SUPREME COURT *of* NORTH CAROLINA
SELF-REPRESENTATION PACKET

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SUPREME COURT of NORTH CAROLINA

SELF-REPRESENTATION GUIDE

This document aims to help explain the appellate court system to people who are not represented by an attorney. Appeals are complex, and there are many rules to follow. This document does not cover all the rules. Instead, it is designed to help answer common questions that people may have when they represent themselves in an appeal.

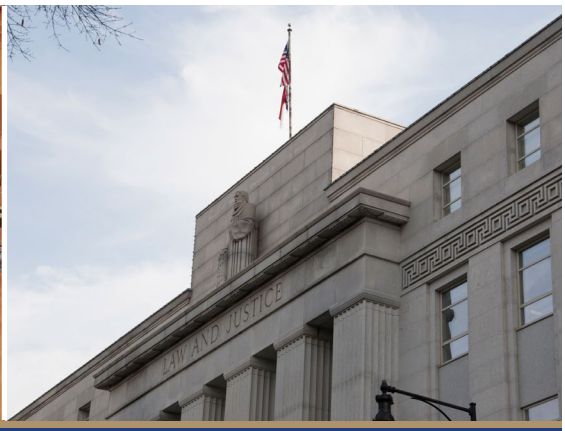
In addition to this document, there are other resources that you may want to review if you are handling your own appeal:

- **The North Carolina Rules of Appellate Procedure:**
  nccourts.gov/courts/supreme-court/court-rules/north-carolina-rules-of-appellate-procedure

- **Resources created or organized by the Appellate Practice Section of the North Carolina Bar Association (including the Notice of Appeal Tip Sheet and the Appellate Style Manual):**
  ncbar.org/members/communities/committees/appellate-rules/

If you are interested in finding an attorney who can help with your appeal, then please consult the document called "Legal Resources for North Carolina Residents," which is included in this packet. It will point you to organizations that may be able to provide you with an attorney or help you find an attorney for your appeal.





North Carolina's Court System

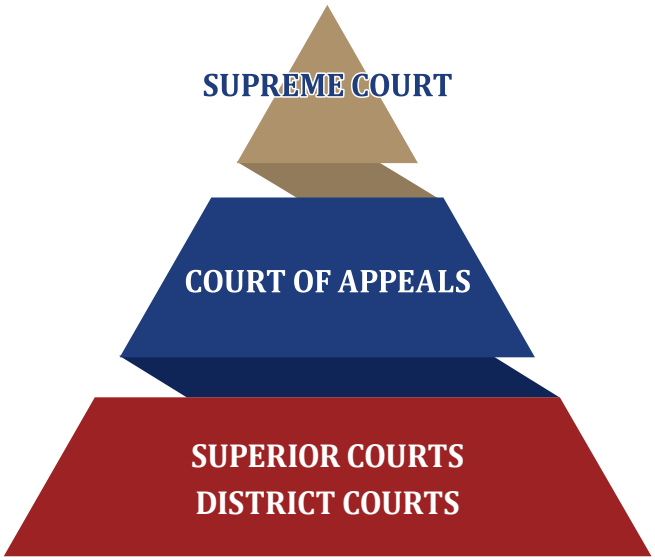
The court system in North Carolina is like a pyramid. At the bottom of the pyramid are the trial courts. North Carolina has two types of trial courts: superior courts and district courts. There are laws that determine what types of cases begin in superior court and what types begin in district court. Both superior and district courts hear civil and criminal cases.

Above the trial courts in the pyramid are two appellate courts, the North Carolina Court of Appeals and the Supreme Court of North Carolina. The Court of Appeals is in the center of the pyramid, and the Supreme Court is at the top.

More information about each of these types of courts can be found in the document called "North Carolina's General Court of Justice: An Overview of the State Court System," which is included in this packet.

The job of an appellate court is to decide whether a lower court committed some type of legal error. Appellate courts do not decide facts. There are no juries or trials in the appellate courts. There is no new evidence allowed.

For example, if a criminal defendant is found guilty and appeals, then the appellate court does not decide whether the defendant is guilty or not. Instead, the appellate court only decides whether there was a legal error in the original trial. Ordinarily, if the criminal defendant wins on appeal, then he will receive a new trial.



