

Broughton Hospital
Capacity Workbook (CapKit)

This Capacity Workbook is the property of: _____

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Welcome to Broughton Hospital

Broughton Hospital is one of the three North Carolina regional state psychiatric hospitals. The other two are Central Regional Hospital and Cherry Hospital. We provide help and support to North Carolinians and their families experiencing mental illness. Broughton Hospital serves the western thirty - seven counties of North Carolina, approximately 35% of the total population.

<i>Alexander</i>	<i>Catawba</i>	<i>Henderson</i>	<i>Mitchell</i>	<i>Union</i>
<i>Alleghany</i>	<i>Cherokee</i>	<i>Iredell</i>	<i>Polk</i>	<i>Watauga</i>
<i>Ashe</i>	<i>Clay</i>	<i>Jackson</i>	<i>Rowan</i>	<i>Wilkes</i>
<i>Avery</i>	<i>Cleveland</i>	<i>Lincoln</i>	<i>Rutherford</i>	<i>Yadkin</i>
<i>Buncombe</i>	<i>Davidson</i>	<i>Macon</i>	<i>Stanly</i>	<i>Yancey</i>
<i>Burke</i>	<i>Gaston</i>	<i>Madison</i>	<i>Surry</i>	
<i>Cabarrus</i>	<i>Graham</i>	<i>McDowell</i>	<i>Swain</i>	
<i>Caldwell</i>	<i>Haywood</i>	<i>Mecklenburg</i>	<i>Transylvania</i>	

Mailing Address While You Are Here:

Your First Name Last Initial	Example:	John S
C/O Unit		C/O 1E
1000 S. Sterling St.		1000 S. Sterling St.
Morganton, NC 28655		Morganton, NC 28655

UNIT: _____

Doctor(s): _____

Social Worker(s): _____

Psychologist(s): _____

Patient Phone: (828) 608 - _____

Special Counsel

At Broughton Hospital, you have a legal team to assist you during your hospital stay. Your hospital stay is referred to as your commitment. This team is known as the Office of Special Counsel.

- Attorney, Beth Guzman, Esq.
- Paralegal, Melisa Berry

Special Counsel may be reached at (828) 608-4390.

Key Facts About Your Stay

- You were sent to Broughton Hospital because you were charged with a crime(s), a Judge found you not yet ready to enter a plea or go to trial, or Incapable to Proceed (ITP) in your criminal case.
- Your admission to Broughton Hospital does not mean your charge(s) have been resolved or dismissed. You still have pending criminal charge(s) against you.
- The length of your stay at Broughton Hospital depends on how fast you become capable to stand trial. The quickest way to become capable is to participate in your treatment.
- Your hospital stay is not a punishment. However, you will receive credit time towards your sentence, if any, during your stay.
- While at Broughton Hospital you are expected to attend all Capacity Restoration groups (CRG) on the unit and at the treatment mall.
- This workbook will give you some information about the law and courtroom procedures.
- You are not expected to know as much as an attorney to be capable to proceed. You have an attorney to represent you in your criminal case.
- Your attorney is referred to as the “defense attorney,” and you are referred to as the “defendant.”
- Your treatment team will decide when you are ready to meet with a forensic evaluator and be reevaluated to determine if you have become capable to proceed.
- After your treatment team refers you for forensic reevaluation, you will have an interview with a member of Forensic Services (psychiatrist or psychologist). They will write a report giving an opinion about your capacity to proceed.
 - If you are opined capable, the report will be sent to the court where you have your charge(s), the district attorney’s office, your attorney’s office, and your treatment team.
 - If you are still opined incapable, the report will be sent to your treatment team with recommendations on how they can assist you in becoming capable.
- At Broughton Hospital, everyone’s safety is important. To help keep everyone safe, treat everyone with respect.

Courtroom Personnel

You cannot play basketball if you do not know the difference between a point guard and a power forward, and you cannot be capable in court if you do not know the difference between a defense attorney and a district attorney. People who work in the court are referred to as courtroom personnel. Here are some of the jobs people have in court:

Defendant (You)

- The person accused of breaking the law in a court case.
- The person charged with a crime.
- In your case, you are the defendant.

Attorney (Lawyer or Counselor)

- A person with a law degree who has passed a test about the law and is licensed in North Carolina to practice law.
- They know a lot about the law, courtroom rules, and how to argue a case in court.

Court Clerk

- Act as a Secretary for the Court/Judge. Keeps track of what is happening in the courtroom.
 - Writes notes.
 - Keeps the files and papers.
 - Schedules court dates.
- Either the Court Clerk or the Judge asks witnesses to raise their right hand and promise to tell the truth.

District Attorney/Prosecutor (Prosecution, D.A., Prosecuting Attorney/Lawyer, State)

- The attorney who represents the State of North Carolina in a criminal case.
- The attorney who is against the you in court.
- This attorney's job is to present evidence tending to show the defendant's (your) guilt of the crime they have been accused of committing.
- Their job is to find evidence to prove that the you committed the crime.

Court Reporter/Stenographer

- Person who types a word-for-word record of everything said in the courtroom during a hearing or trial.
- Provides an official record (transcript) of the court proceedings.

Defense Attorney (*Lawyer/Counsel, Public Defender, PD*)

- This attorney is on your side in court against the district attorney, who represents the State.
- They represent and speak for you in court.
- Provides legal advice to you.
- You can hire a defense attorney. If they cannot afford one, the court will appoint one to you, for free.
- Presents evidence in your favor, introduces doubt in the district attorney's case, i.e., the evidence the prosecution has presented to attempt to prove your guilt.
- Tries to obtain the best possible outcome for you, given the evidence for and against you. This can be resolved by a plea bargain or a trial. These possible outcomes are:
 - Charges dismissed i.e. dropped.
 - Least possible sentence.
 - Reduced charges.
- Protects your legal rights.

Judge (*Your Honor, The Bench, The Court*)

- Presides over the courtroom and is the highest authority in the courtroom.
- Keeps order and makes sure the trials and hearings are fair.
- Sits at the front of the courtroom dressed in a black robe.
- Impartial, neutral, unbiased, meaning neither for you, nor against you.
- Decides what evidence is presented in court or admissible.
- In a bench trial (a trial without a jury), the Judge decides the verdict: guilty or not guilty.
- Hands down the sentence (punishment) if you are found guilty.
 - Can give a lesser sentence based on factors making your conduct less serious ("mitigating factors.")
 - Can give a greater or maximum sentence based on factors making your conduct more serious ("aggravating factors.")
- Issues orders, i.e., "Order an evaluation for capacity to proceed."
- Instructs the jury about the law.
- Sets you free if found not guilty (acquitted).
- A Judge does **NOT**:
 - Present evidence.
 - Help you in court.
 - Solve the alleged crime.
 - Answer your questions.

