

# STATE OF NORTH CAROLINA

File No.  
Co. Of Hearing

County \_\_\_\_\_ Seat of Court \_\_\_\_\_ In The General Court Of Justice  
 District  Superior Court Division

## STATE VERSUS

## IMPAIRED DRIVING - JUDGMENT AND COMMITMENT UPON REVOCATION OF PROBATION

G.S. 15A-1344, 15A-1345

Name Of Defendant \_\_\_\_\_

Race \_\_\_\_\_ Sex \_\_\_\_\_ DOB \_\_\_\_\_

Attorney For State \_\_\_\_\_  
 Def. Found Not Indigent  Def. Waived Attorney

Attorney For Defendant At Revocation Hearing \_\_\_\_\_  
 Appointed  Retained

The defendant was placed on probation pursuant to the following Judgment Suspending Sentence:

Date \_\_\_\_\_  Superior Court  District Court Name Of County Of Origin \_\_\_\_\_

- Offense
- Impaired Driving (G.S. 20-138.1).
  - Impaired Driving In A Commercial Vehicle (G.S. 20-138.2).
  - Operating a Commercial Vehicle After Consuming Alcohol And This Was The Defendant's Second Or Subsequent Conviction Of This Offense (G.S. 20-138.2A).
  - Operating A School Bus, School Activity Bus, Or Child Care Vehicle After Consuming Alcohol And This Was The Defendant's Second Or Subsequent Conviction Of This Offense (G.S. 20-138.2B).

File No.	Offense No.	Offense Date	DWI Punishment Level	Minimum Term	Maximum Term
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- Based upon the Findings set out on the reverse side, the Court concludes that the defendant has violated a valid condition of probation upon which the execution of the active sentence was suspended, and that continuation, modification, or special probation is not appropriate, and the Court ORDERS that the defendant's probation be revoked, that the suspended sentence be activated, and that the defendant be imprisoned
- The defendant has freely, voluntarily and understandingly requested that the Court revoke his/her probation in light of the defendant's willful refusal to continue on probation as ordered. In addition, the defendant has freely, voluntarily and understandingly requested that the Court activate his/her suspended sentence. In its discretion, the Court grants the defendant's request and ORDERS that the defendant's probation be revoked and that the defendant be imprisoned
- (offenses committed before January 1, 1997) The defendant has freely, voluntarily and understandingly elected to serve the defendant's suspended sentence of imprisonment in lieu of the remainder of the defendant's probation. Therefore, by virtue of G.S. 15A-1341(c), the Court ORDERS that the suspended sentence be activated and the defendant be imprisoned

for a minimum term of \_\_\_\_\_ for a maximum term of \_\_\_\_\_ in the custody of the  
 N.C. Department of Correction.  
 Sheriff of \_\_\_\_\_ County.

The defendant shall be given credit for \_\_\_\_\_ days spent in confinement prior to the date of this Judgment as a result of this charge.

- The sentence activated this day shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
- The sentence activated this day shall begin at the expiration of the sentence imposed in the case referenced below:

File Number	Offense	County	Court	Date
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- (check all that apply)
- 1. Work release is recommended.
  - 2. Work release is **NOT** recommended.
  - 3. The Clerk, under 7A-304(d), shall immediately disburse any undisbursed monies paid by the defendant under the Judgment Suspending Sentence, as provided in that Judgment.
  - 4. The Court does **NOT** recommend that the defendant be required to pay restitution or reparation (i) as a condition of parole if parole is granted or (ii) from his/her earnings if work release is granted.
  - 5. The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted or from his/her earnings if work release is granted, the items and amounts set out below:

Restitution	All Prior Attorney's Fees In This Case	Attorney's Fees For This Proceeding	All Other	Total Amount Due
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

- 6. The court recommends substance abuse treatment.

The Court further recommends:

**FINDINGS**

After considering the record contained in the file number above, together with the evidence presented by the parties and the statements made on behalf of the State and the defendant, the Court finds:

1. The defendant is charged with having violated specified conditions of his/her probation as alleged in:  
 a. the Violation Report(s) on file herein, which is/are incorporated by reference.  
 b. the Notice of Hearing To Revoke Unsupervised Probation on file herein, which is incorporated by reference.
2. Upon due notice or waiver of notice (check a. or b.)  
 a. a hearing was held before the Court and, by the evidence presented, the Court is reasonably satisfied in its discretion that the defendant violated each of the conditions of the defendant's probation as set forth below.  
 b. the defendant waived a violation hearing and admitted that he/she violated each of the conditions of his/her probation as set forth below.
3. The condition(s) violated and the facts of each violation are as set forth (check a. or b.)  
 a. in Paragraph(s) \_\_\_\_\_ in the Violation Report or Notice dated \_\_\_\_\_.  
 b. on the attached sheet \_\_\_\_\_.
4. Any allegation of a violation stated in the Violation Report, Notice or otherwise which is not set forth above is dismissed.
5. Each of the conditions violated as set forth above is valid. The defendant violated each condition willfully and without valid excuse and each violation occurred at a time prior to the expiration or termination of the period of the defendant's probation.  
 Each violation is, in and of itself, a sufficient basis upon which this Court should revoke probation and activate the suspended sentence.
6. The Judgment for attorney's fees previously entered in this case shall be docketed, if it has not already been docketed.

**AWARD OF FEE TO COUNSEL FOR DEFENDANT**

A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded to the defendant's appointed counsel or the assigned public defender in this revocation proceeding.

**ORDER OF COMMITMENT AND APPEAL 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 District Court to the Superior Court. The current pretrial release order is modified as follows:
  
3. The defendant gives notice of appeal from the judgment of the Superior 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)	Signature Of Presiding Judge
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**ORDER OF COMMITMENT AFTER APPEAL**

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment and furnish that agency **two** certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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**CERTIFICATION**

I certify that this Judgment and Commitment and the attachment marked below is a true and complete copy of the original which is on file in this case.     Appellate Entries (AOC-CR-350)

Date	Date Certified Copies Delivered To Sheriff	Signature And Seal
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**NOTE TO CLERK:**

Send certified copies to the Clerk of Superior Court of county of origin, if different, and to DOC, Attn: Combined Records, Courier Box 53-71-00, or mail to DOC, Attn: Combined Records, 4226 Mail Service Center, Raleigh, NC 27699-4226.