

DISTRIBUTION OF COPIES:

- 1<sup>ST</sup> - MAGISTRATE COPY
- 2<sup>ND</sup> - COURT COPY
- 3<sup>RD</sup> - DMV COPY

- 4<sup>TH</sup> - ANALYST/OFFICER'S COPY
- 5<sup>TH</sup> - DEFENDANT'S COPY

# SEARCH WARRANT FOR BLOOD OR URINE IN DWI CASES

## IN THE MATTER OF

Name

Date Issued

Time Issued

AM  PM

Name Of Applicant

Name Of Additional Affiant

Name Of Additional Affiant

### RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received

Time Received

AM  PM

Date Executed

Time Executed

AM  PM

I made a search of \_\_\_\_\_

\_\_\_\_\_ as commanded.  
 I seized the items listed on the attached inventory.  
 I did not seize any items.  
 This Warrant WAS NOT executed within forty-eight (48) hours of the date and time of issuance and I hereby return it not executed.

Name Of Officer Making Return (type or print)

Signature Of Officer Making Return

Department Or Agency Of Officer

Incident Number

# STATE OF NORTH CAROLINA

County

In The General Court Of Justice  
 District Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and on the attached sheets and related to the commission of a crime is located as described in the application.

You are commanded to take the person named in the application to a physician, registered nurse, emergency medical technician or other qualified person to obtain sample(s) of blood and/or urine described in the application from the person named in the application. You are to seize the sample(s), have the sample(s) tested for one or more impairing substances and keep the unconsumed sample(s) subject to court order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the issuing court.

This Search Warrant is issued upon information furnished under oath or affirmation by the person(s) shown.

Date

Name (type or print)

Signature

Deputy CSC  Assistant CSC  CSC  Magistrate  District Ct. Judge  Superior Ct. Judge

**NOTE: When issuing a search warrant, the issuing official must retain a copy of the warrant and warrant application and must promptly file them with the clerk. G.S. 15A-245(b).**

This Search Warrant was delivered to me on the date and at the time shown below when the Office of the Clerk of Superior Court is closed for the transaction of business. By signing below, I certify that I will deliver this Search Warrant to the Office of the Clerk of Superior court as soon as possible on the Clerk's next business day.

Date

Time

AM  PM

Name Of Magistrate (type or print)

Signature Of Magistrate

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Date

Time

AM  PM

Name Of Clerk (type or print)

Signature Of Clerk

Dep. CSC  
 Asst. CSC  
 CSC

**APPLICATION FOR SEARCH WARRANT FOR BODILY FLUIDS**

*(Attach additional sheets if necessary)*

Name Of Law Enforcement Officer (Applicant) \_\_\_\_\_ Rank \_\_\_\_\_

N.C. State Highway Patrol

Name Of Individual To Be Searched \_\_\_\_\_

Race \_\_\_\_\_

Police/Sheriff  
 Male  
 Female

Location Of Individual To Be Searched \_\_\_\_\_

Fluid To Be Seized  
 Blood  Urine

Crime(s) Charged

- Commercial DWI, G.S. 20-138.2.
- DWI, G.S. 20-138.1.
- Death By Vehicle, G.S. 20-141.4.
- Habitual DWI, G.S. 20-138.5  Other (specify) \_\_\_\_\_

I, the law enforcement officer named above, being duly sworn, request that the Court issue a warrant to search the person of the individual named above, who may be found at the location described above, and to seize sample(s) of the above-specified bodily fluid(s) of that individual.

I swear to the following facts to establish probable cause for the issuance of a search warrant:

I am a sworn law enforcement officer of the above-named agency. As such, I am empowered to search for and seize evidence described in N.C. General Statutes Chapter 14, Criminal Law, Chapter 20, Motor Vehicle Law, and Chapter 90, Controlled Substances. I have received training in the detection and apprehension of impaired drivers and the investigation of motor vehicle collisions. I have been a sworn law enforcement officer for over \_\_\_\_\_ years and during that time I have investigated over \_\_\_\_\_ incidents of offenses related to impaired driving.

1. I rely on the facts stated in the following report(s), of which a copy or copies is/are attached and incorporated by reference: *(Attach a copy of the report(s) checked below if available and if either contains relevant facts.)*

Affidavit and Revocation Report (AOC-CVR-1/ADHHS 3907).

Driving While Impaired Report Form/Alcohol Influence Report Form.

2. The following facts establish on or about the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ AM  PM, the individual named above was operating a ( commercial motor) vehicle, to wit: *(type, make and year)* \_\_\_\_\_ on \_\_\_\_\_

highway/street  public vehicular area in \_\_\_\_\_ County at or near the city/town of \_\_\_\_\_ in violation of the statute(s) specified above: \_\_\_\_\_ *(check all that apply)*

a. At the time and place stated above:

I observed the above-named individual operating the above-described vehicle.

I observed the above-described vehicle being operated in the following manner:

b. On or about the date stated above, at \_\_\_\_\_ AM  PM, I responded to a report of a vehicle crash and, after arriving at the scene, I ascertained that the above-named individual was operating the described vehicle at the time and place stated from the following facts:

c. The above-named individual admitted to me operating the described vehicle at the time and place indicated.

d. On or about the date stated above, at \_\_\_\_\_ AM  PM

I detected a  strong  moderate  faint odor of alcohol coming from the breath of the above-named person:  at the scene.

at the following hospital \_\_\_\_\_

at other location \_\_\_\_\_

I observed the following behaviors of the individual named above, which evidence impairment of the person's mental and/or physical faculties as follows:

e. The above-named individual stated to me that before or while operating the described vehicle he/she:

had consumed alcohol.

was consuming alcohol.

had consumed controlled substance, to wit: \_\_\_\_\_

had consumed other impairing substance, to wit: \_\_\_\_\_

f. The above-named individual refused to submit to a chemical analysis.

g. I observed the following facts:

h. Other reliable persons stated to me the following facts: **(NOTE: Name officer or witness(es) and list facts related to impairment, vehicle operation, etc.)**

3. The above-named individual has previously been convicted of one or more offenses involving impaired driving.

Based on all the foregoing, and on my training in detecting impaired driving violations and my experience as a law enforcement officer, I have formed an opinion satisfactory to myself that the above-named person had consumed a sufficient quantity of some impairing substance(s) as to appreciably impair that person's physical or mental faculties or both, and that the person drove the above-described vehicle on the above-described highway or public vehicular area while under the influence of impairing substance(s). It is my further opinion that evidence of impairing substance(s) is at this time present in the body or bodily fluids of the above-named person, and that unless a warrant is issued and executed without delay, the evidence may dissipate and be lost.

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**

Date \_\_\_\_\_

Signature Of Applicant \_\_\_\_\_

Signature \_\_\_\_\_

Date My Commission Expires \_\_\_\_\_

County Where Notarized \_\_\_\_\_

Magistrate  Dep. CSC  Asst. CSC  CSC  Judge  Notary Public

**SEAL**

NOTE TO OFFICER: The officer should review and follow the instructions on Side Two of this form.

ATTACH TEST RECORD TICKET HERE

# STATE OF NORTH CAROLINA



In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

NOTE: A "commercial motor vehicle" is as defined in G.S. 20-4.01(3d).

## IN THE MATTER OF:

## AFFIDAVIT AND REVOCATION REPORT OF

LAW ENFORCEMENT OFFICER

CHEMICAL ANALYST

The charged offense is impaired supervision or instruction under G.S. 20-12.1. Accordingly, substitute "supervisor/instructor" wherever "driver" appears below.

G.S. 20-16.2, 20-16.5, 20-17.8, 20-19(c3), 20-139.1

Name									
Address									
City			State		Zip				
Race	Sex	Date Of Birth	Drivers License No.		State	Vehicle Type	CMV	Haz. Mat.	Citation No.

The undersigned being first duly sworn says:

1. I am a law enforcement officer. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.) (p.) m., a law enforcement officer had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle ( commercial motor vehicle) in the above named county upon \_\_\_\_\_ while committing an implied-consent offense in that \_\_\_\_\_ (Give Street, Highway, Or Public Vehicular Area)

(List Sufficient Facts To Establish Probable Cause)

- 2. The driver has a drivers license restriction:  alcohol concentration.  ignition interlock.  conditional restoration (Restr: \*9).
- 3. The driver violated a drivers license restriction by:  refusing to be transported for testing.  not having an operable ignition interlock on the vehicle being driven.  failing to personally activate the ignition interlock on the vehicle being driven.  exceeding the driver's alcohol concentration limitation.  refusing a chemical analysis (if refusal, also complete item no. 14 below).
- 4. The driver was charged with the implied-consent offense of:  G.S. 20-138.1;  Other Implied-Consent Offense: \_\_\_\_\_;  and the driver has one or more pending offenses in the following county(ies) \_\_\_\_\_ for which the drivers license had been or is revoked under G.S. 20-16.5.
- 5. After the driver was charged, I took the driver before \_\_\_\_\_, a chemical analyst authorized to administer a test of the driver's breath.
- 6. I am a chemical analyst and possess a current permit issued by the Department of Health and Human Services authorizing me to conduct chemical analyses of the breath utilizing the Intox EC/IR II.
- 7. I informed the driver orally and also gave notice in writing of the rights specified in G.S. 20-16.2(a). I completed informing the driver of the rights as indicated on the attached DHHS 4081.
- 8. I began observing the driver for the purpose of complying with the observation period requirements for a breath analysis in accordance with the methods/rules approved by the Department of Health and Human Services at \_\_\_\_\_ (a.) (p.) m. on the \_\_\_\_\_ day of \_\_\_\_\_.
- 9. On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (a.) (p.) m., I requested the driver to submit to a chemical analysis of his/her breath or blood or urine. For blood or urine, I directed the taking of a blood or urine sample by a person qualified under G.S. 20-139.1.
- 10. The driver was unconscious or otherwise incapable of refusal and therefore the notification of rights and request to submit to a chemical analysis were not made. I directed the taking of a blood sample by a person qualified under G.S. 20-139.1.
- 11. The driver submitted to a chemical analysis of his/her breath. I administered the chemical analysis to the driver in accordance with the methods/rules approved by the Department of Health and Human Services using an Intox EC/IR II, and it printed the results of the driver's chemical analysis on the attached test record, DHHS 4082, which is made part of this Affidavit. The most recent preventive maintenance was performed on this Intox EC/IR II on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as shown on the preventive maintenance record. I provided the driver with a copy of the attached test record before any trial or proceeding in which the results of the chemical analysis may be used.
- 12. The chemical analysis of the driver's breath indicated an alcohol concentration of 0.15 or more.
- 13. A sample of the driver's blood or urine was collected for a chemical analysis as indicated on the attached DHHS 4081.
- 14. The driver willfully refused to submit to a chemical analysis as indicated on the attached  DHHS 4082.  DHHS 4081.  The willful refusal occurred in an implied-consent offense involving death or critical injury to another person.

### SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_ DHHS Permit No. \_\_\_\_\_

Print Name Of Chemical Analyst/Law Enforcement Officer \_\_\_\_\_

Date \_\_\_\_\_ Signature Of Official Authorized To Administer Oaths \_\_\_\_\_

Magistrate  Deputy CSC  Assistant CSC  CSC

Notary Date My Commission Expires \_\_\_\_\_ County Where Notarized \_\_\_\_\_

Agency Name \_\_\_\_\_

SEAL

Law Enforcement Officer/Analyst Copy  
**ATTACHMENT 6**

## NOTES TO LAW ENFORCEMENT OFFICER/CHEMICAL ANALYST

### NOTE TO LAW ENFORCEMENT OFFICER WHO IS NOT GOING TO administer breath test or read the implied-consent rights:

1. Complete the identifying information at the top,
2. Check the "Law Enforcement Officer" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-5 (and if the driver is unconscious or incapable of refusing so that the implied-consent rights need not be read, also review and check as appropriate paragraph 10), and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### NOTE TO LAW ENFORCEMENT OFFICER WHO CHARGES DRIVER AND IS CHEMICAL ANALYST who administers the breath test or reads the implied-consent rights for a blood test:

1. Complete the identifying information at the top,
2. Check both the "Law Enforcement Officer" and "Chemical Analyst" blocks under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 1-14, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

### NOTE TO CHEMICAL ANALYST WHO IS NOT THE CHARGING OFFICER:

1. Complete the identifying information at the top,
2. Check the "Chemical Analyst" block under "Affidavit and Revocation Report of" in the title section,
3. Review and check as appropriate for this case paragraphs 6-14, and
4. Swear or affirm before notary or magistrate, sign and file copies as indicated.

## INSTRUCTIONS

1. This form should be used in District Court to prove alcohol concentration in implied-consent criminal cases.
2. This form should be used before the Magistrate for the pretrial civil revocation (CVR) when the driver is charged with DWI or another implied-consent offense and the driver
  - a. has an alcohol concentration of 0.08 or more;
  - b. has an alcohol concentration of 0.04 or more and was operating a commercial motor vehicle;
  - c. is under age 21 and has an alcohol concentration of 0.01 or more; or
  - d. refuses the breath test and/or a blood or urine test.
3. This form should be used to notify DMV of (i) an alcohol concentration of 0.15 or more or (ii) a refusal to submit to a breath test and/or a blood or urine test.
4. This form should be used to notify DMV of violations of the following drivers license restrictions<sup>†</sup>
  - a. \*9= the driver has a Conditional Restoration of his or her drivers license
  - b. 19= alcohol concentration (A/C) of 0.04
  - c. 20= A/C 0.04+ignition interlock
  - d. 21= A/C 0.00
  - e. 22= A/C 0.00+ignition interlock
  - f. 23= ignition interlock only

+ When a driver has violated a restriction and Paragraphs 2 and 3 on Side One are completed, ALL sections in these paragraphs that apply must be checked. For example, if the driver had a restriction 20 and violated both the alcohol concentration and the ignition interlock provisions, both the "alcohol concentration" and the "ignition interlock" blocks should be checked in Paragraph 2. The same applies to Paragraph 3.
5. File the original and copies of this form, with a copy of the test record ticket attached, as follows:
  - a. Original - To the Magistrate for the pretrial civil revocation (CVR).
  - b. Second copy - To the Court for the criminal case.
  - c. Yellow copy - To DMV for violation of any alcohol or ignition interlock restriction on drivers license, alcohol concentration of 0.15 or more, or for refusal to submit to a breath test and/or a blood or urine test. DMV's address is: DMV, Information Processing Services, 3120 Mail Service Center, Raleigh, NC 27699-3120.
  - d. Pink copy - To the Law Enforcement Officer/Chemical Analyst.
  - e. Green copy - To the driver.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
Before The Magistrate

STATE VERSUS

IMPLIED CONSENT OFFENSE NOTICE

Name Of Defendant

G.S. 20-38.4

OBSERVATION PROCEDURE

TO THE DEFENDANT:

The established local procedure to contact other persons and have other persons appear at the jail to observe your condition or administer an additional chemical analysis to you is provided in writing with this form and incorporated into this form by reference. You are hereby notified of this procedure.

CONTACT PERSONS

TO THE DEFENDANT:

Pursuant to G.S. 20-38.4(a)(4), you are required to list all persons you wish to contact and their telephone numbers: (attach additional sheets if necessary)

Name

Telephone Number

- 1.
2.
3.

I do not wish to contact anyone.

SIGNATURE

By signing below, the defendant indicates that he/she has received notice of the contact and observation procedure and has listed all persons that he/she wishes to contact.

Date

Signature Of Defendant

MAGISTRATE'S CERTIFICATION

The undersigned magistrate certifies that pursuant to Article 24 of Chap. 15A and G.S. 20-38.4 that

- 1. An initial appearance was held and the undersigned found probable cause to believe the defendant committed an implied consent offense.
2. The undersigned reviewed all alcohol screening tests, chemical analyses and testimony from law enforcement officers concerning impairment and the circumstances of the arrest, and observed the defendant.
3. The undersigned considered whether the defendant was impaired to the extent that the provisions of G.S. 15A-534.2 should have been imposed.
4. The undersigned informed the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or to administer an additional chemical analysis.
5. The undersigned required the defendant to list all persons the defendant wishes to contact and telephone numbers on a copy of this form.
I do not wish to contact anyone.
The defendant returned this form to the undersigned at the initial appearance.
The defendant failed to return this form at the initial appearance.

Date

Time

AM PM

Signature Of Magistrate

The defendant returned this form to the undersigned after the initial appearance.

Date

Time

AM PM

Signature

Magistrate

Assistant CSC

Deputy CSC

Clerk Of Superior Court

NOTE: If a defendant charged with an implied consent offense is unable to make bond, the magistrate must (1) inform the defendant in writing of the established procedure to have others appear at the jail to observe the defendant's condition or administer an additional chemical analysis and (2) require the defendant to list all persons the defendant wishes to contact and their telephone numbers. A copy of this form must be placed in the case file. G.S. 20-38.4(a)(4).

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name And Address

REVOCATION ORDER
WHEN PERSON PRESENT

G.S. 20-16.5

FINDINGS FOR PROBABLE CAUSE

The undersigned judicial official finds probable cause to believe that:

- 1. A law enforcement officer had reasonable grounds to believe that the above-named person committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
2. The above-named person has been charged with that offense as provided in G.S. 20-16.2(a);
3. Both the law enforcement officer and the chemical analyst(s) complied with the provisions of G.S. 20-16.2 and 20-139.1 in requiring the above-named person's submission to or procuring a chemical analysis; and
4. The above-named person:
a. willfully refused to submit to a chemical analysis.
b. had an alcohol concentration of 0.08 or more at any relevant time after the driving.
c. had an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle.
d. had any alcohol concentration at any relevant time after the driving, and at the time of the offense, was under 21 years of age.
5. The above-named person has one or more pending offenses in the following county(ies) for which the person's drivers license had been or is revoked under G.S. 20-16.5.

ORDER

It is ORDERED that the above-named person's drivers license or privilege to drive be revoked. The above-named person is prohibited from operating a motor vehicle on the highways of North Carolina during the period of revocation. The revocation remains in effect at least thirty (30) days from:

- 1. this date
2. the date he/she surrenders his/her drivers license or privilege to drive to the Court, or demonstrates that he/she is not currently licensed to drive.
3. (check this option if Findings For Probable Cause No. 5 above is checked) the date he/she surrenders his/her drivers license or privilege to drive to the Court, or demonstrates that he/she is not currently licensed to drive and indefinitely until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license or privilege to drive had been or is revoked under G.S. 20-16.5.

The above-named person's privilege to drive in North Carolina is revoked and will remain revoked until the person has actually surrendered his/her license for the period specified above and has paid a \$100 fee to the Clerk of Superior Court.

I informed the above-named person of his/her rights to a hearing and gave him/her a copy of this Order.

Date Name Of Judicial Official (Type Or Print) Signature Of Judicial Official

NOTE: See reverse for supplemental findings and order, and for disposition of license.