Nearly all appeals from a decision of a trial court will first go to the Court of Appeals. There are some very narrow exceptions, which are mentioned below. If a party believes that the Court of Appeals also committed a legal error, then the party may try to appeal further to the Supreme Court.

This document explains the appellate court system for North Carolina *state* courts. The federal government also has appellate courts. These different court systems do not cross paths. If your case began in a North Carolina trial court, then an appeal in that case would be considered by a North Carolina appellate court. If your case began in a federal trial court (called a United States District Court), then the appeal would be considered by a federal appellate court (for example, the United States Court of Appeals for the Fourth Circuit). Appeals in federal court are not covered in this document.

justice for all

Should I Appeal to the Court of Appeals or the Supreme Court?

In nearly all cases, the original appeal of a decision of a trial court (either a district court or superior court) goes to the North Carolina Court of Appeals. However, there are exceptions, such as when:



- **You are a criminal defendant sentenced to death for first-degree murder;**
- **You are appealing an order entered by the North Carolina Business Court (the Business Court is a special trial court that hears complex and significant issues of corporate and commercial law); or**
- **You are appealing from a class-certification order in a class action.**

Unless your case falls into one of those very narrow categories, you should appeal first to the North Carolina Court of Appeals, *not* to the Supreme Court of North Carolina.

How May I Appeal a Decision by the North Carolina Court of Appeals?

When the North Carolina Court of Appeals decides an appeal, it normally issues a written opinion. An opinion is usually a long document that explains the court's decision.

But there are also orders, which are different than opinions. An order typically is short and does not explain the reasons for the court's decision (or at least not in much detail). The Court of Appeals may use an order to decide the appeal entirely, like an order dismissing the appeal, denying a petition for writ of certiorari, or denying a petition for writ of habeas corpus. The Court of Appeals may also use an order to address part of an appeal, like an order granting or denying sanctions, or granting or denying a recusal request.

To fully understand how to appeal to the Supreme Court of North Carolina from an order or opinion issued by the North Carolina Court of Appeals, you should consult the North Carolina Rules of Appellate Procedure. However, there is a simple document that may be used to initiate an appeal called a "petition for writ of certiorari." The requirements for a petition for writ of certiorari can be found in Rule 21 of the Rules of Appellate Procedure. A form petition for writ of certiorari that you may use for your appeal is included in this packet.

Continued on back





When Will My Appeal Be Decided?

There is no deadline for the Supreme Court of North Carolina to rule on anything you file with the Court. The Clerk's Office does not know when the Court will issue a ruling, so there is no need to call to ask when to expect a ruling from the Court.

Are There Forms Available to Help Me with My Appeal?

Yes. Included in this packet are several forms. You will not need to use every form in every appeal. Below is a short description of the forms included in this packet, including when you should consider using them. Please follow the instructions on each form.



Petition for Writ of Certiorari. This document is used to appeal from one court to a higher court in the pyramid. The purpose of this form is to tell the higher court about an error that you believe occurred in the court below.

Petition for Writ of Supersedeas and Motion for Temporary Stay. A petition for writ of supersedeas is used to ask an appellate court to stay (or put on hold) a judgment or an order entered by a lower court. If a writ of supersedeas is issued by the appellate court, it stays enforcement of the lower court's judgment or order while the appellate court reviews that order for error. For example, if the trial court ordered your home to be foreclosed and sold at an auction, you may ask the appellate court to stay the foreclosure and auction while the appellate court decides whether the foreclosure order was correct.

A motion for temporary stay is appropriate to seek an immediate stay pending the court's decision on the petition for writ of supersedeas or the substantive petition in the case.

Petition for Writ of Habeas Corpus. A petition for writ of habeas corpus is used to challenge imprisonment as unlawful. A petition for writ of habeas corpus may be filed with a superior court judge or with either appellate court.

The North Carolina Court System and Administrative Office of the Courts are not permitted to give legal advice to members of the general public. The legal analysis of any situation depends on a variety of factors that cannot be properly represented or accounted for on a website; therefore, if you have any questions about your legal rights and remedies, you may consult an attorney licensed to practice law in North Carolina.