Juror(s) (Jury)

- Impartial/neutral/unbiased, neither for you, nor against you.
- A group of 12 individuals chosen from the community (your “peers”)who do not know you or the alleged victim.
- Prospective jurors are randomly selected using registered voters and persons with driver’s license records, who meet the following criteria:
 - Citizens of the state where the alleged crime happened.
 - Residents of the county where the alleged crime happened.
 - 18 years of age or older
 - Able to understand the English language.
 - Have not been convicted of a felony (unless citizenship rights have been restored.)
 - Physically and mentally competent (i.e. not have been appointed a legal guardian.)
- For felony cases, you may request to waive your right to a jury trial (for non-capital cases), but the Judge must approve.
- Listens to all the evidence. Evaluates the evidence in a case and decides the verdict: guilty or not guilty, in a jury trial.
- Jury must be sure “beyond reasonable doubt,” to make the decision that you are guilty or not guilty (verdict)
- All 12 jurors must agree for you to be found guilty.
- A hung jury is when the jury cannot reach a unanimous verdict, and a mistrial occurs.
- A jury does **NOT**:
 - Help you in court.
 - Solve the alleged crime.
 - Sentence you.

Audience/Gallery

- People watching the trial.
- Can be friends, family, enemies, or interested parties.
- Cannot talk during the trial or hearing.

Bailiff

- Law enforcement officer in the court.
- Helps the Judge keep order in the court.
- Announces events (entry/exit of the Judge).
- Can arrest people in court that misbehave or act out.
- May take you into custody if you receive an active, meaning jail or prison, sentence.

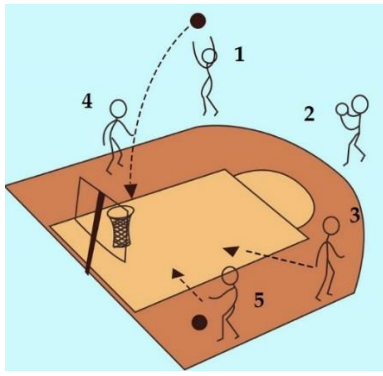
Witness

- A person who knows something important about the events leading to and surrounding the alleged crime.
- Provides information by answering questions about the alleged crime
- Is given the oath (swears) to tell the truth, only the truth, and nothing but the truth.
- Both sides of the court (defense or prosecution) can call witnesses.
- Each side will get the opportunity to interview/question the witnesses.
- There are three main types of witnesses:
 - Eyewitness – Someone who comes to court to testify about something they saw/heard.
 - Character witness - Someone who comes to court to testify about another person's character traits or community reputation.
 - Expert witness - A person who is accepted by the court as an expert about a subject. They are qualified by knowledge, skill, experience, training, or education to provide a specialized opinion about the evidence or a fact issue (Ex. doctor, psychologist, social worker, pharmacist, etc.)

Please visit the glossary for other words you might hear in court.

Self – Test: Courtroom Personnel and Where They Sit in Court

If you are going to play basketball you must know where all the players belong on the court. This is like criminal court. You do not want to end up somewhere you should not be.



Players

- 1 – Shooting Guard
- 2 – Point Guard
- 3 – Center
- 4 – Power Forward
- 5 – Small Forward

Not all courtrooms are set up the same, but you can usually find these people in a courtroom:

- | | | |
|-------------------------|-----------------|------------------------|
| _____ Court Reporter | _____ Bailiff | _____ Court Clerk |
| _____ District Attorney | _____ Defendant | _____ Defense Attorney |
| _____ Witness | _____ Judge | _____ Jury |

Below is a courtroom diagram. Match up the person (above) and the number (below) of where they might sit in a courtroom.



10. What does the Judge do? (choose one)
- A. Get a conviction for the alleged crime.
 - B. Runs the courtroom.
 - C. Speaks for you in court.
 - D. Is law enforcement officer in the court.
11. What does the jury do? (choose one)
- A. Listens to all the evidence and decides the verdict (guilty or not guilty).
 - B. Asks witnesses to raise their right hand and promise to tell the truth.
 - C. Can arrest people in court that misbehave or act out.
 - D. Provides an official record.
12. What will the district attorney try to do? (choose one)
- A. Get a conviction for the alleged crime.
 - B. Let you go back into the community.
 - C. Get you the best possible outcome.
 - D. Will defend you in court.
13. What do witnesses do? (choose one)
- A. Instructs the jury about the law.
 - B. Law enforcement officer in the court.
 - C. Give testimony about what they know.
 - D. Provides an official record.
14. What will the defense attorney do? (choose one)
- A. Let you go back into the community.
 - B. Tries to obtain the best possible outcome for your case.
 - C. Get you to accept a plea bargain.
 - D. Get the jury to realize that are an outstanding citizen.
15. A place where hearings and trials happen is _____. (choose one)
- A. Social Worker's Office
 - B. The D.A.'s office
 - C. The court (courtroom)
 - D. The jail
16. A person who has legal training about laws, courtroom rules, and how to argue a case in court is a/an _____. (choose one)
- A. Attorney
 - B. Defendant
 - C. Bailiff
 - D. Recorder

17. An employee of the court who keeps order and announces events is the _____ . (choose one)
- A. Witness
 - B. Judge
 - C. Attorney
 - D. Bailiff
18. A person who makes a word-for-word record, called a transcript, of everything official that goes on during a hearing or trial is the _____. (choose one)
- A. Recorder
 - B. Court Clerk
 - C. Attorney
 - D. Bailiff
19. An attorney who is paid to defend you is the _____. (choose one)
- A. Prosecuting Attorney
 - B. Witness
 - C. Judge
 - D. Defense Attorney
20. A person who may know something about what you did or did not do is a _____. (choose one)
- A. Attorney
 - B. Juror
 - C. Witness
 - D. Bailiff
21. An employee of the court who acts as a secretary for the Judge and keeps track of what is going on, handles schedules, etc. is the _____. (choose one)
- A. Recorder
 - B. District Attorney
 - C. Bailiff
 - D. Court Clerk
22. A person who is accepted by the court as an expert about a subject and whose testimony is accepted as evidence, would be a _____. (choose one)
- A. Court Clerk
 - B. Expert Witness
 - C. Bailiff
 - D. Judge

23. An attorney who is paid to prosecute you, to prove you are guilty, or to send you to jail is the _____. (choose one)
- A. District Attorney
 - B. Court Recorder
 - C. Defense Attorney
 - D. Judge
24. An occasion when the Judge officially hears witnesses testify and the attorneys' arguments about the case is a _____. (choose one)
- A. Trial
 - B. Hearing
 - C. Court
 - D. Both A and B

Your Legal Case

Defendant (You)

- Person accused of committing a crime.
- The you have a right and need to be represented by a defense attorney (your attorney).
- You are innocent until proven guilty in a court of law.
- What is your job?
 - Help your attorney obtain the best possible outcome for your case.
 - Be truthful with your attorney.
 - Tell your attorney everything about the case.
 - Behave appropriately in court.