- Judge Magistrate Deputy CSC
Assistant CSC Clerk Of Superior Court

NOTICE

If at the time of this Order you have only a temporary driving certificate, you must surrender the certificate, and then you also must surrender your license card immediately when you later receive it in the mail from DMV.
If at the time of this Revocation you were not licensed to drive by the North Carolina Division of Motor Vehicles and did not have a valid drivers license from another state, an additional \$50 restoration fee must be paid to the Division of Motor Vehicles before you can drive again in North Carolina. This fee must be paid even though you are a resident of another state.
You have a right to a hearing to contest the validity of this Revocation before a magistrate or judge. To do so, a written request must be made within ten (10) days of the effective date of the revocation. A hearing request form is available from the office of the Clerk of Superior Court or magistrate. Your license will remain revoked and you are not authorized to drive pending the hearing. If you do request a hearing but fail to appear, you forfeit the right to a hearing.
If your license is revoked under Paragraph 1 or 2 of this Order, at the end of the revocation period you are still prohibited from driving until you have paid a fee of \$100 to the Clerk of Superior Court.
If your license is revoked under Paragraph 3 of this Order, that revocation remains in effect at least thirty (30) days and until a final judgment, including appeals, is entered for this current offense and for all pending offenses for which your license has been or is revoked under G.S. 20-16.5. At the end of the revocation period you are still prohibited from driving until you have paid a fee of \$100 to the Clerk of Superior Court. This fee is in addition to any fee you have paid or are to pay in connection with any other pending offense for which your drivers license has been revoked under G.S. 20-16.5.
The \$100 fee may be paid at any time, even prior to the end of the period of revocation, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Payment in person must be made in cash or by certified check, cashier's check or money order. Payment by mail must be made by certified check, cashier's check or money order, payable to the Clerk of Superior Court. If you wish to have your drivers license returned to you by mail, please enclose a stamped, self-addressed envelope with your payment.
IT IS UNLAWFUL FOR YOU TO DRIVE A MOTOR VEHICLE IN THE STATE OF NORTH CAROLINA UNTIL YOU ARE AUTHORIZED TO DO SO. THE DIVISION OF MOTOR VEHICLES MAY ALSO DISQUALIFY YOU FROM OPERATING A COMMERCIAL MOTOR VEHICLE UNDER G.S. 20-17.4.

**SUPPLEMENTAL FINDINGS AND ORDER**

It is further found that the person named herein appeared before the undersigned judicial official at \_\_\_\_\_  AM  PM on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and,

- 1. surrendered his/her drivers license to the Court.
- 2. was validly licensed but unable to locate his/her license card and filed an affidavit which constituted surrender of the drivers license.
- 3. demonstrated he/she was not currently authorized to drive in North Carolina.

It is ORDERED that this Revocation of the drivers license of the person named herein:

- 1. remains in effect for at least thirty (30) days from the above date and until payment of a \$100 fee has been made to the Clerk of Superior Court.
- 2. (check this option if Findings For Probable Cause No. 5 on reverse side is checked) is indefinite and remains in effect for at least thirty (30) days from the above date and until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5, and until payment of a \$100 fee to the Clerk of Superior Court.

Date	Signature Of Judicial Official
Name Of Judicial Official (Type Or Print)	<input type="checkbox"/> Judge <input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

It is further found that a Pick-Up Order was issued for the license of the person named herein, and the person on the \_\_\_\_\_ day of \_\_\_\_\_:

- 1. surrendered his/her license to the officer serving the Pick-Up Order.
- 2. demonstrated to the officer serving the Pick-Up Order that he/she was not currently authorized to drive in North Carolina.

It is ORDERED that this Revocation:

- 1. remains in effect for at least thirty (30) days from the above date and until payment of a \$100 fee to the Clerk of Superior Court.
- 2. (check this option if Findings For Probable Cause No. 5 on reverse side is checked) is indefinite and remains in effect for at least thirty (30) days from the above date and until a final judgment, including appeals, has been entered for the current offense and for all pending offenses for which his/her drivers license had been or is revoked under G.S. 20-16.5, and until payment of a \$100 fee to the Clerk of Superior Court.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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**DISPOSITION OF LICENSE OR PRIVILEGE**

- 1. Drivers license of person named herein returned to him/her, and receipt by him/her is acknowledged below.
- 2. At the licensee's request, license returned to him/her by mail. License mailed on the date shown below.
- 3. License mailed to Division of Motor Vehicles on date shown below, since the person named herein is not eligible to use the license for the following reason:
  
- 4. Limited driving privilege withheld and record forwarded to \_\_\_\_\_ County.
- 5. Other: \_\_\_\_\_

Date	Signature
Date License Mailed	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

**ACKNOWLEDGMENT OF RECEIPT**

I acknowledge receipt of my license.

Date	Signature Of Licensee
Date \$100 Fee Paid	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

CONDITIONS OF RELEASE AND RELEASE ORDER

Name And Address Of Defendant

# G.S. Chapter 15A, Art. 25, 26
Amount Of Bond \$

Offenses And Additional File Numbers

See Attachment

Location Of Court

District Superior Date Time AM PM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear.

The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel and friends. Your release is authorized upon execution of your: WRITTEN PROMISE to appear UNSECURED BOND in the amount shown above CUSTODY RELEASE SECURED BOND in the amount shown above HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) and the SECURED BOND above.

- Your release is not authorized.
The defendant is required to provide (check all that apply) fingerprints under G.S. 15A-502, a DNA sample under G.S. 15A-266.3A.
The defendant has been (i) charged with a felony while on probation (complete AOC-CR-272, Side One), (ii) arrested for violation of probation with a pending felony charge or prior conviction requiring registration under G.S. 14, Article 27A (complete AOC-CR-272, Side Two).
This Order is entered upon defendant's warrantless arrest for violation of conditions of release entered previously for the above-captioned case in the Order dated.
The defendant was arrested or surrendered after failing to appear as required under a prior release order.
This was the defendant's second or subsequent failure to appear in this case.
Your release is subject to the conditions as shown on the attached AOC-CR-270. Other:

Additional Information

Date Signature Of Judicial Official Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court District Court Judge Superior Court Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to: produce him/her in Court as provided above. hold him/her as provided on the attached AOC-CR-272. for the following purpose:

[Check in all domestic violence and stalking cases covered by G.S. 15A-534.1(b)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) AM PM produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility Date Signature Of Judicial Official

WRITTEN PROMISE TO APPEAR OR CUSTODY RELEASE

I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above. I understand and agree that this promise is effective until the entry of judgment in the District Court from which no appeal is taken or until the entry of judgment in Superior Court. If I am released to the custody of another person, I agree to be placed in that person's custody, and that person agrees by his/her signature to supervise me.

Date Signature Of Defendant Signature Of Person Agreeing To Supervise Defendant

Name Of Person Agreeing to Supervise Defendant (type or print) Address Of Person Agreeing To Supervise Defendant

DEFENDANT RELEASED ON BAIL

Date Time AM PM Signature Of Jailer



STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

IMPAIRED DRIVING
DETERMINATION OF SENTENCING FACTORS
(For Offenses Committed On Or After Dec. 1, 2011)

Name Of Defendant

G.S. 20-179

- District Court: Based upon the evidence presented at the trial and sentencing hearing in District Court, the Court determines that (1) the State has proved the grossly aggravating factors and aggravating factors marked below beyond a reasonable doubt and (2) the defendant has proved the mitigating factors marked below by a preponderance of the evidence.
Superior Court: Based upon the evidence presented at the trial and sentencing hearing in Superior Court, (1) the jury has determined that the State has proved the grossly aggravating factors and aggravating factors marked below beyond a reasonable doubt, or the defendant has admitted to these grossly aggravating factors and aggravating factors, and (2) the Court determines that the defendant has proved the mitigating factors marked below by a preponderance of the evidence.

I. GROSSLY AGGRAVATING FACTORS - G.S. 20-179(c)

(NOTE: Either Nos. 1 and 2 or No. 3 apply in each case except aiders and abettors. If No. 1 is checked, No. 2.a., 2.b., or 2.c. must also be checked.)

- 1. The defendant
a. has been convicted of a prior offense involving impaired driving which conviction occurred within seven (7) years before the date of this offense.
b. has two three or more convictions as described in No. 1.a.
c. has been convicted of an offense involving impaired driving which conviction occurred after the date of the offense for which the defendant is being sentenced but before or contemporaneously with the sentencing in this case.
d. has two three or more convictions as described in No. 1.c.
e. has a prior conviction in District Court for an offense involving impaired driving, the conviction was appealed to Superior Court, the appeal has been withdrawn or the case has been remanded back to District Court, and a new sentencing hearing for the case has not been held pursuant to G.S. 20-38.7.
f. has two three or more convictions as described in No.1.e.
g. drove, at the time of the current offense, while the defendant's drivers license was revoked (use for offenses committed prior to December 1, 2015) under G.S. 20-28 and the revocation was an impaired driving revocation under G.S. 20-28.2(a).
h. caused, by the defendant's impaired driving at the time of the current offense, serious injury to another person.
i. drove, at the time of the current offense, while a child under the age of 18 years was in the vehicle.
j. drove, at the time of the current offense, while a person with the mental development of a child under the age of 18 years was in the vehicle.
k. drove, at the time of the current offense, while a person with a physical disability preventing unaided exit from the vehicle was in the vehicle.
2. Therefore, the following level of punishment shall be imposed:
a. Aggravated Level One punishment, because three or more grossly aggravating factors in No. 1 apply to this defendant.
b. Level One punishment, because
c. Level Two punishment, because only one grossly aggravating factor in No. 1 (other than grossly aggravating factor No. 1.i., 1.j., or 1.k.) applies to this defendant.
3. There are no grossly aggravating factors.

II. AGGRAVATING AND MITIGATING FACTORS - G.S. 20-179(d) AND (e)

AGGRAVATING FACTORS - G.S. 20-179(d):

(NOTE: Except for the factors in subdivisions 8 and 9 below, the conduct constituting the aggravating factor must occur during the same transaction or occurrence as this impaired driving offense.)

- 1. The defendant's faculties were grossly impaired at the time the defendant was driving.
2. The defendant had an alcohol concentration of at least 0.15 within a relevant time after the driving.
3. The driving of the defendant was especially reckless.
4. The driving of the defendant was especially dangerous.
5. The negligent driving of the defendant led to an accident causing property damage of \$1,000.00 or more, or property damage of any amount to a vehicle seized pursuant to G.S. 20-28.3.
6. The negligent driving of the defendant led to an accident causing personal injury.
7. The defendant was driving while the defendant's drivers license was revoked.

