



# NORTH CAROLINA

## State Board of Elections & Ethics Enforcement

Mailing Address:  
P.O. Box 27255  
Raleigh, NC 27611-7255

Phone: (919) 733-7173

**KIM WESTBROOK STRACH**  
*Executive Director*

August 9, 2017

Ms. Jane Ammons Gilchrist  
General Counsel  
N.C. Department of Public Safety  
4201 Mail Service Center  
Raleigh, NC 27699-4201

Mr. Thomas Murry  
Chief Legal Counsel for Governmental Affairs  
N.C. Judicial Branch  
N.C. Administrative Office of the Courts  
P.O. Box 2448  
Raleigh, NC 27602-2448

Ms. Kimberly Robb  
President  
N.C. Conference of District Attorneys  
P.O. Box 3159  
Cary, NC 27519

Dear Ms. Gilchrist, Mr. Murry, and Ms. Robb,

The purpose of this letter is to summarize and express our concern surrounding the information conveyed to convicted felons regarding voting rights in North Carolina. More than 400 felons serving an active sentence unlawfully voted in the November 2016 General Election. This occurred in spite of routine voter registration removal efforts by county boards of elections of registered voters who were identified as being under an active felony sentence. We hope to partner with your agencies to reduce the incidents of unlawful voting by convicted felons.

On April 21, the State Board released a post-election audit report, identifying 441 suspected cases of active felons voting in the November 2016 General Election. The Investigations Division within the State Board has since collected documentary evidence and conducted interviews of suspected violators and their probation officers as a routine part of our investigative process. The interviews established a wide pattern of defendants in multiple counties who claim they were never informed of their loss of voting rights upon conviction and sentencing. A review of plea agreements, sentencing documents, and contact with probation officers appears to corroborate that information. Since April, several completed case referrals sent by the State Board to district attorneys have been summarily declined because the district attorneys for those counties determined there was insufficient evidence to prove that the defendant was ever notified of his or her ineligibility to vote. Two felon voter cases stemming from the 2016 March Primary Election have likewise been declined by district attorneys for the same reason.

Following a recent felon voter trial in Lincoln County, also stemming from the 2016 March Primary Election, the jury returned a verdict of “not guilty.” During the trial, the defendant’s parole officer was called by the defense to testify regarding what, if any, warnings were provided to the defendant concerning his loss of voting rights at the time he was convicted or during supervision. The parole officer testified that loss of voting rights is not a topic that is routinely communicated to convicted felons under supervision. The not guilty verdict occurred despite jury instructions appropriately communicating that voting while a felon does not require that the defendants knew that the conduct was unlawful.

Attached for your information and review, are examples of several declination communications our office has recently received from district attorneys across the state. Also attached is an example of a plea agreement and judgment in a felony case showing the absence of any information concerning loss of voting rights. For the reasons outlined in this letter, our agency believes a trend towards declination on felon voter cases will continue without corrective action being taken to document and maintain warnings given to convicted felons in the felon’s records.

Voting in an election in North Carolina while serving an active sentence for a felony conviction is a felony violation of state election law under NCGS 163-275(5). Registration and voting documents contain written warnings, and recent improvements have been made to further enhance those warnings. However, when violations of the felon voter statute occur, proving that the felon voter was aware of the law based solely on the written warnings contained on voting documents can present a challenge to successful prosecutions of willful offenders. Additionally, some forms, such as the federal voter registration application, do not contain warnings against registering and voting while serving an active felony sentence, since laws concerning felon voting rights vary from state to state.

When an individual is convicted of a felony in North Carolina, their voting rights are suspended until such time as they have completed all aspects of their felony sentence, including periods of probation/parole. Each month, the county boards of election across the state review information received from the North Carolina Department of Corrections (DOC) regarding new felony convictions and voter registration “removal letters” are sent to the last known address of registered voters who appear on the convicted felon list. If no objection is received from the voter, their voter registration is deactivated and placed in a “removed” status due to their felony conviction. Upon completion of their sentence (including probation/parole), convicted felons are eligible to re-register to vote, at which time they are given a completely new voter registration number. In spite of this process, there have been numerous incidences of felons registering and voting before completing probation/parole, which is an additional felony. These occurrences can be viewed as a collateral consequence of having been convicted of a felony, and then never being informed of the consequences of voting while under an active felony sentence, or as willful violations of election law.