1. Your attorney is also called the defense attorney.

Name: _____

Phone Number: _____

Paralegal/Assistant: _____

Phone Number: _____

2. You have been accused of the following crimes:

File Number(s)	Offense Type(s) & Class(es)	Alleged Crimes(s)

3. This means _____

_____.

4. The crime(s) were filed in the _____ (District or Superior)
Court of _____ County.

5. You are facing a possible sentencing range of _____
_____.

6. You were found incapable to proceed (ITP) on (date): _____
_____.

Notes: _____

What is Incapable to Proceed (ITP)

You might find the term **Incapable to Proceed (ITP)** confusing. The words do not have anything to do with whether you are smart, or whether you are able to take care of your money or hold a job. If you are capable, it means you are able to or can do something well. If you are capable of playing basketball, then you can play basketball.

Capacity to stand trial concerns the person's current ability to understand how the court works and their current ability to work with their attorney to resolve their case. When you are capable to proceed, it means you can move forward with your case. The court will not allow your case to move forward until you become capable to proceed.

Your capacity to proceed may be questioned at any time during your court proceedings. It may be questioned by:

- You
- Your attorney
- The District Attorney
- The Judge

The United States Constitution guarantees you the right to a fair trial. If you cannot have a fair trial, you will not be allowed to have a trial. The US Supreme Court says to have a fair trial, the defendant (you) must have "Sufficient present ability to consult with their lawyer with a reasonable degree of rational understanding." If you do not have this ability, you should not go to trial and the Judge will place your case on "incapable to proceed" status and order you to be involuntarily hospitalized.

North Carolina General Statute § 15A - 1001, guarantees you have the right to a fair trial. The statute reads,

- (a) No person may be tried, convicted, sentenced, or punished for a crime when by reason of mental illness or defect he is unable to understand the nature and object of the proceedings against him, to comprehend his own situation in reference to the proceedings, or to assist in his defense in a rational or reasonable manner. This condition is hereinafter referred to as "incapacity to proceed."

Once someone has questioned an individual's capacity to proceed, an evaluation is completed. The court holds a capacity hearing and the Judge decides if you are capable to proceed (CTP) or incapable to proceed (ITP).

You are here at Broughton Hospital because a Judge said you are incapable to proceed (ITP). The Judge believed:

1. You have a mental condition that prevents you from having a fair trial; **AND**
2. Because of your mental condition, you are not able to:
 - Understand your legal proceedings, **AND/OR**
 - Comprehend your legal situation, **AND/OR**
 - Assist in your defense in a rational manner.

To be Capable to Proceed You **MUST...**

- Know your crime(s) and possible sentence(s).
- Understand what law enforcement are saying happened leading to and surrounding your arrest and crime(s).
- Know the roles of the important people in the criminal process.
- Know your rights as a person charged with a crime.
- Know what plea options are available to you.
- Understand what happens at a trial.
- Understand the plea bargaining process, to include what rights you will give up if you accept a plea bargain.
- Be able to work with your attorney.
- Be able to behave appropriately in the hospital and courtroom.

IN SUMMARY:

1. Understand your crime(s) and the proceedings you are involved in.
2. Understand courtroom personnel, potential pleas and their legal consequences.
3. Work with your attorney in a way they understand, that is appropriate and respectful (e.g., stress tolerance, communicate clearly).

Self - Test: Important Things About Your Case & What is ITP

1. What county are your alleged crime(s) in? _____

2. What is your alleged crime(s)? _____

3. What is the sentencing range you are facing? _____

4. What is the name of your attorney? _____

5. How do you contact your attorney? _____

6. The letters ITP mean (choose one):
 - A. Incompetent Trial Plan
 - B. Nothing
 - C. Incapable to Proceed
 - D. In Treatment Plan
7. Incapable to Proceed means (choose one):
 - A. Your constitutional rights are violated.
 - B. Your attorney got together with the district attorney to make a deal to get you out of jail.
 - C. You don't understand what you need to understand to defend yourself in court or can't think, speak, or understand things in a rational manner.
 - D. You didn't understand what was going on at the time of the alleged crime.
8. You may proceed in your criminal case on your alleged crime (choose one):
 - A. After being found capable to proceed by the forensic evaluator.
 - B. Whenever you want.
 - C. Once you no longer have mental illness.
 - D. After being found capable to proceed by the Judge.

Understanding Your Rights

We all have rights under the law. A right is something that belongs to you. If you ask for it, it must be given to you. Rights are protected by laws. Rights that all US citizens have are:

- Right to free speech
- Right to worship
- Right to vote
- Right to your own property

As an individual on ITP status you also have additional rights. These additional rights are for a person charged with an alleged crime(s). These rights include the right to... (F - A - S - T)

1. **Face your accuser** or “confront witnesses” (ask them questions during cross examination) during a trial.
2. **Appeals** are made if you are found guilty at trial. This is done through a higher-level court called the court of appeals or appellate court. At the appellate court, your team tries to show where they believe a mistake was made in your case.
3. Remain **Silent**. The 5th Amendment ensures that you do not have to talk to law enforcement about your case or testify at your trial.
4. **Trial**. Talk to your attorney to know if a trial is the right choice for you.
 - Speedy Trial (6th Amendment)
 - The trial must begin within a reasonable time (90 jail days) from the time of your arrest.
 - Often you give up their speedy trial right because you need time to prepare your defense.
 - The days you are at Broughton Hospital for treatment do not count towards speedy trial days.
 - There are other exceptions to the speedy trial right. If you have a question about your right to a speedy trial, ask your attorney.
 - You are considered innocent until proven guilty, by the district attorney, “beyond a reasonable doubt.”
 - You may bring witnesses to the trial to testify on your behalf or compel (make) witnesses to come to the trial and testify by an order of the court called a subpoena.
5. You have the right to an attorney (6th Amendment). Even if you cannot pay for an attorney, the Judge will appoint an attorney to represent you.

Appropriate Courtroom Behavior

In basketball, the players are expected to follow the rules of the game and have good behavior both on and off the court. This is what is expected of you while you are in court and at Broughton Hospital.

In basketball, two opposing teams meet on the court in a competition to see who can get the most points. Each team is playing to win. The courtroom is similar to this as well: two opposing sides meet up in court to tell their side of the story. Each side is trying to win the court case.

Very important things happen in the courtroom. Everyone is expected to behave properly and to show respect in the courtroom. The Judge is in charge and will enforce the rules of behavior. To be capable to proceed, you must be able to understand what is going on in court. You must also be able to behave appropriately during court.

