

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
 District Superior Court Division**STATE VERSUS****PROSECUTOR'S DISMISSAL
AND EXPLANATION**
(Implied-Consent Offense Or Driving While
License Revoked For An Impaired
Driving License Revocation)

G.S. 20-138.4

Defendant Name

File Number

Count No.(s)

Offense(s)

(NOTE: Prosecutor signs and completes both sides of this form.) **DISMISSAL****NOTE: Recall all outstanding Orders For Arrest in a dismissed case.**

The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:

1. No crime is charged.
2. There is insufficient evidence to warrant prosecution for the following reasons:
3. Defendant has agreed to plead guilty to the following charges:

in exchange for a dismissal of the following charges:

4. The defendant was charged as the result of defendant's identity being used without permission. mistaken identity.
(**NOTE TO PROSECUTOR:** You must notify the Court of this dismissal. The Court should use AOC-CR-283, Order Of Expunction Under G.S. 15A-147(a1) (Identity Theft Or Mistaken Identification) to expunge charges.)
5. Other: (specify) See additional information on reverse.

A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.) _____

 DISMISSAL WITH LEAVE

The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:

1. The defendant failed to appear for a criminal proceeding at which the defendant's attendance was required and the prosecutor believes that the defendant cannot readily be found.
2. The defendant has been indicted and cannot readily be found to be served with an Order For Arrest.
3. The defendant has entered into a deferred prosecution agreement with the prosecutor in accordance with the provisions of Article 82 of G.S. Chapter 15A. (**NOTE: A person charged with impaired driving under G.S. 20-138.1 is not eligible for deferred prosecution under G.S. 15A-1341(a1) or (a2). See G.S. 15A-1341(a.)**)
4. Other: (specify) See additional information on reverse.

NOTE: This form must be completed and signed by the prosecutor when the dismissal occurs out of court. The better practice is for the prosecutor to complete and sign the form when the charges are orally dismissed in open court.Also, in accordance with G.S. 15A-931(a1), unless the defendant or the defendant's attorney has been otherwise notified by the prosecutor, a written dismissal of the charges against the defendant must be served in the same manner prescribed for motions under G.S. 15A-951. If the record reflects that the defendant is in custody, the written dismissal shall be also served **by the prosecutor** on the chief officer of the custodial facility where the defendant is in custody.

Date	Name Of Prosecutor (type or print)	Signature Of Prosecutor
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 REINSTATEMENT

This case, having previously been dismissed with leave as indicated above, is now reinstated for trial.

Date	Name Of Prosecutor (type or print)	Signature Of Prosecutor
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Original-File Copy-Elected District Attorney Copy-Charging Agency
(Over)

EXPLANATION OF PROSECUTOR

1. The undersigned prosecutor has taken the following action on this charge: *(check the action taken)*
 - Entered a voluntary dismissal.
 - Accepted a plea of guilty or no contest to a lesser included offense.
 - Substituted another charge that carries a lesser mandatory minimum punishment or that is not a case subject to the implied-consent law.
 - Took a discretionary action that effectively dismissed or reduced the charge.
 - Entered a voluntary dismissal subsequent to the defendant having been indicted on a more serious charge.
2. The undersigned prosecutor took the action described above for the following reason(s): *(attach additional sheets if necessary)*

3. The defendant had an alcohol concentration of _____. refused the chemical analysis.
4. a. The defendant has no prior conviction(s) for an implied-consent offense or driving while license revoked.
 b. The defendant has a prior conviction(s) for an implied-consent offense or driving while license revoked. *(list conviction(s) below)*
5. A review of the records of the Division of Motor Vehicles indicates that the defendant did did not have a valid drivers license or privilege to drive in this state at the time of the offense.
6. A review of the records of the Administrative Office of the Courts indicates that there are are not other charges currently pending against the defendant.
7. The undersigned prosecutor believes in good faith that the following elements of the charge can be proved:

8. The undersigned prosecutor believes in good faith that the following elements of the charge cannot be proved: *(specify reason each element listed cannot be proved)*

9. The charging agency is _____.
 The name of the charging officer is _____.
 The charging officer is is not available.

PRIOR CONVICTIONS

The defendant has the following prior conviction(s) for an implied-consent offense or driving while license revoked: *(attach additional sheet if necessary)* See attached DMV driving history.

Offense	Date Of Offense	File Number	County/State	Date Of Conviction

SIGNATURE OF PROSECUTOR

The foregoing information is complete and accurate to the best of my knowledge.

Date	Name Of Prosecutor <i>(type or print)</i>	Signature Of Prosecutor
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