Since the 2016 General Election, the State Board has made improvements to the visibility of warnings contained in voter registration and election documents for the purpose of notifying convicted felons serving an active sentence that they are not eligible to vote. However, these are “passive” warnings, the value of which is dependent on proving that the felon received, read, and



understood the information contained in the documents. The lack of documented evidence of a post-conviction warning *actively* communicated to the felon concerning loss of voting rights in plea agreements, judgments, or in probation documentation is an evidentiary issue that will potentially continue to impact prosecution of willful offenders, in as much as juries will likely continue to look for some evidence of knowledge of the law on the part of the defendant in order to justify a conviction.

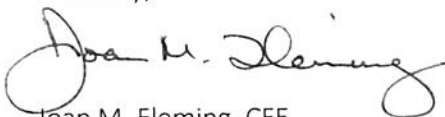
There has been a great deal of coverage of voter fraud claims in the media and significant public interest in the prosecution of voter fraud cases. By statute, it is the duty of the State Board to investigate frauds and irregularities in elections in any county and to report the results of those investigations to the Attorney General, District Attorney, or prosecutor of the district for further investigation and prosecution [NCGS 163-22(d)].

Ideally, going forward, prosecutors who are evaluating the available evidence associated with felon voter cases would not only have the warnings contained in the voting documents at their disposal, but would also have documented evidence signed by the felon acknowledging their loss of voting rights upon conviction. Such documentation would greatly assist in prosecuting willful violations by felon voters.

The Bipartisan State Board of Elections and Ethics Enforcement recently reviewed disclosure and discharge documents we received from the N. C. Department of Public Safety (DPS) addressing the restoration of voting rights for convicted felons upon completion of a felony sentence. In that regard, our agency would like to work closely with DPS, going forward, to distribute the attached "North Carolina Voting Rights Guide: People in the Criminal Justice System." In addition to enhancing the post-conviction restoration of rights process, we would also like to discuss the possibility of revisions to the active felon notification process, based on our post-election experience with felon voter prosecutions. While it appears that the "close-out" process upon completion of a felony sentence adequately covers restoration of voting rights upon completion of a felony sentence, as discussed above, we have identified some deficiencies in the notice provided to felons who are still serving an active felony sentence, notably during periods of probation and parole - the window during which current felons tend to vote.

The State Board would like your agency's input to explore how to best resolve this issue going forward for the mutual benefit of the agencies involved and the public. Please contact me at 919-715-1792 or email me at [joan.fleming@ncsbe.gov](mailto:joan.fleming@ncsbe.gov) to help coordinate a discussion at your earliest convenience. The State Board looks forward to working with you and your agency to achieve an acceptable solution in the near future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joan M. Fleming", with a stylized, looping flourish at the end.

Joan M. Fleming, CFE

Chief Investigator

Investigations Division

North Carolina State Board of Elections and Ethics Enforcement

[joan.fleming@ncsbe.gov](mailto:joan.fleming@ncsbe.gov)

## Martucci, Matthew

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From: Newman, Greg A. <Greg.A.Newman@nccourts.org>  
Sent: Thursday, January 19, 2017 5:45 PM  
To: Martucci, Matthew  
Subject: [REDACTED] Polk County, NC

Matthew, thank you for sending to me the investigative file on [REDACTED]. I have reviewed it in its entirety and recommend that we not pursue any criminal charges for her vote in last year's presidential election. All information seems to support her claim that she did not know that she was prohibited from voting. Unfortunately, many people sign the forms at the board of elections without reading the language. She did nothing out of the ordinary and readily contacted her probation officer upon learning that she may have violated state law.