Basketball games can get very heated; players must keep their cool, and not get in fights. If the players can't control their behavior, they could get a technical foul or be ejected from the game. This is like the courtroom. You might get mad over what is happening in the courtroom, but you must stay calm! If you are unable to manage your behavior in the courtroom, you could be held in contempt of court or must leave the courtroom.

How should you act when you go to court?

- Be polite and respectful when you speak. Address the Judge as, "Your Honor" and refer to others as "Mister" or "Miss" and their last name.
- Be respectful to the Judge, stand up when the Judge comes in or goes out of the courtroom. Always stand up when you speak to the Judge.
- Show respect to everyone, including the attorneys, bailiff, court reporter, and witnesses.
- Sit quietly next to your attorney and listen to what is being said.
- Speak out loud ONLY when your attorney or the Judge asks a question or says it is time for you to speak.
- Do NOT interrupt others. Remember, you will have a chance to speak.
- Do NOT gesture or call out to your friends or relatives who are in the court room!
- You can communicate with your attorney by whispering or writing notes.

How should you dress when you go to court?

- You should be clean and well-groomed when you go to court.
- Your clothes should be clean, neat, and conservative.

What will you do during the trial?

- Sit quietly and listen.
- Do what your attorney says.

What should you do if you're asked a question you don't understand?

- Ask to have the question repeated.
- If you're still not sure, ask to have the question reworded or explained. You should keep asking until they do understand.
- If you need to ask or tell your attorney something, whisper, or write a note.

What should you do if a witness says something that is not true?

- Do NOT make gestures, faces, or call out to the witnesses!
- Whisper or write a note to your attorney immediately.

What could happen if you become disruptive (rude, disrespectful, loud, angry) in the courtroom? You could be...

- Scolded by the Judge.
- Restrained by the Bailiff.
- Charged with contempt of court (which could result in a fine or jail time).
- Removed from the courtroom, and the hearing or trial could continue without you.

Self - Test: Understanding Rights & Appropriate Courtroom Behavior

1. If you have been arrested, you do not have any rights. True or False (choose one)
2. Which of the following are additional rights given to those who have been charged with a crime? (choose all that apply)
 - A. Right to a cheeseburger.
 - B. Right to attorney.
 - C. Right to not have a roommate.
 - D. Right to a fair trial.
 - E. Right to remain silent.
 - F. Right to sleep all day.
3. You have the right to free speech, so you can say whatever you want in the courtroom and not get in trouble. True or False (choose one)
4. What will you do during the trial?

5. What should you do if a witness says something that is not true?

6. What could happen if you are loud and disrespectful in court?

Working with Your Attorney

Your attorney's job is to work for you. You have the final say in how to proceed in your case. Your attorney helps you get the best outcome possible. Your attorney is on your side and the person who argues your side in the courtroom. Just like in basketball things go smoother when teammates can get along and can work together. To be capable to proceed, you must be able to work rationally with your attorney. This means:

1. Be honest with the attorney.

Everything you tell your attorney is privileged; this is known as attorney client privilege. Privileged communication means that the words that were said by you to your attorney are like a secret. Your attorney is not allowed to tell anyone (Judge, district attorney, boss, family, etc.) what you said, unless you give them permission. This is to help you be open and honest when talking with your attorney.

2. Share important facts with your attorney.

For your attorney to do the best job they can do; your attorney needs to hear your side of the story. You need to describe the events that led to your arrest. If you do not remember all the events, you should be able to say what you do and do not know. It is important for you to be able to talk about this information with your attorney.

3. Realistically consider a legal defense.

You need to be able to help your attorney plan your legal defense. You must be able to consider how to defend against being accused of a crime. To do this you need to be able to:

- Recognize what your charge(s) are.
- Be motivated to defend yourself against the charge(s).
- Be knowledgeable about the information the district attorney has against you.
- Make decisions based on reason and on all the information available.
- Consider different plea options.

4. Work with your attorney calmly when you disagree.

You and your attorney will not always agree. If you disagree try to understand why the other person disagrees, rather than getting mad, arguing, or firing them. If your attorney says something you do not agree with, you could ask them, "WHY do you think that?"

Important things to remember about working with your attorney:

- Your attorney is educated and trained in the law.
- Your attorney will discuss and provide advice about your case.
- Your conversations with your attorney are confidential. Your attorney cannot tell anyone what you tell them.
- Your attorney will need to hear your side of the story so they can help.
- You should answer the questions that your attorney asks.
- When you go back to court, your attorney will work with you.
- If you have a different opinion than your attorney, you should try to understand why your attorney has a different opinion.
- If you feel your attorney is not doing a good job representing you, talk to your attorney about this. Try to resolve differences. Remember your attorney is the person on your side and represents you in the courtroom.
- If you still feel you cannot work with your attorney, ask your attorney to bring this to the attention of the Judge. The Judge will ask why you think your attorney is not doing a good job representing you. The Judge can appoint another attorney to represent you if the Judge feels that the you and your attorney cannot work together.

Self - Test: Working with Your Attorney

Scenario: Fernando is charged with a crime. He knows he is partially guilty, and the evidence against him seems strong. Fernando's attorney says the district attorney has offered a plea bargain.