Original - File

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(Over)

ATTACHMENT 10

- 8. The defendant had at least two prior convictions of a motor vehicle offense not involving impaired driving, which occurred within five (5) years of this offense, and
    - a. all were offenses for which at least three (3) points were assigned under G.S. 20-16.
    - b. all were offenses for which the defendant's drivers license was subject to revocation.
    - c. at least one was an offense for which at least three (3) points were assigned under G.S. 20-16 and at least one was an offense for which the defendant's drivers license was subject to revocation.
  - 9. The defendant had at least one prior conviction of an offense involving impaired driving that occurred more than seven (7) years before the date of this offense.
  - 10. The defendant has been convicted under G.S. 20-141.5 of speeding while fleeing or attempting to elude apprehension.
  - 11. The defendant has been convicted under G.S. 20-141 of speeding by at least 30 m.p.h. over the legal limit.
  - 12. The defendant passed a stopped school bus in violation of G.S. 20-217.
  - 13. Additional factors that aggravate the seriousness of this offense:
14. There are no aggravating factors.

**MITIGATING FACTORS - G.S. 20-179(e):**

**NOTE:** Except for the factors in subdivisions 4, 6, 6A, and 7 below, the conduct constituting the mitigating factor must occur during the same transaction or occurrence as this impaired driving offense.

- 1. There was a slight impairment of the defendant's faculties resulting solely from alcohol; and, the defendant's alcohol concentration did not exceed 0.09 at any relevant time after the driving.
  - 2. There was a slight impairment of the defendant's faculties resulting solely from alcohol; and, no chemical test was made available to the defendant.
  - 3. The driving of the defendant was safe and lawful except for the impairment of the defendant's faculties.
  - 4. The defendant has a safe driving record, having no convictions of any motor vehicle offense for which at least four points are assigned under G.S. 20-16 or for which the defendant's license is subject to revocation within five (5) years of the date of this offense.
  - 5. The impairment of the defendant's faculties was caused primarily by a lawfully prescribed drug for an existing medical condition, and the amount of the medical drug taken was within the prescribed dosage.
  - 6. After being charged in this case with impaired driving, the defendant voluntarily submitted himself/herself to a mental health facility for assessment and has voluntarily participated in any treatment recommended by such facility, if such treatment was recommended.
  - 6a. The defendant completed a substance abuse assessment, complied with its recommendations, and simultaneously maintained 60 days of continuous abstinence from alcohol consumption, as proven by a continuous alcohol monitoring system of a type approved by the Division of Adult Correction.
  - 7. Additional factors that mitigate the seriousness of this offense:
8. There are no mitigating factors.

**DETERMINATION - G.S. 20-179(f):**

(NOTE: Check only one.)

- 1. The aggravating factors marked above substantially outweigh any mitigating factors marked above. Therefore, Level Three punishment shall be imposed.
- 2. There are no aggravating or mitigating factors. Therefore, Level Four punishment shall be imposed.
- 3. The aggravating factors marked above are substantially counterbalanced by the mitigating factors marked above. Therefore, Level Four punishment shall be imposed.
- 4. The mitigating factors marked above substantially outweigh any aggravating factors marked above. Therefore, Level Five punishment shall be imposed.
- 5. No findings of mitigating or aggravating factors were made because the defendant is an aider and abettor. Therefore, Level Five punishment shall be imposed.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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County

In The General Court Of Justice  
Superior Court Division

## STATE VERSUS

Name Of Defendant

NOTICE OF GROSSLY AGGRAVATING AND  
AGGRAVATING FACTORS (DWI)

(For Offenses Committed On Or After DEC. 1, 2011)

G.S. 20-179

Pursuant to G.S. 20-179(a1), the defendant is hereby notified that the State of North Carolina intends to prove the existence of grossly aggravating and aggravating factors under G.S. 20-179(c) and (d), as indicated below.

## GROSSLY AGGRAVATING FACTORS - G.S. 20-179(c)

1. The State intends to prove that the defendant
- a. has been convicted of a prior offense involving impaired driving which conviction occurred within seven (7) years before the date of this offense.
  - b. has  two  three or more convictions as described in No. 1.a.
  - c. has been convicted of an offense involving impaired driving which conviction occurred after the date of the offense for which the defendant is being sentenced but before or contemporaneously with the sentencing in this case.
  - d. has  two  three or more convictions as described in No. 1.c.
  - e. has a prior conviction in District Court for an offense involving impaired driving, the conviction was appealed to Superior Court, the appeal has been withdrawn or the case has been remanded back to District Court, and a new sentencing hearing for the case has not been held pursuant to G.S. 20-38.7.
  - f. has  two  three or more convictions as described in No. 1.e.
  - g. drove, at the time of the current offense, while the defendant's drivers license was revoked  (use for offenses committed prior to December 1, 2015) under G.S. 20-28 and the revocation was an impaired driving revocation under G.S. 20-28.2(a).  
 (use for offenses committed on or after December 1, 2015) pursuant to G.S. 20-28(a1).
  - h. caused, by the defendant's impaired driving at the time of the current offense, serious injury to another person.
  - i. drove, at the time of the current offense, while a child under the age of 18 years was in the vehicle.
  - j. drove, at the time of the current offense, while a person with the mental development of a child under the age of 18 years was in the vehicle.
  - k. drove, at the time of the current offense, while a person with a physical disability preventing unaided exit from the vehicle was in the vehicle.
2. The State does not intend to prove any grossly aggravating factors.

## AGGRAVATING FACTORS - G.S. 20-179(d)

1. The State intends to prove the following:
- a. The defendant's faculties were grossly impaired at the time the defendant was driving.
  - b. The defendant had an alcohol concentration of at least 0.15 within a relevant time after the driving.
  - c. The driving of the defendant was especially reckless.
  - d. The driving of the defendant was especially dangerous.
  - e. The negligent driving of the defendant led to an accident causing property damage of \$1,000.00 or more, or property damage of any amount to a vehicle seized pursuant to G.S. 20-28.3.
  - f. The negligent driving of the defendant led to an accident causing personal injury.
  - g. The defendant was driving while the defendant's drivers license was revoked.
  - h. The defendant had at least two prior convictions of a motor vehicle offense not involving impaired driving, which occurred within five (5) years of this offense, and
    - 1. all were offenses for which at least three (3) points were assigned under G.S. 20-16.
    - 2. all were offenses for which the defendant's drivers license was subject to revocation.
    - 3. at least one was an offense for which at least three (3) points were assigned under G.S. 20-16 and at least one was an offense for which the defendant's drivers license was subject to revocation.
  - i. The defendant had at least one prior conviction of an offense involving impaired driving that occurred more than seven (7) years before the date of this offense.
  - j. The defendant has been convicted under G.S. 20-141.5 of speeding while fleeing or attempting to elude apprehension.
  - k. The defendant has been convicted under G.S. 20-141 of speeding by at least 30 m.p.h. over the legal limit.
  - l. The defendant passed a stopped school bus in violation of G.S. 20-217.
  - m. Additional factors that aggravate the seriousness of this offense:
2. The State does not intend to prove any aggravating factors.

**SIGNATURE OF PROSECUTOR**

Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
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**CERTIFICATE OF SERVICE**

I certify that a copy of this notice was served by:

- delivering a copy personally to the  defendant's attorney.  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  defendant at the address shown below.

Address

--------------

- leaving a copy at the office of the defendant's attorney with a partner or employee.

Name And Title Of Person With Whom Copy Left

----------

- Other: \_\_\_\_\_

Date Served	Signature Of Person Serving	Title
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**ACCEPTANCE OF SERVICE**

- Service accepted by:  defendant's attorney.  defendant.

Date Service Accepted	Signature Of Person Accepting Service
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STATE OF NORTH CAROLINA

File No.

County Seat of Court

(NOTE: Except in cases involving a violation of both G.S. 20-138.1 and 138.2, this form should be used for only one DWI conviction, and no other offense should be consolidated for judgment with the DWI offense.)

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

IMPAIRED DRIVING - JUDGMENT
SUSPENDING SENTENCE
(For Offenses Committed On Or After Dec. 1, 2011)

Name Of Defendant

Race Sex Drivers License No. State Date Of Birth

COMMITMENT ON SPECIAL PROBATION

G.S. 20-179

Date Of Offense Attorney For State Def. Found Not Indigent Def. Waived Attorney Attorney For Defendant Appointed Retained Cr Rptr Initials

Offense Impaired Driving (G.S. 20-138.1) Impaired Driving in a commercial vehicle (G.S. 20-138.2) Operating a commercial vehicle after consuming alcohol and this was the defendant's second or subsequent conviction of this offense (G.S. 20-138.2A) Operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol and this was the defendant's second or subsequent conviction of this offense (G.S. 20-138.2B).

The defendant pled guilty (pursuant to Alford) to was found guilty by the Court of was found guilty by a jury of pled no contest to the offense specified above. The Court, based upon the determinations shown on the attached Determination of Sentencing Factors form (AOC-CR-311, Rev. 12/15), has imposed the following punishment level.

Aggravated Level One. Level One. Level Two. Level Three. Level Four. Level Five.

The Court, having considered evidence, arguments of counsel and statement of defendant, ORDERS that defendant be imprisoned

for a minimum term of for a maximum term of in the custody of the Misdemeanant Confinement Program.

This sentence shall run at the expiration of sentence imposed in file number

The defendant shall be given credit for days spent in confinement prior to the date of this Judgment as a result of this charge and as an inpatient at a facility operated or licensed by the State for the treatment of alcoholism or substance abuse after the commission of the above offense. Credit shall be applied against the minimum and maximum terms above. imprisonment for special probation below. (NOTE: No credit may be given for the first 24 hours spent in confinement.)

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on unsupervised probation for months. supervised probation for months, the Court having received evidence and having found as a fact that supervision is necessary.

SPECIAL PROBATION - G.S. 15A-1351

As a condition of special probation, the defendant shall serve an active term of days months hours, in the custody of the N.C. DAC. Sheriff of this County. pay jail fees.