Also, and very significantly, the probation officer acknowledged that he did not tell Ms. [REDACTED] that she could not vote because he assumed she knew of the restriction. Having been part of hundreds of felony guilty pleas in both district and superior courts, the restrictions that apply when a person becomes a felon are sometimes mentioned, but rarely emphasized. It appears to me that too many things in Ms. [REDACTED] case were assumed and that inadequate time was spent reviewing the rules with her.

As such, I cannot in good conscience recommend charging her criminally.

Thank you again for the excellent investigative work. Please contact me if you have any questions.

Greg Newman  
District Attorney  
NC Prosecutorial District 29B

E-mail correspondence to and from this address may be subject to the North Carolina public records laws and if so, may be disclosed.



*State of North Carolina*  
*General Court of Justice*  
*Prosecutorial District Sixteen B*  
LUMBERTON, N.C. 28358

LUTHER JOHNSON B RITT, III  
DISTRICT ATTORNEY

ROBESON COUNTY  
COURTHOUSE BOX 19  
TEL: (910) 671-3300  
FAX: (910) 737-5083

May 19, 2017

Matthew F. Martucci  
State Board of Elections  
P.O. Box 27255  
Raleigh, NC 27611

NCSBE Case Number: 2017-025 [REDACTED]  
NCSBE Case Number: 2017-029 [REDACTED]  
NCSBE Case Number: 2017-030 [REDACTED]  
NCSBE Case Number: 2017-031 [REDACTED]  
NCSBE Case Number: 2017-032 [REDACTED]

Dear Mr. Martucci,

After reviewing the files you provided on February 27<sup>th</sup>, 2017 and speaking with District Attorney Britt, our office has decided not to pursue charges in the above listed matters. It is our belief that charges would require some showing of knowledge that each above listed individual's right to vote had been suspended. We believe that such knowledge cannot be proved based on the evidence presented. If you have any further questions or concerns, please feel free to contact me.

Sincerely,

J. Alexander Hooks  
Assistant District Attorney  
District 16B  
910-272-6024  
John.a.hooks@nccourts.org

jah  
enclosure



State of North Carolina  
General Court of Justice  
Prosecutorial District 16C  
Anson and Richmond Counties  
REECE SAUNDERS  
District Attorney

Mailing Address:  
Post Office Box 1925  
Rockingham, NC 28380

Telephone: 910-419-7500  
Facsimile: 910-419-7501

Physical Address:  
105 W. Franklin Street  
Rockingham, NC 28379

June 14, 2017

Matthew F. Martucci, Investigator  
North Carolina State Board of Elections  
Post Office Box 27255  
Raleigh, NC 27611-7255

RE: NCSBE Case number: 2017-319 - [REDACTED]

Dear Mr. Martucci:

I have carefully review the file which you sent to me on June 1, 2017 regarding the investigation of [REDACTED]

Due to the lack of certainty of [REDACTED]'s knowledge concerning his voter rights, I am declining prosecution of this matter.

It seems to me that it would be a simple matter to add a document for the felons to sign when they are placed on probation acknowledging notification of their loss of voting rights. Likewise, upon release from prison on parole or a consecutive probation sentence, a similar document signed by the felon would make all of our jobs easier.

Thank your for your investigation in this matter.

Sincerely,

Reece Saunders  
District Attorney

RS: dms

RECEIVED

JUN 16 2017

STATE BOARD OF ELECTIONS





State of North Carolina  
General Court of Justice  
Prosecutorial District 16C  
Anson and Richmond Counties  
REECE SAUNDERS  
District Attorney

Mailing Address:  
Post Office Box 1925  
Rockingham, NC 28380

Telephone: 910-419-7500  
Facsimile: 910-419-7501

Physical Address:  
105 W. Franklin Street  
Rockingham, NC 28379

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June 14, 2017

Matthew F. Martucci, Investigator  
North Carolina State Board of Elections  
Post Office Box 27255  
Raleigh, NC 27611-7255

RE: NCSBE Case number: 2017-318 - [REDACTED]

Dear Mr. Martucci:

I have carefully review the file which you sent to me on June 1, 2017 regarding the investigation of [REDACTED].

Due to the lack of certainty of [REDACTED] knowledge concerning his voter rights, I am declining prosecution of this matter.