1. What things should Fernando consider in deciding whether to accept the plea bargain or not? _____

2. How will you handle preparing to go to court with your attorney? _____

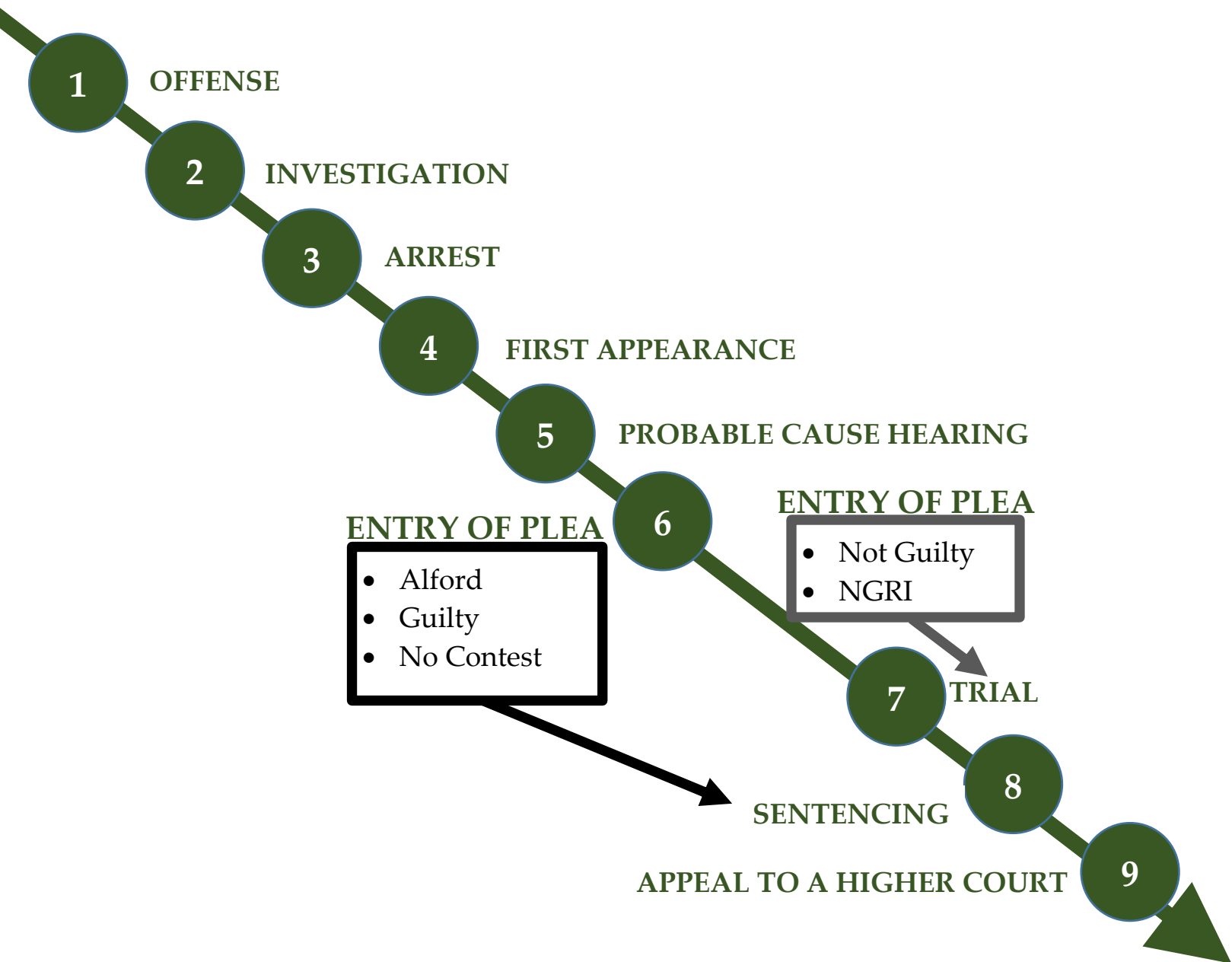
3. What concerns you most about your attorney is _____

4. How can you help your attorney defend you? _____

5. If you disagree with your attorney about your defense, what are some things you can do? _____

NC Criminal Justice Process

There are quite a few things you need to know about court proceedings...



Offense/Crime

A crime occurs when a law or rule has been broken or a criminal act has allegedly occurred. When you are charged with a crime, you have been accused of doing something wrong. Each crime has specific criteria, or elements, that must be present for you to be convicted of the crime.

You may have received documentation from the court (indictment pg. 55, magistrate's order, warrant for arrest pg. 56-57, order for arrest pg. 58-59, complaint, or ticket) that includes the following information:

- The alleged crime(s) and the offense class(es) of each crime(s).
- The date, time, and place where the crime(s) allegedly took place.
- Other information such as name(s) of alleged victim(s), objects allegedly involved in the crime, weapon allegedly used, etc.

To be capable to proceed, you must know what you are charged with, and you must know what your charge(s) mean.

1. What are your charges?

2. What does this mean?

If you do not know/remember, look at page 13 and 14 of this workbook.

You can talk to your capacity restoration group leader, or members of your treatment team if you need more information about what you are charged with, or what your charge(s) mean. You can also speak with your attorney.

In capacity restoration, we will only be going over misdemeanor and felony charges. There are multiple kinds of charges including traffic citations, infractions, misdemeanors, and felonies.

Misdemeanors are a less serious crime that carries a lesser punishment, typically fine and/or a small amount of jail time.

Misdemeanor	Class	Min	Max
	Class A1	1 day	150 days
	Class 1	1 day	120 days
	Class 2	1 day	60 days
	Class 3	1 day	20 days

Felonies are major crime(s) that have a harsher punishment. If convicted, a person can be sent to a state or federal prison, typically for more than one year.

Felony	Class	Min	Max
	Class A	Life without parole	Death
	Class B1	144 months	Life without parole
	Class B2	94 months	393 months
	Class C	44 months	182 months
	Class D	38 months	160 months
	Class E	15 months	63 months
	Class F	10 months	41 months
	Class G	8 months	31 months
	Class H	4 months	25 months
	Class I	3 months	12 months

Understanding the Possible Sentences for Your Charges

To be capable to proceed, you must be able to realistically consider the possible penalties that you will face if you are found guilty of your charge(s). If you deny that you have charge(s), or that there are penalties for your charge(s), then you are not capable to proceed. A copy of the NC Misdemeanor Sentencing chart is located on page 62 of this workbook. A copy of the NC Felony Sentencing chart is located on pages 63-64 of this workbook.

Investigation

An investigation is a formal inquiry to find and examine the facts of an incident, allegation, etc. to establish the truth. Inquiries can be made as to character, activities, or background (of someone).

Tools of Investigation

An investigator(s) may be used by either the defense or prosecution and will use different types of techniques to try to find the facts of the case. Some of these techniques are:

- Witnesses
- Special training of law enforcement officers
- Lineups or similar identification procedures requiring the presence of a suspect.
- Surveillance
- Warrants/other search and seizures (with and without consent)
- Interrogations
- Databases (DNA, criminal, etc.)
- Evidence

Evidence

Evidence is the information that is presented to show that you either did or did not commit the crime. There are many types of evidence including:

- Witnesses: People who saw the events or know about the events leading to and surrounding the alleged crime. (Eyewitness, character witness, expert witness)
- Physical evidence: Objects that are related to the alleged crime, for example a weapon (gun or knife) in an assault case; an object (a ring, a phone, or a wallet) alleged to have been stolen in a theft case.
- Video or photographs of the alleged crime or scene.
- Forensic (scientific) evidence: fingerprints, DNA, blood test or drug test results.

Remember, both sides can present evidence at the trial.

Discovery

You have the right to know what evidence the district attorney has in their case. Your attorney will ask the district attorney to tell what evidence they have. This is called “discovery,” because your attorney will “discover” what evidence the district attorney has. The district attorney must legally tell your attorney what evidence they have in your case.

Discovery is important to your case. It will help you understand:

- What evidence the district attorney would use against you.
- To prepare to challenge the district attorney's evidence.
- If the evidence against you is strong or weak.
- How to make a good decision about resolving your case.
- Whether it is best to accept a plea bargain or reject the plea bargain offer and take the case to trial.