(NOTE: This term shall NOT be reduced by good time, gain time or parole, or, unless provided above, by jail or treatment time.)

(NOTE: Special probation imposed in sentences under G.S. 20-179 on or after Jan. 1, 2015, may not be served in DAC.)

The defendant shall report in a sober condition to begin serving this term on: Day Date Hour AM PM and shall remain in custody until: Day Date Hour AM PM

The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next consecutive weeks, and shall remain in custody during the same hours each week.

The defendant shall serve the active term above as an inpatient in (Name treatment facility) and shall follow the rules of that facility until discharged and not leave its premises except as authorized under those rules.

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, pursuant to a schedule determined by the probation officer. set out by the court as follows:

Table with columns: Costs, Fine, Restitution\*, Attorney's Fees, Community Service Fee, EHA Fee/CAM Fee, Appt Fee/Misc, Total Amount Due

NOTE: In addition to all other costs, G.S. 7A-304(a)(10) requires a fee of \$100.00 for a conviction of any of the four offenses sentenced on this form.

\*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.

The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other: Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation.

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342.

The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court.

If the defendant is on supervised probation, the defendant shall also: (5) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (6) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (7) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (8) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (9) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be

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required to submit to any other search that would otherwise be unlawful. (10) Submit to warrantless searches by a law enforcement officer of the defendant's person and of the defendant's vehicle, upon a reasonable suspicion that the defendant is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. (11) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used. (12) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction for the actual costs of drugs or alcohol screening and testing. If the defendant is to serve an active sentence as a condition of special probation, the defendant shall also: (13) Obey the rules and regulations of the Division of Adult Correction governing the conduct of inmates while imprisoned. (14) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

**SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1); 20-179**

- 15. Obtain a substance abuse assessment and all recommended education or treatment.
- 16. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles; and not operate a motor vehicle until the defendant's driving privilege is restored by that Division, except as may be permitted in a limited privilege.
- 17. Complete \_\_\_\_\_ hours of community service during the first \_\_\_\_\_ days of the period of probation, as directed by the judicial service coordinator. The fee prescribed by G.S. 143B-708 is
  - not due because it is assessed in a case adjudicated during the same term of court.
  - to be paid  pursuant to the schedule set out under Monetary Conditions above  within \_\_\_\_\_ days of this Judgment and before beginning service.
- 18. Abstain from alcohol consumption for \_\_\_\_\_  days,  months, as verified by a continuous alcohol monitoring (CAM) system.
  - a. (offenses committed prior to December 1, 2012, only) The defendant shall pay to the Clerk the fees associated with the system.
  - b. (offenses committed on or after December 1, 2012) The fees for the system shall be paid directly to the monitoring provider by  the defendant.  \_\_\_\_\_, the local government entity responsible for the defendant's incarceration in the local confinement facility, upon the Court's finding, for good cause shown, that the defendant should not be required to pay the fees and the local government's agreement to pay them.
  - c. (Levels 1 and 2, only, for offenses committed on or after December 1, 2012) The defendant shall be given credit against this period of abstinence and monitoring for (maximum of 60) \_\_\_\_\_ days spent on CAM prior to trial.
- 19. Other:
- 20. Comply with the Additional Conditions of Probation which are set forth on AOC-CR-603C, Page Two, attached.

[Check any that apply - G.S. 20-179(r)]

- The probation officer may transfer the defendant to unsupervised probation upon completion of  the community service required by Special Condition No. 17 above.  payment of all fines, costs and fees required above.

**SPECIAL ALCOHOL CONCENTRATION FINDING**

- The defendant's alcohol concentration was 0.15 or greater.  Other: \_\_\_\_\_.

**ORDER OF COMMITMENT/APEAL ENTRIES**

- 1. It is ORDERED that the Clerk deliver **two** certified copies of this Commitment on Special Probation to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows: \_\_\_\_\_  
**NOTE: Withdrawal of appeal or remand to District Court requires that a new sentencing hearing be scheduled in District Court, unless certain conditions are met. G.S. 20-38.7(c).**
- 3. The defendant gives notice of appeal from the judgment of the Superior Court to the appellate division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

**SIGNATURE OF JUDGE**

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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**CERTIFICATION**

I certify that this Judgment and the attachment(s) marked below are true and complete copies of the originals.

- 1. Determination Of Sentencing Factors (AOC-CR-311, Rev. 12/15)
- 2. Judgment Suspending Sentence (AOC-CR-603C, Page Two) (additional conditions of probation)
- 3. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- 4. Other: \_\_\_\_\_

Date	Date Certified Copies Delivered To Sheriff	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court
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**SEAL**

**NOTE TO CLERK: If the defendant's conviction is based on a violation of an offense involving impaired driving while the defendant's drivers license is revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2, report DWI Defendant Registration Stop to DMV using menu item #9 in STARS. Also report the defendant's conviction to DMV in the usual manner. If there is a non-defendant vehicle owner, report registration stop to DMV using menu item #10 in STARS (unless the owner has been found to be an innocent owner).**

Material opposite unmarked squares is to be disregarded as surplusage.

STATE VERSUS

File No.

Name Of Defendant

NOTE: Use this page with AOC-CR-310C, "Impaired Driving - Judgment Suspending Sentence"; AOC-CR-603C, "Judgment Suspending Sentence - Felony"; AOC-CR-604C, "Judgment Suspending Sentence - Misdemeanor"; AOC-CR-619C, "Conditional Discharge Under G.S. 90-96(a)"; AOC-CR-621C, "Conditional Discharge Under G.S. 14-50.29"; AOC-CR-627C, "Conditional Discharge Under G.S. 90-96(a1)"; AOC-CR-628, "Conditional Discharge Under G.S. 14-204(b)"; AOC-CR-632C, "Conditional Discharge Under G.S. 15A-1341(a4)"; or AOC-CR-633C, "Conditional Discharge Under G.S. 15A-1341(a5)"; for offenses committed on or after Dec. 1, 2011.

COMMUNITY AND INTERMEDIATE PROBATION CONDITIONS - G.S. 15A-1343(a1)

NOTE: The conditions in this section may not be imposed for defendants placed on probation for a sentence under G.S. 20-179. In addition to complying with the regular and any special conditions of probation set forth in the "Judgment Suspending Sentence" entered in the above case(s), the defendant shall also comply with the following conditions of probation, which may be imposed for any community or intermediate punishment.
1. Submit to house arrest with electronic monitoring, remain at the defendant's residence for a period of \_\_\_ days, \_\_\_ months, abide by all rules, regulations, and directions of the probation officer regarding such monitoring, and pay the fees prescribed in G.S. 15A-1343(c) as provided under Monetary Conditions. The defendant may leave the residence for the following purpose(s) and as otherwise permitted by the probation officer:
\_\_\_ employment \_\_\_ counseling \_\_\_ a course of study \_\_\_ vocational training.
Other: \_\_\_\_\_

2. Complete \_\_\_ hours of community service during the first \_\_\_ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is
\_\_\_ not due because it is assessed in a case adjudicated during the same term of court.
\_\_\_ to be paid \_\_\_ pursuant to the schedule set out under Monetary Conditions in the "Judgment Suspending Sentence." \_\_\_ within \_\_\_ days of this Judgment and before beginning service.
Other: \_\_\_\_\_

3. Submit to the following period(s) of confinement in the custody of the \_\_\_ Sheriff of this County. \_\_\_ (other local confinement facility). \_\_\_ and pay jail fees. The defendant shall report in a sober condition to serve the term(s) indicated below.
NOTE: Periods of confinement imposed here must be for two-day or three-day consecutive periods, only, for no more than six days in a single month, and in no more than three separate months during the period of probation. To impose special probation under G.S. 15A-1351, see INTERMEDIATE PUNISHMENTS, below.

Table with 3 columns: Date, Hour, AM/PM, for, 2/3 days. Each cell contains a form for specifying confinement periods.

- 4. Obtain a substance abuse assessment, monitoring, or treatment as follows:
5. (for offenses committed on or after December 1, 2012) Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of \_\_\_ days, \_\_\_ months, the Court having found that a substance abuse assessment has identified defendant's alcohol dependency or chronic abuse.
6. Participate in an educational or vocational skills development program as follows:
7. Submit to satellite-based monitoring, if required on the attached AOC-CR-615, Side Two.

INTERMEDIATE PUNISHMENTS

In addition to complying with the regular and any special, community, or intermediate conditions of probation set forth in the "Judgment Suspending Sentence" or herein for the above case(s), the defendant shall also comply with the following intermediate punishment(s) under G.S. 15A-1340.11(6).

1. Special Probation - G.S. 15A-1351
For the defendant's active sentence as a condition of special probation, the defendant shall comply with these additional regular conditions of probation: (1) Obey the rules and regulations of the Division of Adult Correction governing the conduct of inmates while imprisoned. (2) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.
A. Serve an active term of \_\_\_ days \_\_\_ months \_\_\_ hours in the custody of the
\_\_\_ N.C. DAC. \_\_\_ Sheriff of this County. \_\_\_ Other: \_\_\_\_\_
NOTE: Noncontinuous periods of special probation may not be served in DAC. Also, special probation imposed in misdemeanor sentences on or after Oct. 1, 2014, and in sentences under G.S. 20-179 on or after Jan. 1, 2015, may not be served in DAC.
B. The defendant shall report in a sober condition to begin serving his/her term on:
Day Date Hour AM/PM and shall remain in custody until: Day Date Hour AM/PM
C. The defendant shall again report in a sober condition to continue serving this term on the same day of the week for the next \_\_\_ consecutive weeks, and shall remain in custody during the same hours each week until completion of the active sentence ordered.
D. This sentence shall be served at the direction of the probation officer within \_\_\_ days \_\_\_ months of this judgment.
E. Pay jail fees. F. Work release is recommended. G. Substance abuse treatment is recommended.
H. Other: \_\_\_\_\_

2. Drug Treatment Court - G.S. 15A-1340.11(3a); 15A-1340.11(6)
Comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and report on a regular basis for a specified time to participate in court supervision, drug screening or testing, and drug or alcohol treatment programs.
Other: \_\_\_\_\_

INTERMEDIATE CONDITIONS OF PROBATIONS - G.S. 15A-1343(b4)

If subject to intermediate punishment, the defendant shall, in addition to the terms and conditions imposed above, comply with the following intermediate conditions of probation. (1) If required by the defendant's probation officer, perform community service under the supervision of the Section of Community Corrections, and pay the fee required by G.S. 143B-708, but no fee shall be due if the Court imposed community service as a special condition of probation and assessed the fee in this judgment or any judgment for an offense adjudicated in the same term of court. (2) Not use, possess, or control alcohol. (3) Remain within the defendant's county of residence unless granted written permission to leave by the court or the defendant's probation officer. (4) Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments by abiding by the rules, regulations, and direction of each program.