It seems to me that it would be a simple matter to add a document for the felons to sign when they are placed on probation acknowledging notification of their loss of voting rights. Likewise, upon release from prison on parole or a consecutive probation sentence, a similar document signed by the felon would make all of our jobs casier.

Thank your for your investigation in this matter.

Sincerely,

Reece Saunders  
District Attorney

RS: dms

RECEIVED

JUN 16 2017

STATE BOARD OF ELECTIONS



SETH H. EDWARDS  
DISTRICT ATTORNEY

SECOND PROSECUTORIAL DISTRICT  
BEAUFORT, HYDE, MARTIN, TYRRELL AND WASHINGTON COUNTIES

BEAUFORT COUNTY COURTHOUSE ANNEX  
111 WEST 2<sup>ND</sup> STREET  
PO DRAWER 1705, WASHINGTON, NC 27889  
O 252-940-4010 | F 252-940-4011

MARTIN COUNTY COURTHOUSE  
305 EAST MAIN STREET  
PO BOX 1186, WILLIAMSTON, NC 27892  
O 252-809-5110 | F 252-809-5111

PLEASE RESPOND: BEAUFORT COUNTY

June 23, 2017

Mr. Matthew Martucci  
NC State BOE  
PO Box 27255  
Raleigh, NC 27611-7255

RE: Beaufort County Felons Who Voted in 2016  
Your case #s: 2016-083; 2017-044-050;


Dear Mr. Martucci,

Thank you for your time and effort in investigating eight instances in Beaufort County where convicted felons voted who were ineligible due to a current status of probation or parole. After reviewing your reports, I am declining prosecution at this time.

In your reports, you point out the flaws in the voting system that could and should prevent ineligible felons from voting. It is my hope that our legislature will address these issues and implement safeguards to prevent this type of action in the future.

With best regards, I am,

Very truly yours,

  
Seth H. Edwards

SHE/r

RECEIVED  
JUN 26 2017  
STATE BOARD OF ELECTIONS



## STATE OF NORTH CAROLINA

File No. [REDACTED]

[REDACTED] County

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

## STATE VERSUS

Name Of Defendant [REDACTED]

DOB [REDACTED]

Age [REDACTED]

Highest Level Of Education Completed [REDACTED]

## TRANSCRIPT OF PLEA

G.S. 15A-1022, 15A-10

NOTE: Use this section ONLY when the Court is rejecting the plea arrangement.

☐ The plea arrangement set forth within this transcript is hereby rejected and the clerk shall place this form in the case file. (Applies to plea arrangements disclosed on or after December 1, 2009.)

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

The undersigned judge, having addressed the defendant personally in open court, finds that the defendant (1) was duly sworn or affirmed, (2) entered a plea of ☐ guilty ☐ guilty pursuant to *Alford* decision ☒ no contest, and (3) offered the following answers to the questions set out below:

1. Are you able to hear and understand me?
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?
3. At what grade level can you read and write?
4. (a). Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other substances?  
(b). When was the last time you used or consumed any such substance?
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?
6. (a). Have you and your lawyer discussed the possible defenses, if any, to the charges?  
(b). Are you satisfied with your lawyer's legal services?
7. (a). Do you understand that you have the right to plead not guilty and be tried by a jury?  
(b). Do you understand that at such trial you have the right to confront and to cross examine witnesses against you?  
(c). Do you understand that at a jury trial you have the right to have a jury determine the existence of any aggravating factors that may apply to your case (and, if applicable, additional sentencing points not related to prior convictions) beyond a reasonable doubt?  
(d). Do you understand that by your plea(s) you give up these and other valuable constitutional rights to a jury trial (and, if applicable, rights related to sentencing)?
8. Do you understand that, if you are not a citizen of the United States of America, your plea(s) of guilty or no contest may result in your deportation from this country, your exclusion from admission to this country, or the denial of your naturalization under federal law?
- ☒ 9. Do you understand that upon conviction of a felony you may forfeit any State licensing privileges you have in the event that you refuse probation or that your probation is revoked?
10. Do you understand that following a plea of guilty or no contest there are limitations on your right to appeal?
11. Do you understand that your plea of guilty may impact how long biological evidence related to your case (for example, blood, hair, skin tissue) will be preserved?