Arrest

An arrest is when the defendant (you) have been charged with a crime(s) and taken into custody. The law enforcement officer can take the defendant (you) into custody with or without a warrant and detain them until the first appearance has occurred. The first appearance must occur within 96 hours or first regular session of court.

Miranda Warning "Rights"

A constitutional requirement that once an individual is detained by law enforcement, there are certain warnings a law enforcement officer is required to give to a detainee. The warnings include:

- The right to remain silent,
- Anything you say can and will be used against you in a court of law,
- The right to an attorney,
- If you cannot afford an attorney, one will be provided for you,
- Do you understand the rights I have just read to you?, and
- With these rights in mind, do you wish to speak to me?

Myths about Miranda

- If you do not remember having your rights read, the arrest was illegal.
Just because you do not remember your rights being read, does not mean that it did not occur. Sometimes our mental health condition prevents us from being able to remember things accurately.
- Miranda rights were not read by the arresting law enforcement officer.
If your Miranda rights were not read to you, it does not mean that your arrest was illegal. It just means that certain information obtained by the law enforcement, may not be used in your case.

Please speak to your attorney for more information if any of these apply to you.

First Appearance

First appearance is the first time that the defendant (you) appear before either a Judge or Magistrate for the alleged crime. This must occur within 96 hours after their arrest, or first regular session of court.

- If the crime is not a capital offense, the first appearance may be conducted by an audio and video transmission.

The court official must accomplish the following things at the first appearance:

- Inform you of your rights.
- Appoint an attorney to you, if needed.
- Explain how you can communicate with your attorney and family/friends.
- If the arrest was made without a warrant, court official will determine whether there was probable cause for the arrest, also called determination of sufficiency of charge(s).
- Inform you of the charge(s) against you.
- Determine if you and your attorney have a copy of the process or order.
- Determine/review your eligibility for release from jail prior to trial.

Probable Cause Hearing

A probable cause hearing is when the district attorney shows evidence that there is a reasonable belief that a crime(s) was committed and the defendant (you) committed the crime(s). Probable cause must usually be met before law enforcement make an arrest, conduct a search, or receive a warrant.

- A hearing takes place unless you waive your rights to such a hearing. The waiving of this hearing must be in writing.
- If you are or will be represented by an attorney, you can't waive your right to the hearing, before the date it is scheduled, without having written agreement with your attorney.
- A probable cause hearing waiver request cannot be admitted as evidence at a trial.

The district attorney is required by the 4th Amendment to present evidence to establish:

- That the crime(s) or any other lesser crime(s) has been committed.
- Why they believe you are the one who committed the crime(s).

If the Judge finds:

- No probable cause, the district attorney may still seek an indictment from the grand jury.
- Yes, probable cause, the district attorney must still present the case to the grand jury unless you waive your right to the review by the grand jury.

Grand Jury/Indictment

- The role of the grand jury is to determine whether probable cause exists for the charge.
- The district attorney presents the case against you to the grand jury in a secret proceeding.
- You have no right to be present, no right to testify, and no right to present witnesses.
- There are 18 grand jury members. Like regular juries, they are drawn from a pool of citizens in the county in which the charges were filed.
 - If twelve or more jurors agree that there is probable cause, the grand jury returns a "true bill of indictment" and they can move forward to trial.
 - If the grand jury does not find probable cause, the district attorney may resubmit the case to a grand jury later.

Entry of Plea

Arraignment

The arraignment proceeding follows an indictment, but it is rarely used because defendants typically waive the arraignment.

- However, if you request an arraignment.
 - A Superior Court Judge will advise you of the charge(s).
 - The district attorney will read the charge(s) to you.
 - You will be asked how you plea, or your response to the crime(s).
- If you do not request an arraignment, the court enters a "not guilty" plea on your behalf.

There are five possible legal pleas or answers you can give Judge in response to your charges. Here is the list of plea options:

Not Guilty – The defendant (you) are saying that they did not do what they are accused of doing. The defendant (you) tell the Judge they did not commit the alleged crime(s) or that they want a trial.

IMPORTANT - If you plead not guilty:

1. There will be a trial to determine a verdict: guilty or not guilty.
2. The trial will be set up as "The State" against you.
3. In a trial, the Judge (bench trial) or the jury (jury trial) decides if the evidence proves beyond a reasonable doubt that you did commit a crime(s).

Guilty – The defendant (you) admit that they did what they were accused of doing. The defendant (you) tell the Judge they committed the alleged crime(s).

IMPORTANT - If you plead guilty:

1. You give up your right to face your accuser, right to appeal, right to remain silent, and right to a trial.
2. The Judge will give you a sentence (punishment).

No Contest (Nolo Contendre) - The defendant (you) are not wanting to fight the charge. The defendant (you) are not saying whether they did the crime, or they did not do the crime, they are leaving it up to the Judge to decide.

IMPORTANT - If you plead no contest:

1. You admit what the district attorney says you did.
2. You give up your right to face your accuser, right to appeal, right to remain silent, and right to a trial.
3. The Judge will give you a verdict of guilty.
4. The Judge will give you a sentence (punishment).

Alford Guilty - The defendant (you) are maintaining their innocence, but the district attorney has enough evidence to prove they are guilty.

IMPORTANT - If you plead Alford guilty:

1. You give up your right to face your accuser, right to appeal, right to remain silent, and right to a trial.
2. The Judge will give you a verdict of guilty.
3. The Judge will give you a sentence (punishment).

Not Guilty by Reason of Insanity (NGRI) – The defendant (you) are telling the Judge they committed the alleged crime(s), but because they have a mental illness or intellectual disability, they didn't understand the difference between right or wrong at the time of the crime(s).

IMPORTANT - If you plead NGRI:

1. There will be a trial to determine a verdict: guilty or not guilty by reason of insanity.
 - The district attorney must present evidence at a trial to prove you committed the alleged crime.
 - You and your attorney must present evidence at trial to prove you have a mental illness or intellectual disability and at the time of the alleged crime the mental illness prevented the you from knowing the difference between right or wrong.

2. Your mental illness or intellectual disability will be discussed in court.
3. If your case receives a verdict of NGRI, you will be committed to the state hospital for treatment and you will have to stay at the hospital until the Judge decides you can leave.
4. The plea of not guilty by reason of insanity concerns the person's ability to know whether what they did was wrong at the time of the alleged crime.

Important things to remember about the entry of a plea and plea options:

- You are presumed to be innocent until you are proven guilty at a trial.
- As your case proceeds, you can withdraw your plea of not guilty and enter a plea of guilty. This is what happens if you decide to accept a plea bargain.
- If you choose to plead, not guilty, then there will be a trial to determine a verdict of guilty or not guilty. The procedure will be set up as "The State" against you.
- At the trial the Judge or the jury will listen to all the evidence and decide on whether the evidence shows beyond a reasonable doubt that you did or did not commit the criminal act.
- What you plead **WILL** make a difference in court proceedings.
- What you plead **MAY** make a difference in your sentence.
- You and your attorney need to discuss how you will plead, **BUT** you need to make the final decision **ON YOUR OWN** about how you will plead.

