

STATE OF NORTH CAROLINA

File No.

County _____ Seat Of Court _____ In The General Court Of Justice
 NOTE: (Applies to a Class H or I felony or a Misdemeanor) District Superior Court Division

STATE VERSUS

Defendant _____

Race _____

Sex _____

DOB _____

MOTION/AGREEMENT AND ORDER TO DEFER PROSECUTION (STRUCTURED SENTENCING)

G.S. 15A-1341(a1)

Social Security No. _____

Attorney For State _____

Def. Found Not Indigent Def. Waived Attorney

Defendant's Drivers License No. _____

Attorney For Defendant _____

Appointed Retained

The defendant, attorney for the defendant, and undersigned Prosecutor, request the Court to approve this Agreement to defer prosecution and place the defendant on probation on the following offense(s):

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.	Max Term

CONDITIONS OF AGREEMENT TO DEFER PROSECUTION

With approval of the Court and consent of the defendant, prosecution will be deferred by the prosecutor for the purpose of allowing the defendant to demonstrate good conduct, and subject to the conditions set out below, the defendant is placed on:

unsupervised probation for _____ months. supervised probation for _____ months.

1. The defendant abide by the rules and regulations for regular conditions of probation that are applicable to
 (a) unsupervised probation (b) supervised probation and which are more fully set forth on AOC-CR-603
 AOC-CR-604 and incorporated herein by reference.

2. The defendant abide by the following Special Conditions of Probation that are more fully set forth on AOC-CR-603
 AOC-CR-604 and incorporated herein by reference: _____

and/or other Special Conditions:

3. The defendant shall complete _____ hours of Community or Reparation Service during the first _____ days of deferral period, as directed by the Community Service Staff and pay the fee prescribed by G.S. 143B-262.4(b) as directed by Community Service Staff. All fees are paid to the Clerk of Superior Court.

4. 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:

Fine	Court Costs	Restitution*	Attorney's Fee	Community Service Fee	Total Amount Due
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

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

5. The admission of responsibility given by me and any stipulation of facts shall be used against me and admitted into evidence without objection in the State's prosecution against me for this offense should prosecution become necessary as a result of these terms and conditions of deferred prosecution.

6. Regular reports will be made on my progress to the prosecutor's office.

7. The prosecutor will take a voluntary dismissal with leave upon approval of this Agreement by the Court.

take a voluntary dismissal upon compliance with this Agreement.

DEFENDANT'S OATH/AGREEMENT/MOTION

The defendant after being duly sworn, states under oath:

1. I have not been previously convicted of any felony or of any misdemeanor involving moral turpitude.
2. I have not been previously placed on probation.
3. I hereby waive all of my rights to a speedy trial under the constitution and laws of the State of North Carolina and the United States of America with regard to the above listed charge(s).
4. I have reviewed a copy of this Motion/Agreement And Order To Defer Prosecution and all of the conditions of my probation and I agree to them, and request the Court to approve the agreement.
5. I understand that no person who supervises me or for whom I work while performing community or reparation service is liable to me for any loss or damage which I may sustain unless my injury is caused by that person's gross negligence or intentional wrongdoing.

SWORN AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature

Signature Of Defendant (under oath)

Deputy CSC

Assistant CSC

Clerk Of Superior Court

District Court Judge

Superior Court Judge

ATTORNEYS' CERTIFICATION/AGREEMENT/MOTION

The undersigned attorneys certify to the Court that each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard and the undersigned request the Court to approve the agreement.

Date

Signature Of Lawyer For Defendant

Signature Of Prosecutor

FINDINGS

Based upon the foregoing and a review of the record, the Court finds:

1. Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate good conduct.
2. Each known victim of the crime has been notified of the motion to defer prosecution and place the defendant on probation and has been given an opportunity to be heard.
3. The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
4. The defendant has not previously been placed on probation and so states under oath.
5. The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

ORDER

THE COURT HAVING CONSIDERED the Motion and Agreement to Defer Prosecution, related documents and statements of counsel, finds that the prosecutor and defendant have entered into a written agreement to defer prosecution in this case for a period not to exceed two years, and said Motion and Agreement is in compliance with the conditions set forth in G.S. 15A-1341(a1) and specified in the motion.

IT IS ORDERED that the Agreement to Defer Prosecution in this case is approved and all conditions of this Agreement as specified above are adopted by the Court and made part of this Order. The defendant is to comply with all the regular conditions of probation including the special conditions as set forth above.

IT IS FURTHER ORDERED that the defendant's present conditions of release shall remain in full force and effect until final disposition of this matter.

THE ABOVE CASE(S) IS ORDERED CONTINUED to allow the defendant to satisfactorily comply with this Agreement from this date until (date) _____ .

SIGNATURE OF JUDGE

Date

Name Of Presiding Judge (Type Or Print)

Signature Of Presiding Judge

CERTIFICATION

I certify that this Motion/Agreement And Order To Defer Prosecution is a true copy of the original.

Date Of Certification

Signature And Seal

Deputy CSC

Assistant CSC

Clerk Of Superior Court

STATE VERSUS

File No.



Name Of Defendant

		ADDITIONAL FILE NO.(S) AND OFFENSE(S)					
File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.	*Pun. CL.

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