Answers  
 (1) YES  
 (2) YES  
 (3) COLLEGE  
 (4a) NO  
 (4b) YESTERDAY  
 (5) YES  
 (6a) YES  
 (6b) YES  
 (7a) YES  
 (7b) YES  
 (7c) YES  
 (7d) YES  
 (8) \_\_\_\_\_  
 (9) YES  
 (10) YES  
 (11) YES

(Over)

12. Do you understand that you are pleading ☐ guilty ☒ no contest to the charges shown below?  
(Describe charges, total maximum punishments, and applicable mandatory minimums for those charges.)

(12) YES

PLEAS									
✓	Plea*	File Number	Count No.(s)	Offense(s)	Date Of Offense	G.S. No.	F/M	CL	Maximum Punishment
	NC	16CR50608	I	FELONY POSSESS MARIJUANA	8/8/16	90-95	F	I	24 mos.
	NC	16CR700876	II	OPEN CONTAINER	8/8/16	20-178.7	17	3	20d

☐ See attached AOC-CR-300A, for additional charges.

\*G = Guilty GA = Alford plea  
NC = No Contest

TOTAL MAXIMUM PUNISHMENT

24 months + 20 days

MANDATORY MINIMUM FINES & SENTENCES (if any)

0

✓ NOTE TO CLERK: If this column is checked this is an added offense or reduced charge.

± NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).

13. Do you now personally plead ☐ guilty ☒ no contest to the charges I just described?

(13) YES

14. ☐ (a) Are you in fact guilty?

(14a)

☒ (b) (no contest plea) Do you understand that, upon your plea of no contest, you will be treated as being guilty whether or not you admit that you are in fact guilty?

(14b)

☐ (c) (Alford guilty plea)

(1) Do you now consider it to be in your best interest to plead guilty to the charges I just described? (14c1)

(2) Do you understand that, upon your "Alford guilty plea," you will be treated as being guilty whether or not you admit that you are in fact guilty? (14c2)

☐ 15. (Use if aggravating factors are listed below) Have you admitted the existence of the aggravating factors shown below, have you agreed that there is evidence to support these factors beyond a reasonable doubt, have you agreed that the Court may accept your admission to these factors, and do you ☐ understand that you are waiving any notice requirement that the State may have with regard to these aggravating factors ☐ agree that the State has provided you with appropriate notice about these aggravating factors? (If so, review the aggravating factors with the defendant.)

(15)

☐ 16. (Use if sentencing points are listed below) Have you admitted the existence of the sentencing points not related to prior convictions shown below, have you agreed that there is evidence to support these points beyond a reasonable doubt, have you agreed that the Court may accept your admission to these points, and do you ☐ understand that you are waiving any notice requirement that the State may have with regard to these sentencing points ☐ agree that the State has provided you with appropriate notice about these sentencing points? (If so, review the sentencing points with the defendant.)

(16)

17. Do you understand that you also have the right during a sentencing hearing to prove to the Court the existence of any mitigating factors that may apply to your case?

(17) YES

18. Do you understand that the courts have approved the practice of plea arrangements and you can discuss your plea arrangement with me without fearing my disapproval?

(18) YES



# PLEA ADJUDICATION

Upon consideration of the record proper, evidence or factual presentation offered, answers of the defendant, statements of the lawyer for the defendant, and statements of the prosecutor, the undersigned finds that:

1. There is a factual basis for the entry of the plea (and for the admission as to aggravating factors and/or sentencing points);
2. The defendant is satisfied with his/her lawyer's legal services;
3. The defendant is competent to stand trial;
4. ☐ The State has provided the defendant with appropriate notice as to the aggravating factors and/or points; ☐ The defendant has waived notice as to the aggravating factors and/or points; and
5. The plea (and admission) is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea (and admission) is hereby accepted by the Court and is ordered recorded.