Pre-Trial Resolution of a Court Case

There are several possible outcomes to a court case. Some possible outcomes that can occur during the NC Criminal Justice Process are:

1. **Dismissal** - the Judge decides there is not enough evidence or that there are other problems with the district attorney's case and dismisses the charges. Once your charge(s) is dismissed, you are finished with the criminal charges and if you have no other criminal charges, you may be free to go.
2. **Plea bargain** - is a deal between the district attorney and you. In a plea bargain each side agrees to something that the other side wants to get something they want:

	Agrees to...	They want...
District Attorney	Lower or drop the charge(s) AND/OR Ask for a lesser sentence.	A Conviction. Save money No trial.
Defendant/you	Plead guilty	Lower or dropped charge. Lesser sentence

It is never a good idea for you to speak with the district attorney without your attorney. Your attorney helps in the plea bargain process.

1. The district attorney makes the offer of a plea bargain. They tell your attorney the terms of the plea bargain.
2. Your attorney then tells you the terms of the plea bargain.
3. You must then decide whether to accept or reject the offer.
 - Your attorney cannot choose for you.
 - Your attorney can offer information and advice.
4. If you accept the plea bargain, you agree to plead guilty.
5. If you reject the plea bargain your case will go to trial.
6. The Judge is not directly involved in the plea - bargaining process, but they must agree with and approve the plea bargain's terms.

Why would you accept a plea bargain? Here a couple of possible reasons:

- If you plead guilty under the terms of a plea bargain, it usually results in a sentence that is less than what you would have received without a plea bargain, if you had taken your case to trial and was found guilty. The plea bargain could also result in a less serious charge(s) than you would have received had they not accepted a plea bargain.
- You could resolve the case quicker by accepting a plea bargain.

When you are thinking about a plea bargain, you must understand that:

- There is always at least some evidence against you.
- If you take your case to trial, there is a chance that you could be found guilty.
- If you are found guilty at trial, the Judge can legally sentence you for the maximum amount of time for that offense class.

Self - Test: NC Criminal Justice Process

Match the plea option with the correct definition:

- 1. Not Guilty by Reason of Insanity plea _____
- 2. Guilty plea _____
- 3. No Contest (Nolo Contendere) plea _____
- 4. Not Guilty plea _____
- 5. Alford Guilty plea _____

- A. You are not saying that you are guilty or not guilty, but you are not fighting the charges in their case.
 - B. You are saying you are innocent, but the State has enough evidence to prove you are guilty.
 - C. You admit that you did what you are charged with.
 - D. You are saying that you did not do what you are charged with.
 - E. You are saying that you did the crime you are charged with, but at the time of the crime, you didn't know what you were doing was wrong because of your mental illness.
6. Damien needs help figuring out what he is going to do. His attorney tells him that the district attorney has a lot of evidence against him. Damien's attorney told him that he will most likely be found guilty if he takes the case to trial, but it will be his decision. What would you do if you were Damien and why?

7. A plea bargain is (choose one):
- A. You go to trial.
 - B. A deal between the district attorney and you.
 - C. The witness says you did what you are charged with doing.
 - D. Your charges are dismissed.

8. If a guilty plea is entered, _____(choose one):
- A. You go to trial.
 - B. Your charges are dismissed.
 - C. You admit you did what you are charged with doing.
 - D. You don't admit you did anything wrong.
9. Shanti needs help figuring out what to do in her case. Her attorney told her that the district attorney does not have a lot of evidence against in her case. Shanti's attorney does not see how the district attorney can prove beyond a reasonable doubt that she did the crime. If you were Shanti, what would you do and why?

State what the following terms mean: (**If you do not know the answers, read the definitions again.)

10. Not Guilty by Reason of Insanity (NGRI): _____

11. Alford Guilty: _____

12. Not Guilty: _____

13. No Contest (Nolo Contendere): _____

14. Guilty: _____

Trial

The legal proceedings held in the courtroom, with or without a jury. Where a determination is made if there was enough proof to find that you, committed the alleged crime or did not commit the crime.

At the trial the district attorney presents evidence to show you committed the crime. In a criminal trial, the district attorney has the “burden of proof,” meaning the district attorney must prove that you are guilty. For a criminal case the burden of proof is beyond a reasonable doubt, which is the highest burden of proof in our system of law. Officially, you are considered not guilty until, and only if, the district attorney proves that you are guilty.

You do not have to prove that you are not guilty. Your attorney must only present evidence that shows the district attorney did not prove that you are guilty. The Judge (bench trial) or jury (jury trial) will listen to and review all the evidence and then decide on a verdict: guilty or not guilty. The evidence the district attorney presents in trial must remove all reasonable doubt of the Judge or jury that you did the criminal act(s), this is “beyond reasonable doubt.”

Jury Trial or Bench Trial

- You have the right to have a jury (12 jurors) decide your verdict: guilty or not guilty. This is called a Jury Trial.
- Sometimes you might have a trial but will choose to have the Judge decide the verdict: guilty or not guilty. This is called a bench trial. It is called a bench trial because the platform the Judge sits on is called the bench.

Testifying:

- To testify means to speak in court under oath.
- When a witness testifies in court, they are first asked questions by the attorney who called them to testify. This is called direct examination. During direct examination, the attorney who called the witness asks questions. The attorney believes that the witness’s testimony supports their side of the case and that the information should be heard so that the Judge or jury can decide about the verdict in this case.
- Once the attorney has finished questioning the witness, the opposing attorney is given a chance to ask the witness questions. This is called cross examination. During cross examination, the opposing attorney is trying to show the Judge or jury that the witness is not believable and their information should not be used in deciding the verdict in the case.

Brief outline of the trial process:

Opening Statements

A statement made by both sides at the beginning of the trial, which gives a brief introduction of what each side intends to prove.

- The district attorney goes first and tells the jury what the evidence will be and that the evidence will show beyond a reasonable doubt that you committed the crime.
- Your attorney goes next and tells the jury what the evidence will be and why the evidence does not prove “beyond a reasonable doubt” that you committed the crime.
- Opening statements are not required.

District Attorney’s/Prosecution’s Case

Presents first in a trial because they bear the burden of proof. Burden of proof means it is up to the district attorney to prove that you are guilty of the alleged crime.