NC Equal Access to Justice COMMISSION

LEGAL RESOURCES FOR NORTH CAROLINA RESIDENTS

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

Investigates claims of innocence from individuals already convicted of a crime.
AREA SERVED: STATEWIDE
MAIL: P.O. BOX: 2448, RALEIGH, NC 27602
WEBSITE: INNOCENCECOMMISSION-NC.GOV

NC PRISONER LEGAL SERVICES

Serving incarcerated individuals on various civil issues.
AREA SERVED: STATEWIDE
PHONE: 919.856.2200
MAIL: PO BOX 25397, RALEIGH, NC 27611
WEBSITE: NCPLS.ORG/CONTACT

LEGAL AID OF NORTH CAROLINA

Helping low-income persons in civil legal matters such as domestic violence, housing, consumer protection, healthcare.
AREA SERVED: STATEWIDE
PHONE: HELPLINE: 866.219.5262
WEBSITE: LEGALAIDNC.ORG/GET-HELP

CHARLOTTE CENTER FOR LEGAL ADVOCACY

Assisting low-income persons in civil legal matters such as veterans cases, family law & DV, housing, youth, healthcare, employment, consumer.
AREA SERVED: Mecklenburg County
PHONE: Client Helpline: 704.376.1600
OUTSIDE MECKLENBURG COUNTY: 800.438.1254
MAIL: 5535 Albemarle Avenue, Charlotte, NC 28212
WEBSITE: charlottelegaladvocacy.org

DISABILITY RIGHTS NORTH CAROLINA

Protecting the legal rights of people with disabilities.
AREA SERVED: STATEWIDE
PHONE: 877.235.4210 / TTY: 888.268.5535
WEBSITE: DISABILITYRIGHTSNC.ORG/

NC STATE BAR

Regulating the legal profession in N.C
AREA SERVED: STATEWIDE
PHONE: 919.828.4620
WEBSITE: NCBAR.GOV
MAIL: 217 E. EDENTON ST, RALEIGH, NC 27601

NC JUSTICE CENTER

Serving low-income persons in areas such as housing, youth, healthcare, employment, consumer.
AREA SERVED: STATEWIDE
PHONE: 919.856.2570
MAIL: PO BOX 28068, RALEIGH, NC 27611
WEBSITE: NCJUSTICE.ORG

LAND LOSS PREVENTION PROJECT

Serving landowners, homeowners, farmers, and farm-related businesses with real property, consumer, and other matters.
AREA SERVED: STATEWIDE
PHONE: 800.672.5839
MAIL: PO BOX 179, DURHAM, NC 27702
WEBSITE: LANDLOSS.ORG

PISGAH LEGAL SERVICES

Serving low-income persons in civil legal matters such as veterans, domestic violence, housing, health care, consumer, other.
AREA SERVED: WESTERN NORTH CAROLINA
PHONE: 800.489.6144
MAIL: PO BOX 2276, ASHEVILLE, NC 28802
WEBSITE: PISGAHLEGAL.ORG

JUDICIAL STANDARDS COMMISSION

Considering complaints against judges at all levels in North Carolina.
AREA SERVED: STATEWIDE
MAIL TO: PO BOX 1122, RALEIGH, NC 27601
WEBSITE: NCCOURTS.GOV/COMMISSIONS

FINANCIAL PROTECTION LAW CENTER

Assisting North Carolina families who are victims of predatory lending in housing or consumer matters
AREA SERVED: PRIMARILY SOUTHEASTERN NC
PHONE: 910.442.1013
WEBSITE: FINANCIALPROTECTIONLAWCENTER.ORG

NORTH CAROLINA'S GENERAL COURT *of* JUSTICE: AN OVERVIEW *of* THE STATE COURT SYSTEM

Under the North Carolina Constitution, the Judicial Branch is established as an equal branch of state government with the Legislative and Executive branches. North Carolina's court system, called the General Court of Justice, is a state-operated and state-funded unified court system. The General Court of Justice consists of three divisions: appellate, superior court, and district court.



The Supreme Court building is located at 2 East Morgan Street.

APPELLATE DIVISION

SUPREME COURT

The Supreme Court is the state's highest court. This court has a Chief Justice and six associate justices, who sit as a body and decide cases appealed from lower courts, including the Court of Appeals. The Supreme Court has no jury, and it makes no determination of fact; rather it considers only questions of law, which means resolving a party's claim that there were errors in legal procedures or in judicial interpretation of the law in the trial court or the Court of Appeals.