Date: 9-22-16 Name Of Presiding Judge (Type Or Print)

## SUPERIOR COURT DISMISSALS PURSUANT TO PLEA ARRANGEMENT

File No.	Count No.(s)	Offense(s)

## DISTRICT COURT DISMISSALS PURSUANT TO PLEA ARRANGEMENT

File No.	Count No.(s)	Offense(s)
16CR50609	I	MANUFACTURE MARIJUANA
16CR50610	I	PWISD MARIJUANA
16CR50611	I	FELONY MAINTAIN VEHICLE
16CR700786	I	SPEEDING 53/35
16CR700877	I	RECKLESS DRIVING

## CERTIFICATION BY PROSECUTOR

The undersigned prosecutor enters a dismissal to the above charges pursuant to a plea arrangement shown on this Transcript Of Plea.

Date: 9/22/16 Name Of Prosecutor (Type Or Print)

Signature Of Prosecutor



## STATE VERSUS

File No. [REDACTED]

Name Of Defendant [REDACTED]

19. Have you agreed to plead ☐ guilty ☒ no contest as part of a plea arrangement? (If so, review the terms of the plea arrangement as listed in No. 20 below with the defendant.) (19) YES
20. The prosecutor, your lawyer and you have informed the Court that these are all the terms and conditions of your plea:

## PLEA ARRANGEMENT

DEFENDANT SHALL PLEAD NO CONTEST TO THE ABOVE CHARGES AND THE STATE AGREES TO DISMISS THE CHARGES LISTED BELOW.

- ☒ The State dismisses the charge(s) set out on Page Two, Side Two, of this transcript.
- ☐ The defendant stipulates to restitution to the party(ies) in the amounts set out on "Restitution Worksheet, Notice And Order (Initial Sentencing)" (AOC-CR-611).

21. Is the plea arrangement as set forth within this transcript and as I have just described it to you correct as being your full plea arrangement? (21) YES
22. Do you now personally accept this arrangement? (22) YES
23. (Other than the plea arrangement between you and the prosecutor) has anyone promised you anything or threatened you in any way to cause you to enter this plea against your wishes? (23) NO
24. Do you enter this plea of your own free will, fully understanding what you are doing? (24) YES
25. Do you agree that there are facts to support your plea ☐ and admission to aggravating factors ☐ and sentencing points not related to prior convictions, and do you consent to the Court hearing a summary of the evidence? (25) YES
26. Do you have any questions about what has just been said to you or about anything else connected to your case? (26) NO

## ACKNOWLEDGEMENT BY DEFENDANT

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and the are true and accurate. No one has told me to give false answers in order to have the Court accept my plea in this case. The terms and conditions of the plea as stated within this transcript, if any, are accurate.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date 9/22/16

Date 9/22/16

Signature

[REDACTED]

Signature Of Defendant

[REDACTED]

Name Of Defendant (Type Or Print)

☐ Deputy CSC ☒ Assistant CSC ☐ Clerk Of Superior Court

## CERTIFICATION BY LAWYER FOR DEFENDANT

I hereby certify that the terms and conditions stated within this transcript, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charges to which the defendant is pleading, and the aggravating and mitigating factors and prior record points for sentencing, if any.

Date 9/22/16

Name Of Lawyer For Defendant (Type Or Print)

[REDACTED]

## CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated within this transcript, if any, are the terms and conditions agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charges in this case.

Date 9/22/16

Name Of Prosecutor (Type Or Print)

[REDACTED]