**MANDATORY SPECIAL CONDITIONS FOR SEX OFFENDERS AND PERSONS CONVICTED OF OFFENSES INVOLVING PHYSICAL, MENTAL, OR SEXUAL ABUSE OF A MINOR - G.S. 15A-1343(b2)**

**NOTE:** The following are not defined as intermediate punishments under G.S. 15A-1340.11(6).

**NOTE:** Select only one of the three sets of conditions below.

**1. Special Conditions For Reportable Convictions - G.S. 15A-1343(b2)**

**NOTE:** Impose only for a reportable conviction under G.S. 14-208.6.

The defendant has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4) and must

- a. Register as a sex offender and enroll in satellite-based monitoring if required on the attached AOC-CR-615, Side Two.
- b. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- c. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- d. (if the Court finds physical, mental, or sexual abuse of a minor) Not reside in a household with
  - (1) (for sexual abuse) any minor child.
  - (2) (for physical or mental abuse) any minor child  other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household): \_\_\_\_\_
- e. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:  child pornography
- f. Other: \_\_\_\_\_

**2. Special Conditions For Offenses Involving The Sexual Abuse Of A Minor - G.S. 15A-1343(b2)**

**NOTE:** Impose if offense involved sexual abuse of a minor but is **not** a reportable conviction.

The defendant has been convicted of an offense involving the sexual abuse of a minor and must

- a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- c. Not reside in a household with any minor child. (G.S. 15A-1343(b2)(4))
- d. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:  child pornography
- e. Other: \_\_\_\_\_

**3. Special Conditions For Offenses Involving The Physical Or Mental Abuse Of A Minor - G.S. 15A-1343(b2)**

**NOTE:** Impose if offense involved physical or mental abuse of a minor but is **not** a reportable conviction and did **not** involve sexual abuse.

The defendant has been convicted of an offense involving the physical or mental abuse of a minor and must

- a. Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- b. Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- c. Not reside in a household with
  - (1) any minor child.
  - (2) any minor child other than the child(ren) named below, for whom the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the best interest of the child(ren) named below to reside in the same household with the probationer. (Name minor child(ren) with whom the probationer may reside in the same household): \_\_\_\_\_
- d. Submit at reasonable times to warrantless searches by a probation officer of the defendant's person, of the defendant's vehicle and premises, and of the defendant's computer or other electronic mechanism which may contain electronic data, while the defendant is present, for the following purposes which are reasonably related to the defendant's probation supervision:  child pornography
- e. Other: \_\_\_\_\_

**ADDITIONAL CONDITIONS FOR DOMESTIC VIOLENCE**

- 1. Pursuant to its finding that the defendant is responsible for acts of domestic violence, the Court further finds that:
  - a. there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, who shall:
    - (1) (for supervised probation) attend and complete (check one)  (program name) \_\_\_\_\_ a program to be identified by the probation officer, and abide by the program's rules. The probation officer shall send a copy of this judgment to the program, which shall notify the officer if the defendant fails to participate or is discharged for violating any of its rules.
    - (2) (for unsupervised probation) attend and complete (check one)  (program name) \_\_\_\_\_ a program chosen by the defendant, who shall notify the probation officer and the district attorney of that choice within ten (10) days of the entry of this judgment, and abide by the program's rules. The district attorney shall send a copy of this judgment to the program, which shall notify the district attorney if the defendant fails to participate or is discharged for failure to comply with the program or its rules.
  - b. there is no approved abuser treatment program reasonably available.  c. it would not be in the best interests of justice to order the defendant to complete an abuser treatment program because \_\_\_\_\_
- 2. As additional Special Conditions of Probation, the defendant shall:
  - a. not come within \_\_\_\_\_ feet of \_\_\_\_\_ at any time.
  - b. comply fully with any G.S. Chapter 50B Domestic Violence Protective Order in effect.

The above conditions are incorporated in the "Judgment Suspending Sentence" in the above case(s) and made a part thereof.

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
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Material opposite unmarked squares is to be disregarded as surplusage.

# STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
District Court Division

\_\_\_\_\_ County

## IN THE MATTER OF:

Name And Address Of Applicant

### LIMITED DRIVING PRIVILEGE PRETRIAL REVOCATION (IMPLIED-CONSENT OFFENSE)

G.S. 20-16.5

Race	Sex	Height	Weight		
Hair Color	Eye Color	Date Of Birth	Drivers License No.	State	
Date Of Offense			Date Of Revocation If Different From Offense Date		

**NOTE:** Use this form only for revocations under G.S. 20-16.5.

### FINDINGS

Upon application of the defendant for a limited driving privilege, the Court finds that:

- The defendant's license is currently revoked under G.S. 20-16.5.
- At the time of the alleged offense, the applicant held either a valid drivers license or a license that had been expired for less than one year.
- On (name date) \_\_\_\_\_, the applicant  
 surrendered his/her license as defined in 20-16.5(a)(5).  
**OR**  
 demonstrated that he/she was not currently licensed at the time of the offense.
- The applicant does not have any unresolved pending charges involving impaired driving except for the charge which led to this current revocation under G.S. 20-16.5.
- The applicant has not had any convictions for an offense involving impaired driving since being charged for the violation for which the license is currently revoked under G.S. 20-16.5.
- The applicant's drivers license has been revoked for at least  ten (10) days and the minimum period of revocation is thirty (30) days.  thirty (30) days and the minimum period of revocation is forty-five (45) days.
- The applicant has obtained and filed with this Court a substance abuse assessment; and has registered for and agreed to participate in any recommended training or treatment program.
- The records of the Division of Motor Vehicles and the Clerk of Superior Court in this county have been searched and there are no other revocations in effect at this time.

### ORDER

It is ORDERED that the applicant be allowed a limited driving privilege to be effective on the date indicated below to be used in accordance with the restrictions imposed on the reverse side of this form, and to expire on the expiration date specified below. This limited driving privilege is conditioned upon the maintenance of any financial responsibility required by G.S. 20-179.3(l) during the period of this privilege.

Effective Date	Expiration Date	Date
		Signature Of District Court Judge
		Name Of District Court Judge (Type Or Print)

**RESTRICTIONS**

The driver shall not drink alcohol while driving or drive while any alcohol remains in his/her body. The driver shall not drive while having a controlled substance in his/her body unless such controlled substance was lawfully obtained and taken in therapeutically approved amounts. This limited driving privilege **DOES NOT** include the privilege of operating a commercial motor vehicle as defined in G.S. 20-4.01(3d). Driving when essential for emergency medical care is authorized at any time. Standard working hours are from 6 AM to 8 PM, Monday - Friday.

Driving, other than for emergency medical care, is permitted only as follows: *(check only applicable boxes)*

1. Driving is permitted for work-related, religious worship, or educational purposes during standard working hours as follows:

2. Driving is permitted for maintenance of household during standard working hours as follows:

3. Driving is permitted for work-related, religious worship, or educational purposes during nonstandard working hours as follows:

The driver is self employed and the required documentation for work-related driving is attached.

4. Driving is permitted for community service assignment, Alcohol and Drug Education Traffic School, and substance abuse treatment as follows:

5. Driving is restricted to:

a. any non-commercial vehicle registered in the name of the driver.

b. the following non-commercial vehicle(s): \_\_\_\_\_

The above vehicle shall be equipped with a functioning ignition interlock system of a type approved by the Commissioner of Motor Vehicles and the defendant shall personally activate the ignition interlock system before operating the vehicle. The driver may drive to and from any ignition interlock service facility for installation and service purposes.

6. Additional restrictions:  Corrective Lenses  45 M.P.H. Only  Daylight Only  Other:

*Name And Address Of ADET School, Community Service Coordinator, Or Mental Health Treatment Facility To Which Driver Assigned*

*Name And Address Of Employer Or Driver's Place Of Work*

**NOTICE/ACKNOWLEDGMENT OF RECEIPT**

I have received a copy of this limited driving privilege which contains the restrictions on my driving privilege. I understand that if I drive with the odor of alcohol on my breath, I may be subject to arrest and loss of this limited driving privilege; I understand that this is my limited license to drive; that I must keep it in my possession during the period of revocation; that if my drivers license is revoked for any other reason, this limited driving privilege is invalid; that a violation of any restriction imposed in connection with this limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28.

*Date*

*Signature Of Defendant*

**CERTIFICATION**

I certify that this is a true and complete copy of the original on file in this case.

*Date*

*Signature*

Deputy CSC  Assistant CSC  
 Clerk Of Superior Court



Eligibility requirements pursuant to G.S. 20-16.5(p) are as follows:

If drivers license was revoked for a thirty (30) or forty-five (45) day period:

1. At the time of the alleged offense the defendant held either a valid drivers license or a license that had been expired for less than one year;
2. The defendant does not have an unresolved pending charge involving impaired driving except the charge for which the license is currently revoked or additional convictions of an offense involving impaired driving since being charged for the violation for which the license is currently revoked under 20-16.5;
3. The defendant's license has been revoked for at least ten (10) days if the revocation is for thirty (30) days or thirty (30) days if the revocation is for forty-five (45) days; and
4. The defendant has obtained a substance abuse assessment from a mental health facility and registered for and agreed to participate in any recommended training or treatment program.