The Court of Appeals building is located at 1 West Morgan Street.

COURT OF APPEALS

The Court of Appeals is an intermediate appellate court that was created to relieve the Supreme Court of a portion of its heavy caseload. Like the Supreme Court, the Court of Appeals decides only questions of law. It has 15 judges, who sit in panels of three to hear cases. One of the judges is the Chief Judge of the Court of Appeals, who is appointed by the Chief Justice of the Supreme Court.

SUPERIOR COURT DIVISION

Unlike the appellate division that decides only questions of law when a party appeals a case, the superior and district court divisions are the trial court divisions that hold trials, and empanel juries to determine the facts of cases.

Superior courts hear cases involving felony crimes, civil cases involving $25,000 or more, and appeals from district courts. This court "sits" (holds court) at least twice a year in each county of the state. In the busiest counties, several sessions may be held concurrently each week.

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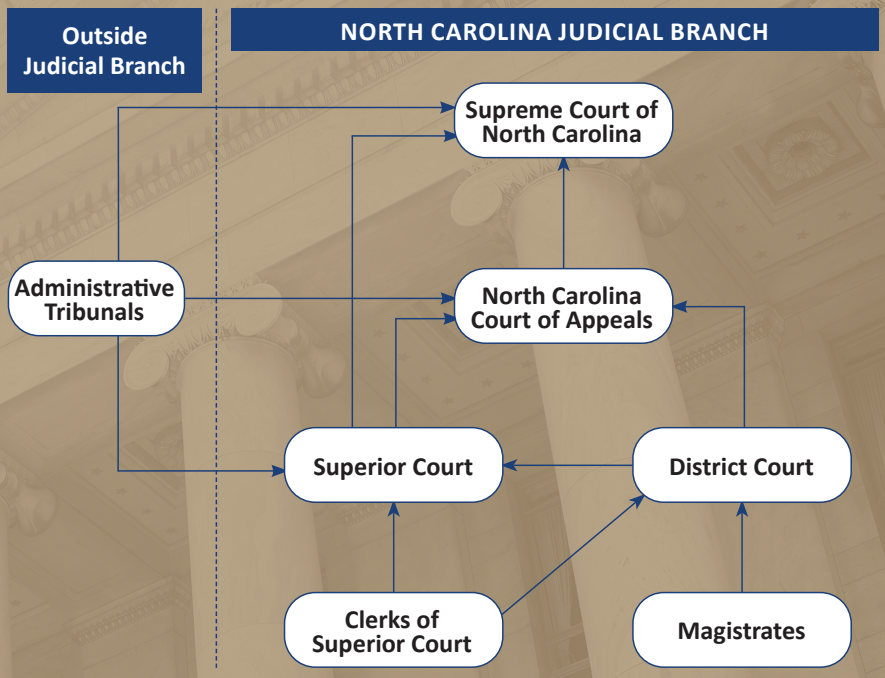
DISTRICT COURT DIVISION

Like the superior court division, district courts hold trials and empanel juries to determine the facts of specific cases. District courts handle serious, but lower level crimes, and civil cases between $10,000 - $25,000. The state is divided into district court districts where the court usually sits in the county seat of each county. Each district has a chief district court judge who manages the administrative duties of the court.

Magistrates hold court in both civil and criminal matters as officers of the district court under the authority of the chief district court judge. In the civil context, magistrates are generally assigned to preside over "small claims" court which hears disputes for claims under $10,000. For criminal matters, magistrates conduct certain preliminary proceedings and are authorized to dispose of some cases by pleas of guilt or by trial.

COURT STRUCTURE *and* ROUTES *of* APPEAL

North Carolina's unified court system handles nearly 3 million cases each year; cases that help keep our citizens safe, our economy vibrant, and our rights and liberties secure.



XXX copies of this public document were printed in house by the North Carolina Administrative Office of the Courts' Printing Services at a cost of $XXX.00 total, or $0.XX per copy.