<b>STATE OF NORTH CAROLINA</b>				File No. <span style="float: right;">01</span>	
County _____ Seal of Court _____				In The General Court Of Justice	
NOTE: (This form is to be used for (1) felony offense(s) and (2) misdemeanor offense(s) that are consolidated for judgment with any felony offense(s). Use AOC-CR-310 for DWI offense(s).)				<input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division	
<b>STATE VERSUS</b>				<b>JUDGMENT SUSPENDING SENTENCE - FELONY</b>	
Name Of Defendant _____				PUNISHMENT: <input checked="" type="checkbox"/> COMMUNITY <input type="checkbox"/> INTERMEDIATE	
Race _____ Sex _____ Date Of Birth _____				(STRUCTURED SENTENCING)	
Attorney For State _____				(For Offenses Committed On Or After Dec. 1, 2011)	
Def. Found Not Indigent <input type="checkbox"/> Def. Waived Attorney <input type="checkbox"/>				G.S. 15A-1341, -1342, -1343, -1343.2, -1346	
Attorney For Defendant _____				<input checked="" type="checkbox"/> Appointed <input type="checkbox"/> Retained	
The defendant <input type="checkbox"/> pled guilty <input type="checkbox"/> pursuant to Alford to <input type="checkbox"/> was found guilty by the Court of <input type="checkbox"/> was found guilty by a jury of <input checked="" type="checkbox"/> pled no contest to				Crl Rptr Initials _____	
File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M CL. Pun CL.
_____	01	FELONY POSSESSION MARIJUANA	08/08/2016	_____	F I
*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).					
The Court <input checked="" type="checkbox"/> 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be <u>05</u>					
Any prior record level point under G.S. 15A-1340.14(b)(7) is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.					
<input type="checkbox"/> 2. makes no prior record level finding because none is required.					
The Court (NOTE: Block 1 or 2 MUST be checked.):					
<input checked="" type="checkbox"/> 1. makes no written findings because the prison term imposed is within the presumptive range of sentences authorized under G.S. 15A-1340.17(c).					
<input type="checkbox"/> 2. makes the Determination of aggravating and mitigating factors on the attached AOC-CR-605.					
<input type="checkbox"/> 3. makes the Findings of Extraordinary Mitigation set forth on the attached AOC-CR-606.					
<input type="checkbox"/> 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).					
<input type="checkbox"/> 5. adjudges the defendant to be (check only one) <input type="checkbox"/> a habitual felon to be sentenced four classes higher than the principal felony (no higher than Class C).					
<input type="checkbox"/> a habitual breaking and entering status offender, to be sentenced as a Class E felon.					
<input type="checkbox"/> 6. finds enhancement pursuant to: <input type="checkbox"/> G.S. 90-95(e)(3) (drugs). <input type="checkbox"/> G.S. 14-3(c) (hate crime). <input type="checkbox"/> G.S. 50B-4.1 (domestic violence).					
<input type="checkbox"/> G.S. 14-50.22 (gang). <input type="checkbox"/> Other: _____ This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission.					
<input type="checkbox"/> 7. finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 and therefore imposes the special conditions of probation set forth on the attached AOC-603C, Page Two, Side Two, and makes the additional findings and orders on the attached AOC-CR-615, Side Two.					
<input type="checkbox"/> 8. finds the above-captioned offense(s) involve the (check all that apply) <input type="checkbox"/> physical or mental <input type="checkbox"/> sexual abuse of a minor.					
<input type="checkbox"/> (If No. 7 not found) and therefore imposes the special conditions of probation set forth on the attached AOC-CR-603C, Page Two, Side Two.					
<input type="checkbox"/> 9. finds that a <input type="checkbox"/> motor vehicle <input type="checkbox"/> commercial motor vehicle was used in the commission of the offense and that it shall be reported to OMV.					
<input type="checkbox"/> 10. finds this is an offense involving assault, communicating a threat, or an act defined in G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.					
<input type="checkbox"/> 11. finds the above-designated offense(s) involved criminal street gang activity. G.S. 14-50.25.					
<input type="checkbox"/> 12. did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) <input type="checkbox"/> the defendant refused to consent.					
<input type="checkbox"/> (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.					
<input type="checkbox"/> 13. finds that the defendant used or displayed a firearm while committing the felony. G.S. 15A-1382.2.					
<input type="checkbox"/> 14. (for judgments entered on or after Dec. 1, 2013, only) finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor. G.S. 15A-1382.1(a1).					
The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned					
for a minimum term of <u>6</u> months (for a maximum term of <u>17</u> months in the custody of the N.C. DAC.					
<input type="checkbox"/> 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(s) to be applied toward the <input type="checkbox"/> sentence imposed above. <input type="checkbox"/> imprisonment required for special probation set forth on AOC-CR-603C, Page Two.					
<b>SUSPENSION OF SENTENCE</b>					
Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on <input checked="" type="checkbox"/> supervised <input type="checkbox"/> unsupervised probation for <u>18</u> months.					
<input type="checkbox"/> 1. The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).					
<input type="checkbox"/> 2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.					
<input type="checkbox"/> 3. This period of probation shall begin <input type="checkbox"/> when the defendant is released from incarceration <input type="checkbox"/> at the expiration of the sentence in the case below.					
File No.	Offense	County	Court	Date	
_____	_____	_____	_____	_____	
<input type="checkbox"/> 4. The defendant shall comply with the conditions set forth in file number _____					
<input checked="" type="checkbox"/> 5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)					
<b>MONETARY CONDITIONS</b>					
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 <input checked="" type="checkbox"/> determined by the probation officer. <input type="checkbox"/> set out by the court as follows:					
<b>REMIT PSF FEE</b>					
Costs	Fine	Restitution*	Attorney's Fees	Comm Serv Fee	EHA Fee
\$ 200.00	\$ 100.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
SBM Fee	Appl Fee/Misc	Total Amount Due			
\$ 0.00	\$ 0.00	\$ 300.00			
*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.					
<input type="checkbox"/> The Court finds just cause to waive costs, as ordered on the attached <input type="checkbox"/> AOC-CR-618. <input type="checkbox"/> Other: _____					
<input type="checkbox"/> Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation.					
Material opposite unmarked squares is to be disregarded as surplusage.					
AOC-CR-603C, Rev. 3/16, © 2016 Administrative Office of the Courts					