If drivers license was revoked indefinitely:

1. At the time of the alleged offense the defendant held either a valid drivers license or a license that had been expired for less than one year;
2. At the time of the alleged offense the defendant had not within the preceding seven (7) years been convicted of an offense involving impaired driving;
3. Subsequent to the alleged offense, the defendant has not been convicted of, or had an unresolved charge lodged against him/her for, an offense involving impaired driving;
4. The defendant must have completed either: (i) thirty (30) days of the period of license revocation for the current offense if the defendant was present when the license was revoked or if the defendant was not present but surrendered his/her license within five (5) working days after the effective date of the revocation order, or (ii) forty-five (45) days of the period of license revocation for the current offense if the defendant was not present when the license was revoked and did not surrender his/her license within five (5) working days of the effective date of the revocation order.
5. The defendant has obtained and filed with the court a substance abuse assessment conducted by one of the entities authorized by the Department of Health and Human Services to conduct assessments; and
6. A limited driving privilege is necessary to overcome undue hardship.

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

### LIMITED DRIVING PRIVILEGE IMPAIRED DRIVING OR OPEN CONTAINER OR UNDERAGE ALCOHOL VIOLATION (N.C. CONVICTIONS ONLY)

G.S. 20-17.3, 20-179.3, 20-138.3(d), 20-138.7(h)

Name And Address Of Defendant

Race Sex Height Weight

Hair Color Eye Color Date Of Birth Drivers License No. State

Date Of Offense Date Of Conviction

**NOTE:** Use AOC-CV-352 when defendant's license was revoked for a conviction in another state or in a federal court. Use AOC-CR-340 when imposing an ignition interlock restriction.

### FINDINGS

Upon application of the defendant for a limited driving privilege, the Court finds that:

1. The defendant has been convicted of impaired driving under  G.S. 20-138.1;  G.S. 20-138.2;  G.S. 20-138.3; or  the defendant has been convicted of a second or subsequent offense of transporting an open container of alcoholic beverage under G.S. 20-138.7(a); or  the defendant has been convicted under G.S. 18B-302(a1); or  the defendant has been convicted under G.S. 18B-302(c);
2. At the time of the offense, the applicant held either a valid drivers license or a license that had been expired for less than one (1) year;
3. At the time of the offense, the defendant had not within the preceding seven (7) years been convicted of an offense involving impaired driving;
4. Punishment level three, four, or five has been imposed upon the defendant for the offense of impaired driving, or the defendant has been convicted under G.S. 20-138.3, or the defendant has been convicted of a second or subsequent offense under G.S. 20-138.7(a), or the defendant has been convicted under G.S. 18B-302(a1), or the defendant has been convicted under G.S. 18B-302(c);
5. Subsequent to the offense, the defendant has not been convicted of, or had an unresolved charge lodged against the defendant for, an offense involving impaired driving;
6. The records of the Division of Motor Vehicles and the Clerk of Superior Court in this county have been searched, and there are no other revocations in effect at this time;
7. The defendant has obtained and filed with the court a substance abuse assessment;
8. If convicted only under G.S. 20-138.3, the defendant was 18, 19 or 20 years old on the date of the offense and has not previously been convicted of a violation of G.S. 20-138.3; (**NOTE:** Even if the defendant was 18, 19 or 20 years old at the time of the offense, he/she may not receive a limited driving privilege if his/her current conviction was under either (1) G.S. 20-138.1 or (2) both G.S. 20-138.1 and G.S. 20-138.3.)
9.  a. The Court has been furnished a properly executed form DL-123 and is satisfied that the defendant is financially responsible.  
 b. The defendant has executed form DL-123A and is not required to furnish proof of financial responsibility.

### ORDER

It is ORDERED that the defendant be allowed a limited driving privilege to be effective on the date indicated below to be used in accordance with the restrictions imposed on the reverse of this form, and to expire one year from the date on which the Division of Motor Vehicles revokes the defendant's drivers license pursuant to G.S. 20-17(a)(2), G.S. 20-13.2(a), G.S. 20-17(a)(12), or G.S. 20-17.3. This limited driving privilege is conditioned upon the maintenance of any financial responsibility required by G.S. 20-179.3(l) during the period of this privilege.

Effective Date

Date

**NOTE TO DEFENDANT:** This privilege is no longer valid after the revocation period for the offense of which you were convicted has ended, or if your drivers license remains revoked solely because the Division of Motor Vehicles has not obtained a certificate of your completion of a substance abuse treatment program or an alcohol and drug education traffic school.

Signature Of Judge

Name Of Judge (Type Or Print)

**RESTRICTIONS**

The driver shall not drink alcohol while driving or drive while any alcohol remains in his/her body. The driver shall not drive while having a controlled substance in his/her body unless such controlled substance was lawfully obtained and taken in therapeutically approved amounts. This limited driving privilege **DOES NOT** include the privilege of operating a commercial motor vehicle as defined in G.S. 20-4.01(3d). Driving when essential for emergency medical care is authorized at any time. Standard working hours are from 6 AM to 8 PM, Monday - Friday.

Driving other than for emergency medical care is permitted only as follows: *(check only applicable boxes.)*

1. Driving is permitted for work-related, religious worship, or educational purposes during standard working hours as follows:

2. Driving is permitted for maintenance of household during standard working hours as follows:

3. Driving is permitted for work-related, religious worship, or educational purposes during nonstandard working hours as follows.

The driver is self employed and the required documentation for work-related driving is attached.

4. Driving is permitted for community service assignment, Alcohol and Drug Education Traffic School, and substance abuse assessment or treatment as follows:

5. Driving is restricted to:  
 a. any non-commercial vehicle registered in the name of the driver.  
 b. the following non-commercial vehicle(s): \_\_\_\_\_

6. Additional restrictions:  Corrective Lenses  45 M.P.H. Only  Daylight Only  
 Other:

Name And Address Of ADET School, Community Service Coordinator, Or Mental Health Treatment Facility To Which Driver Assigned

Name And Address Of Employer Or Driver's Place Of Work

**NOTICE/ACKNOWLEDGMENT OF RECEIPT**

I have received a copy of this limited driving privilege which contains the restrictions on my driving privilege. I understand that if I drive with the odor of alcohol on my breath, I may be subject to arrest and loss of this limited driving privilege; I understand that this is my limited license to drive; that I must keep it in my possession during the period of revocation; that if my drivers license is revoked for any other reason, this limited driving privilege is invalid; that a violation of any restriction imposed in connection with this limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28; that if community service has been ordered, my willful failure to pay the prescribed fee or complete the community service within the time limit imposed shall result in revocation of this limited driving privilege; and that my willful failure may also result in other action authorized by law for violation of a condition of probation.

Date

Signature Of Defendant

**CERTIFICATION**

I certify that this is a true and complete copy of the original on file in this case.

Date

Signature

Deputy CSC  Assistant CSC  
 Clerk Of Superior Court

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

Name And Address Of Applicant

## LIMITED DRIVING PRIVILEGE WILLFUL REFUSAL

G.S. 20-16.2

Race	Sex	Height	Weight		
Hair Color	Eye Color	Date Of Birth	Drivers License No.	State	
Offense Charged				Date Of Refusal	

### FINDINGS

Upon application for a limited driving privilege, by an applicant whose drivers license was revoked for twelve (12) months for willful refusal to submit to a chemical analysis after being charged with an implied-consent offense, the Court finds that:

1. At the time of the refusal, the applicant held either a valid drivers license, or a drivers license that had been expired for less than one year;
2. At the time of the refusal, the applicant had not within the preceding seven (7) years been convicted of an offense involving impaired driving;
3. At the time of the refusal, the applicant had not in the preceding seven (7) years willfully refused to submit to a chemical analysis under G.S. 20-16.2;
4. The implied-consent offense did not involve death or critical injury to another person;
5. The underlying charge for which the applicant was requested to submit to a chemical analysis was finally disposed of (a) other than by conviction or (b) by a conviction of impaired driving under G.S. 20-138.1 at a punishment level authorizing issuance of a limited driving privilege under G.S. 20-179.3(b), and the applicant has complied with at least one of the mandatory conditions of probation listed for the punishment level under which he/she was sentenced, or (c) by a conviction of impaired driving under G.S. 20-138.2;
6. Subsequent to the refusal, the applicant has had no unresolved pending charges for, or additional convictions of, an offense involving impaired driving;
7. The applicant's drivers license has been revoked for at least six (6) months for the refusal;
8. The records of the Division of Motor Vehicles and the Clerk of Superior Court in this county have been searched, and there are no revocations in effect other than a revocation under G.S. 20-16.2 for this willful refusal, and a revocation imposed under G.S. 20-17(a)(2), for the underlying charge;
9. The defendant has obtained a substance abuse assessment and has successfully completed any recommended training or treatment program; and has filed with the Clerk a certificate of completion; (*Mandatory for offenses committed on or after December 1, 1997.*)
10. The defendant was convicted under G.S. 20-138.1 and had an alcohol concentration of  0.16  0.15 (*use for offenses committed on or after December 1, 2007*) or more; (*If this item is selected, the restrictions in G.S. 20-179.3(g5) apply to the defendant. If the offense was committed on or after December 1, 2007, the defendant is also subject to the restrictions in G.S. 20-179.3(c1).*)
11.  a. The Court has been furnished a properly executed form DL-123 and is satisfied that the defendant is financially responsible.  
 b. The defendant has executed form DL-123A and is not required to furnish proof of financial responsibility.