SUPREME COURT OF NORTH CAROLINA

****

_____, Plaintiff(s), v. _____, Defendant(s).	From _____ County

****

PETITION FOR WRIT OF CERTIORARI

****

A petition for writ of certiorari is used to ask an appellate court to review a judgment or an order entered by a lower court. Please supply the information below so that the Supreme Court of North Carolina can understand (1) what judgment or order you are asking the Court to review, (2) what you claim is the error in that judgment or order, and (3) what you wish for the Court to do about the error.

Your name: _____

Your contact information:

Address: _____

Phone number: _____

E-mail address: _____

Which court entered the judgment or order you are asking the Court to review? (Circle one.)

North Carolina Court of Appeals

North Carolina Superior Court

North Carolina District Court

Other: _____

File number(s) in which the judgment or order was entered:

_____

Note: For review of orders by Court of Appeals, give the file numbers for both the trial court and the Court of Appeals.

County of the trial court case: _____

The plaintiff(s) in the trial court: _____

The defendant(s) in the trial court: _____

Other persons who were parties in the trial court, if any:

_____

The name or type of judgment or order that you are asking this Court to review:

_____

Date on which the judgment or order was entered:

_____

You MUST attach a full copy of the judgment or order that you are asking this Court to review. Have you attached a copy of that judgment or order? (Circle one.)

Yes.

No. (Your petition may be automatically denied.)

In the space below, describe what you contend is the error in the judgment or order entered by the lower court. You may attach another sheet if needed to explain the error.

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Explain what you want this Court to do about the error by the lower court:

_____

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Directions for Service: You are required to serve a copy of this petition on all other parties in the case. One way to serve this petition is by mailing a copy of this petition to all other parties. If you choose to serve by mail, please use the space below to list the names of the parties and the address to which you mailed a copy. If you choose to serve this document by some other method permitted by Rule 26 of the North Carolina Rules of Appellate Procedure, please explain the method of service used.

_____

_____

_____

VERIFICATION

I affirm that the statements in this petition are true and correct to the best of my knowledge.

Your signature: _____

Today's date: _____

SUPREME COURT OF NORTH CAROLINA

****

_____, Plaintiff(s), v. _____, Defendant(s).	From _____ County

****

PETITION FOR WRIT OF SUPERSEDEAS AND MOTION FOR TEMPORARY STAY

****

A petition for writ of supersedeas is used to ask an appellate court to stay (or put on hold) an order entered by a lower court. If a writ of supersedeas is issued by the appellate court, it stays enforcement of the lower court's order while the appellate court reviews that order for error. Please supply the information below so the Supreme Court of North Carolina can understand whether to issue a writ of supersedeas in your case.

Your name: _____

Your contact information:

Address: _____

Phone number: _____

E-mail address: _____

Which court entered the judgment or order you want stayed by the Court? (Circle one.)

North Carolina Court of Appeals

North Carolina Superior Court

North Carolina District Court

Other: _____

File number(s) in which the judgment or order was entered:

_____

Note: For review of orders by Court of Appeals, give the case numbers for both the trial court and the Court of Appeals.

County of the trial court case: _____

The plaintiff(s) in the trial court: _____

The defendant(s) in the trial court: _____

Other persons who were parties in the trial court, if any:

_____

The name or type of judgment or order that you are asking the Court to stay:

_____

For the judgment or order you are asking the Court to stay, give the date on which that judgment or order was entered:

_____

You MUST attach a full copy of the judgment or order that you are asking the Court to stay. Have you attached a copy of that judgment or order? (Circle one.)

Yes.

No. (Your petition may be automatically denied.)

Supersedeas relief is typically allowed to stay a lower court's judgment or order while the appellate court reviews that judgment or order for error. Have you filed any document asking this Court to review the judgment or order below for error? If so, please identify the type of filing(s) you have made and the date on which you filed it.

Type of filing (such as a notice of appeal or petition for writ of certiorari):

_____

Court in which document was filed: _____

Date on which document was filed: _____

The Court will generally not stay a trial court's judgment or order unless you have first asked the trial court to stay its own judgment or order.