# 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. (5) 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 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 drug or alcohol screening and testing.

- ☐ 13. The Court finds that the defendant is responsible for acts of domestic violence and therefore makes the additional findings and orders on the attached AOC-CR-603C, Page Two, Side Two.

## SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- ☐ 14. 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 for a period of \_\_\_\_\_ or until relicensed by the Division of Motor Vehicles, whichever is later.
- ☐ 15. Successfully pass the General Education Development Test (G.E.D.) during the first \_\_\_\_\_ months of the period of probation.
- ☐ 16. 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 on the reverse. ☐ within \_\_\_\_\_ days of this Judgment and before beginning service.
- ☐ 17. Report for initial evaluation by \_\_\_\_\_ participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- ☐ 18. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with \_\_\_\_\_ "Contact" includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except \_\_\_\_\_
- ☐ 19. (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.
- ☒ 20. Other:  
 HAVE ASSMT; TREAT REC; NOT USE/POSSESS ANY ILL DRUGS, PARA, OR CS W/O PRES;  
 TRANS TO UNSUP WHEN COMPLIED; SUBMIT TO DNA

- ☐ 21. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603C, Page Two.

## ORDER OF COMMITMENT/APEAL ENTRIES

- ☐ 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment 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 trial 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)

## CERTIFICATION

I certify that this Judgment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- |  |   |
|--|---|
| <input type="checkbox"/> 1. Appellate Entries (AOC-CR-350)   | <input type="checkbox"/> 6. Judicial Findings As To Required DNA Sample (AOC-CR-319)                                  |
| <input type="checkbox"/> 2. Judgment Suspending Sentence (AOC-CR-603C, Page Two)<br>(additional conditions of probation) | <input type="checkbox"/> 7. Judicial Findings And Order For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two) |
| <input type="checkbox"/> 3. Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)                  | <input type="checkbox"/> 8. Convicted Sex Offender Permanent No Contact Order (AOC-CR-620)                            |
| <input type="checkbox"/> 4. Extraordinary Mitigation Findings (AOC-CR-606)   | <input type="checkbox"/> 9. Additional File No.(s) And Offense(s) (AOC-CR-626)  |
| <input type="checkbox"/> 5. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)                    | <input type="checkbox"/> 10. Other: _____   |

Date

Date Certified Copies Delivered To Sheriff

Signature Of Clerk

☐ Deputy CSC ☐ Asst. CSC  
☐ Clerk Of Superior Court

SEAL