### ORDER

It is ORDERED that the applicant be allowed a limited driving privilege to be effective from the date of this Order, to be used in accordance with the restrictions imposed in this form, and to expire twelve (12) months from the date on which the Division of Motor Vehicles notified the defendant that the defendant's drivers license was revoked pursuant to G.S. 20-16.2(d). The limited driving privilege is conditioned upon the maintenance of any financial responsibility required by G.S. 20-179.3(l) during the period of this privilege.

Date	Name Of Judge (Type Or Print)	Signature Of Judge
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**RESTRICTIONS**

The driver shall not drink alcohol while driving or drive while any alcohol remains in his/her body. The driver shall not drive while having a controlled substance in his/her body unless such controlled substance was lawfully obtained and taken in therapeutically approved amounts. This limited driving privilege **DOES NOT** include the privilege of operating a commercial motor vehicle as defined in G.S. 20-4.01(3d). Standard working hours are from 6 AM to 8 PM, Monday - Friday.

Driving is permitted only as follows: (check only applicable boxes.)

- 1. (Do not check these items if 0.15 or greater alcohol concentration and offense committed on or after December 1, 2007.) Driving is permitted:
  - a. when essential for emergency medical care at any time.
  - b. for maintenance of household during standard working hours as follows:
  - c. for community service assignment as follows:

- 2. Driving is permitted for work-related, religious worship, or educational purposes during standard working hours as follows:

- 3. Driving is permitted for work-related, religious worship, or educational purposes during nonstandard working hours as follows:

- The driver is self employed and the required documentation for work-related driving is attached.

- 4. Driving is restricted to:
  - a. any non-commercial vehicle registered in the name of the driver.
  - b. the following non-commercial vehicle(s): \_\_\_\_\_

- The above vehicle shall be equipped with a functioning ignition interlock system of a type approved by the Commissioner of Motor Vehicles and the defendant shall personally activate the ignition interlock system before operating the vehicle. The driver may drive to and from any ignition interlock service facility for installation and service purposes.

- 5. Additional restrictions:       Corrective Lenses       45 M.P.H. Only       Daylight Only       Other:

Name And Address Of Community Service Coordinator To Which Driver Assigned

Name And Address Of Employer Or Driver's Place Of Work

**NOTICE/ACKNOWLEDGMENT OF RECEIPT**

I have received a copy of this limited driving privilege which contains the restrictions on my driving privilege. I understand that this is my limited license to drive; that I must keep it in my possession during the period of revocation; that if I drive with the odor of alcohol on my breath, I may be subject to arrest and loss of this limited driving privilege; that if my drivers license is revoked for any other reason, this limited driving privilege is invalid; that a violation of any restriction imposed in connection with this limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28; that if community service has been ordered, my willful failure to pay the prescribed fee or complete the community service within the time limit imposed shall result in revocation of this limited driving privilege; and that my willful failure may also result in other action authorized by law for violation of a condition of probation.

Date

Signature Of Applicant

**CERTIFICATION**

I certify that this is a true and complete copy of the original on file in this case.

Date

Signature

- Deputy CSC       Assistant CSC
- Clerk Of Superior Court

**STATE OF NORTH CAROLINA**

File No.

County

In The General Court Of Justice  
 District  Superior Court Division

**STATE VERSUS**

Name And Address Of Defendant

**INTERLOCK LIMITED DRIVING PRIVILEGE  
 IMPAIRED DRIVING  
 (N.C. CONVICTIONS ONLY)**

Race Sex Height Weight

Hair Color Eye Color Date Of Birth Drivers License No. State

Date Of Offense Date Of Conviction

G.S. 20-179.3

**NOTE:** Use AOC-CV-352 when the defendant's license was revoked for a conviction in another state or in a federal court.  
**NOTE:** If the defendant's license is revoked for a conviction of G.S. 20-138.1 and the defendant had an alcohol concentration of 0.15 or more, the following restrictions apply to the limited driving privilege: 1) the limited driving privilege may not become effective until at least 45 days after the final conviction under G.S. 20-138.1; 2) the defendant may operate only a designated motor vehicle; 3) the designated motor vehicle must be equipped with a functioning ignition interlock system of a type approved by the Commissioner of Motor Vehicles that is set to prohibit driving with an alcohol concentration of greater than 0.00; 4) the defendant must personally activate the ignition interlock system before driving the motor vehicle; 5) the defendant may drive only to and from the defendant's place of employment, the place the defendant is enrolled in school, the defendant's place of religious worship, any court-ordered treatment or substance abuse education, and any ignition interlock service facility. (Applies to offenses committed on or after December 1, 2007.)

**FINDINGS**

- Upon application of the defendant for a limited driving privilege, the Court finds that:
- The defendant has been convicted of impaired driving under  G.S. 20-138.1;  G.S. 20-138.2;  G.S. 20-138.3;
  - At the time of the offense, the applicant held either a valid drivers license or a license that had been expired for less than one (1) year;
  - At the time of the offense, the defendant had not within the preceding seven (7) years been convicted of an offense involving impaired driving;
  - Punishment level three, four, or five has been imposed upon the defendant for the offense of impaired driving, or the defendant has been convicted under G.S. 20-138.3;
  - Subsequent to the offense, the defendant has not been convicted of, or had an unresolved charge lodged against the defendant for, an offense involving impaired driving;
  - The records of the Division of Motor Vehicles and the Clerk of Superior Court in this county have been searched, and there are no other revocations in effect at this time;
  - The defendant has obtained and filed with the court a substance abuse assessment;
  - If convicted under G.S. 20-138.3, the defendant was 18, 19 or 20 years old on the date of the offense and has not previously been convicted of a violation of G.S. 20-138.3; (**NOTE:** Even if the defendant was 18, 19 or 20 years old at the time of the offense, he/she may not receive a limited driving privilege if his/her current conviction was under either (1) G.S. 20-138.1 or (2) both G.S. 20-138.1 and G.S. 20-138.3.)
  - The defendant was convicted under G.S. 20-138.1 and had an alcohol concentration of  0.16  0.15 (use for offenses committed on or after December 1, 2007) or more.
  - a. The Court has been furnished a properly executed form DL-123 and is satisfied that the defendant is financially responsible.  
 b. The defendant has executed form DL-123A and is not required to furnish proof of financial responsibility.

**ORDER**

It is ORDERED that the defendant be allowed a limited driving privilege to be effective on the date indicated below to be used in accordance with the restrictions imposed on the reverse of this form, and to expire one year from the date on which the Division of Motor Vehicles revokes the defendant's drivers license pursuant to G.S. 20-17(a)(2) or G.S. 20-13.2(a). This limited driving privilege is conditioned upon the maintenance of any financial responsibility required by G.S. 20-179.3(l) during the period of this privilege.

Effective Date

Date

**NOTE TO DEFENDANT:** This privilege is no longer valid after the revocation period for the offense of which you were convicted has ended, or if your drivers license remains revoked solely because the Division of Motor Vehicles has not obtained a certificate of your completion of a substance abuse treatment program or an alcohol and drug education traffic school.

Signature Of Judge

Name Of Judge (Type Or Print)

**RESTRICTIONS**

The driver shall not drink alcohol while driving or drive while any alcohol remains in his/her body. The driver shall not drive while having a controlled substance in his/her body unless such controlled substance was lawfully obtained and taken in therapeutically approved amounts. This limited driving privilege **DOES NOT** include the privilege of operating a commercial motor vehicle as defined in G.S. 20-4.01(3d). Standard working hours are from 6 AM to 8 PM, Monday - Friday.

Driving is permitted only as follows: (check only applicable boxes.)

- 1. (Do not check these items if 0.15 or greater alcohol concentration and offense committed on or after December 1, 2007.) Driving is permitted:
  - a. when essential for emergency medical care at any time.
  - b. for maintenance of household during standard working hours as follows:
  - c. for community service assignment as follows:

- 2. Driving is permitted for work-related, religious worship, or educational purposes during standard working hours as follows:

- 3. Driving is permitted for work-related, religious worship, or educational purposes during nonstandard working hours as follows:

- The driver is self employed and the required documentation for work-related driving is attached.

- 4. Driving is permitted for Alcohol and Drug Education Traffic School and substance abuse assessment or treatment as follows:

- 5. Driving is restricted to:
  - a. The following non-commercial vehicle(s): \_\_\_\_\_, which shall be equipped with a functioning interlock system of a type approved by the Commissioner of Motor Vehicles and the defendant shall personally activate the ignition interlock system before operating the vehicle and at any time during the driving as required by the procedures for ignition interlock systems established by the Commissioner of Motor Vehicles. The driver may drive to and from any ignition interlock service facility for installation and service purposes.
  - b. The following non-commercial vehicle(s): \_\_\_\_\_, which is owned by the defendant's employer and is operated by the defendant solely for work-related purposes, and the vehicle owner has filed a written statement with the court authorizing such work-related driving by the defendant.

- 6. Additional restrictions:
  - Corrective Lenses
  - 45 M.P.H. Only
  - Daylight Only
  - Other:

Name And Address Of ADET School, Community Service Coordinator, Or Mental Health Treatment Facility To Which Driver Assigned

Name And Address Of Employer Or Driver's Place Of Work

**NOTICE/ACKNOWLEDGMENT OF RECEIPT**

I have received a copy of this limited driving privilege which contains the restrictions on my driving privilege. I understand that if I drive with the odor of alcohol on my breath, I may be subject to arrest and loss of this limited driving privilege; I understand that this is my limited license to drive; that I must keep it in my possession during the period of revocation; that if my drivers license is revoked for any other reason, this limited driving privilege is invalid; that a violation of any restriction imposed in connection with this limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28; that if community service has been ordered, my willful failure to pay the prescribed fee or complete the community service within the time limit imposed shall result in revocation of this limited driving privilege; and that my willful failure may also result in other action authorized by law for violation of a condition of probation.

Date

Signature Of Defendant

**CERTIFICATION**

I certify that this is a true and complete copy of the original on file in this case.

Date

Signature

- Deputy CSC
- Assistant CSC
- Clerk Of Superior Court