

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

Name Of Defendant

Offense

## FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING)

G.S. 15A-1340.16

**NOTE:** When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

### AGGRAVATING FACTORS

- 1. The Defendant:
  - a. induced others to participate in the commission of the offense.
  - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
  - a. avoiding or preventing a lawful arrest.
  - b. effecting an escape from custody.
- 4. The defendant was:
  - a. hired to commit the offense
  - b. paid to commit the offense.
- 5. The offense was committed to:
  - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
  - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 6a. The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal, an assistance animal, or a search and rescue animal (*Applies to offenses committed on or after December 1, 2009.*) as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
  - a. was armed with a deadly weapon at the time of the crime.
  - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
  - a. very young.
  - b. very old.
  - c. mentally infirm.
  - d. physically infirm.
  - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 12a. The defendant has, during the 10-year period prior to the commission of the offense for which the defendant is being sentenced, been found by a court of this State to be in willful violation of the conditions of probation imposed pursuant to a suspended sentence or been found by the Post-Release Supervision and Parole Commission to be in willful violation of a condition of parole or post-release supervision imposed pursuant to release from incarceration. The Court finds this aggravating factor beyond a reasonable doubt. (*Applies to offenses committed on or after December 1, 2008.*)
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
  - a. an attempted taking of property of great monetary value.
  - b. the actual taking of property of great monetary value.
  - c. damage causing great monetary loss.
  - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 16a. The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.
- 16b. The offense is the manufacture of methamphetamine and was committed in a dwelling that is one of four or more contiguous dwellings.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D, or E felony if committed by an adult.  The Court finds this aggravating factor beyond a reasonable doubt.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

- The Court accepts the defendant's admission to the aggravating factor(s) noted above and finds the supporting evidence to be beyond a reasonable doubt.
- The jury finds these aggravating factors beyond a reasonable doubt.
- There are no findings of any aggravating factors.

**MITIGATING FACTORS**

- 1. The defendant committed the offense under:
    - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
    - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
    - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
    - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
  - 2. The defendant:
    - a. was a passive participant in the commission of the offense.
    - b. played a minor role in the commission of the offense.
  - 3. The defendant was suffering from a:
    - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
    - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
  - 4. The defendant's:
    - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
    - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
  - 5. The defendant has made:
    - a. substantial restitution to the victim.
    - b. full restitution to the victim.
  - 6. The victim was more than 16 years of age and:
    - a. was a voluntary participant in the defendant's conduct.
    - b. consented to the defendant's conduct.
  - 7. The defendant:
    - a. aided in the apprehension of another felon.
    - b. testified truthfully on behalf of the State in another prosecution of a felony.
  - 8.
    - a. The defendant acted under strong provocation.
    - b. The relationship between the defendant and the victim was otherwise extenuating.
  - 9. The defendant:
    - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
    - b. exercised caution to avoid serious bodily harm or fear to other persons.
  - 10. The defendant reasonably believed that the defendant's conduct was legal.
  - 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
    - a. at an early stage of the criminal process.
    - b. prior to arrest.
  - 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
  - 13. The defendant is a minor and has reliable supervision available.
  - 14. The defendant has been honorably discharged from the United States Armed Services.
  - 15. The defendant has accepted responsibility for the defendant's criminal conduct.
  - 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
  - 17. The defendant supports the defendant's family.
  - 18. The defendant has a support system in the community.
  - 19. The defendant has a positive employment history or is gainfully employed.
  - 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
  - 21. Additional written findings of factors in mitigation:
- The Court makes no findings of any mitigating factors.

**DETERMINATION**

- 1. The Court finds that:
  - the State provided the defendant with appropriate notice of the aggravating factor(s) in this case.
  - the defendant waived any notice requirements as to the aggravating factor(s) in this case.
- 2. The Court finds that the State included in its criminal pleading the statement required by G.S. 15A-924(a)(7), if necessary.
- 3. The Court, having considered the evidence and arguments presented at the trial and sentencing hearing, and based on the admission(s) and findings of aggravating and mitigating factors as noted above, finds that
  - the factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
  - the factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

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