1. If you seek to stay a trial court judgment or order, have you already asked the trial court for a stay?

Yes | No | Does not apply because:

_____

_____

_____

2. If you have already asked the trial court for a stay, has the trial court ruled on your request? Yes | No

3. If yes, please attach a document showing the trial court's denial of your stay request.

4. If you have not sought a stay from the trial court already, please explain why you have not done so:

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In the space below, describe what you contend is the error in the judgment or order entered by the lower court. You may attach another sheet if needed to explain the error.

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In the space below, describe what you contend the lower court's judgment or order requires you to do.

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In the space below, describe how you will be harmed if the judgment or order you are asking to be reviewed by the Court is NOT stayed.

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Directions for Service: You are required to serve a copy of this petition on all other parties in the case. One way to serve this petition is by mailing a copy of this petition to all other parties. If you choose to serve by mail, please use the space below to list the names of the parties and the address to which you mailed a copy. If you choose to serve this document by some other method permitted by Rule 26 of the North Carolina Rules of Appellate Procedure, please explain the method of service used.

_____

_____

_____

VERIFICATION

I affirm that the statements in this petition are true and correct to the best of my knowledge.

Your signature: _____

Today's date: _____

_____

[NAME OF COURT IN WHICH YOU ARE FILING THE PETITION]

****

_____,	
Petitioner(s),	
v.	From _____ County
_____,	
Respondent(s).	

[The Respondent is the prison warden if you are held in the North Carolina Department of Adult Correction or the sheriff if you are held in a county jail.]

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PETITION FOR WRIT OF HABEAS CORPUS

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A petition for writ of habeas corpus is used to challenge imprisonment as "unlawful." N.C.G.S. § 17-1. A petition for writ of habeas corpus may be filed with a superior court judge or with either appellate court under N.C.G.S. § 17-6. Contact information for North Carolina's superior courts can be found on the North Carolina Judicial Branch website at https://www.nccourts.gov/courts/superior-court.

Under N.C.G.S. § 17-7, a petition for writ of habeas corpus must state in substance:

(1) That the party, in whose behalf the writ is applied for, is imprisoned or restrained of his liberty, the place where, and the officer or person by whom he is imprisoned or restrained, naming both parties, if their names are known, or describing them if they are not known.

(2) The cause or pretense of such imprisonment or restraint, according to the knowledge or belief of the applicant.

(3) If the imprisonment is by virtue of any warrant or other process, a copy thereof shall be annexed, or it shall be made to appear that a copy thereof has been demanded and refused, or that for some sufficient reason a demand for such copy could not be made.

(4) If the imprisonment or restraint is alleged to be illegal, the application must state in what the alleged illegality consists; and that the legality of the imprisonment or restraint has not been already adjudged, upon a prior writ of habeas corpus, to the knowledge or belief of the applicant.

(5) The facts set forth in the application must be verified by the oath of the applicant, or by that of some other credible witness, which oath may be administered by any person authorized by law to take affidavits.

Your name: _____

Where are you detained or imprisoned?

Name of jail or prison: _____

Address: _____

Who is the warden or sheriff where you are detained or imprisoned?

Name: _____

Address: _____

Why are you detained or imprisoned? Include details such as the name of the offenses of conviction, the county of conviction, the file number(s), the name of the presiding judge who entered the order of imprisonment. (Attach additional pages if necessary.)

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You MUST attach a copy of any judgments or orders that impose the detention or imprisonment you are challenging. Have you attached a copy of the judgments or orders? (Circle one.)

Yes.

No. (Your petition may be automatically denied.)

In the space below, describe the reasons you contend your detention or imprisonment is unlawful. (You may attach additional pages if needed.)

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Directions for Filing and Service: You must file this petition with the court where you are seeking relief.

You are required to serve a copy of this petition on the person you have named as the respondent. One way to serve this petition is by mailing a copy of this petition to the respondent. If you choose to serve by mail, please use the space below to list the names of the respondent and the address to which you mailed a copy. If you choose to serve this document by some other method permitted by Rule 26 of the North Carolina Rules of Appellate Procedure, please explain the method of service used.

Under N.C.G.S. § 17-7(5), the facts set forth in the petition for writ of habeas corpus must be verified by the oath of the applicant or of some other credible witness. The oath may be administered by any person authorized by law to take affidavits.

_____

_____

_____

VERIFICATION

I affirm that the statements in this petition are true and correct to the best of my knowledge.

Your signature: _____

Today's date: _____