- You and your attorney do not have to prove that you are not guilty. You only need to show that the district attorney did not prove that you were guilty beyond a reasonable doubt.
- Officially, you are considered not guilty until, and only if, the district attorney proves that you are guilty of the alleged crime, beyond a reasonable doubt.
- Evidence must prove, beyond a reasonable doubt that you committed the alleged crime. Reasonable doubt means that the Judge or the jury that they are extremely sure or certain that you committed the alleged crime.
- Obtains and presents evidence to convince the Judge or jury that you did what law enforcement and witnesses say you did.
- The district attorney will call witnesses, known as prosecution witnesses, to say what they saw or what they know about the alleged crime(s) (direct examination).
- You should be able to (quietly) tell your attorney about information that is not right during a witness’s testimony. You can do this by (quietly) getting your attorney’s attention and:
 - Quietly telling (writing a note or whispering) your attorney that the witness is telling incorrect information.
 - If a witness makes a mistake when testifying, it is not considered perjury.
- After the district attorney’s direct examination, your attorney will have an opportunity to question the witness (cross examination). The information that

you provided to your attorney about the testimony, can be used during your attorney's cross examination

- When the district attorney has presented all the evidence to show that the you committed the alleged crime, then it is your attorney's turn to present their case.

Defense Attorney's/Your Attorney's Case

- Is not required to prove you are innocent.
- Can present evidence to show you did not commit the alleged crime.
- You and your attorney will call witnesses. These witnesses are called, defense witnesses. These witnesses will answer questions from your attorney (direct examination).
- After each witness testifies, the district attorney may ask them questions (cross examination).
- You have the right to remain silent. This means you do not have to testify. No one can make you testify, not the district attorney, not the Judge, and not your lawyer.
- To be capable to proceed, you must be able to testify in court if you need/choose to. This means that you must understand what it means to "testify."

- Should you testify at your trial?

You are the one who will decide if you will testify at your trial. Your attorney will give advice and tell you what they the positive and negative points about you testifying, but ultimately it is your decision.

- Points to consider when deciding if you should testify:
 - If you chose to testify, you give up your right to remain silent. That means you will be required to answer questions not only from your attorney, but from the district attorney.
 - How strong is the evidence against you?
 - How important is it for you to tell your side of the story?
 - Can you and your attorney get the same information to the Judge the jury without your testimony?
 - Do you have any past convictions? If you testify, your past convictions could be brought to the attention of the jury. This could make the you look bad.
 - What does your attorney think about having you testify?

Rebuttal

Additional evidence or arguments introduced to counter, disprove, or contradict the opposing party's evidence or argument.

- After your attorney has presented all the evidence to show that the district attorney did not prove you committed the alleged crime, the district attorney may respond to your evidence by calling witnesses or presenting evidence to address the evidence your attorney presented.
- Your attorney may cross - examine any witness who testifies.

Closing Arguments

The attorney's last remarks to the Judge or jury, a summary of their case. It calls attention to important testimony, argues why their side should win the case, and what they want the Judge or jury to decide.

- The district attorney goes first.
- Closing arguments cannot include new evidence or information that was not presented during the trial.
- Closing arguments are not required.

Self - Test: Trial

1. If you have been charged with a crime, this means (choose one):
 - A. You did nothing wrong.
 - B. The State has accused you of breaking the law.
 - C. The Judge has proof you did something bad.
 - D. You have been found guilty.
2. Which of the following is NOT true about witnesses? (choose one)
 - A. Asked questions by both the defense and the prosecution.
 - B. Asked questions by only the person who called them to the witness stand to testify.
 - C. Must have knowledge about the crime or people allegedly involved with the crime.
 - D. Are expected to tell the truth.
3. In court it is (choose one):
 - A. The "State" against you.
 - B. You against the Judge.
 - C. You against the witness.
 - D. You against the courts.
4. If a witness gives incorrect evidence (lies) while on the witness stand, which of the following is true (choose one):
 - A. They can be held in contempt of court.
 - B. This is called perjury.
 - C. They can be charged with a crime.
 - D. All the above.
5. Finish this sentence: If a witness who is testifying against me in court gave incorrect evidence while on the witness stand, I would _____

6. _____ trial is when the Judge decides the verdict and if the verdict is guilty and is also responsible for sentencing. (choose one)
 - A. Jury
 - B. Bench
 - C. Bailiff
 - D. Capacity

7. _____ trial is when 12 peers decide the verdict and if the verdict is guilty but the Judge is responsible for sentencing. (choose one)
- A. Bench
 - B. Capacity
 - C. Jury
 - D. Civil
8. _____ is when the attorney that called the witness to the stand asks the witness questions. (choose one)
- A. Cross examination
 - B. Testify
 - C. Direct examination
 - D. Objection
9. _____ is when the attorney that did not call the witness to the stand asks the witness questions? (choose one)
- A. Direct examination
 - B. Cross examination
 - C. Objection
 - D. Testify
10. _____ decides what kind of trial you will have, a jury trial or a bench trial. (choose one)
- A. You
 - B. Judge
 - C. Defense Attorney
 - D. District Attorney
11. _____ is required to present evidence first and has the burden of proof. (choose one)
- A. Judge
 - B. Defense
 - C. Jury
 - D. Prosecution
12. It is the job of the district attorney: (choose one)
- A. To swear people in prior to testifying.
 - B. To present evidence that you are guilty.
 - C. To present evidence that you are not guilty.
 - D. To testify in court.

13. It is the job of your attorney: (choose one)

- A. To present evidence that you are guilty.
- B. To swear people in prior to testifying
- C. To testify in court.
- D. Provides evidence that causes doubt in the district attorney's case.

14. The person charged with the alleged crime is the: (choose one)

- A. Stenographer
- B. Defendant/you
- C. Prosecution
- D. Witness

15. Complete the sentence: When they say a person is innocent until proven guilty, it means _____

Trial Continued

Jury Instructions (jury trial)

After closing arguments, the Judge provides instructions to the jury before they leave the courtroom.

Jury Deliberation (jury trial)

When the Judge or jury considers the evidence, discusses it, votes, and in the end reaches a decision/conclusion regarding if there is enough proof to find that the defendant committed the crime or did not commit the crime.

- The jury goes to a room to discuss all the evidence that was presented; this is called deliberating.
- After deliberating each juror will vote on a verdict: guilty or not guilty.
- If the jurors do not agree, they will return to deliberating and repeat the process until the jurors reach a unanimous decision.
- If a unanimous decision is not made, the Judge will declare a mistrial.

Verdict

The decision regarding charges: guilty, not guilty, or not guilty by reason of insanity.

- In a bench trial this decision is made by the Judge.
- In a jury trial, this decision is made by the jury. All 12 jurors must agree to have a verdict. If the jurors do not all agree, there is no verdict.
- The jury or the Judge can only vote guilty if they are convinced by the evidence beyond a reasonable doubt that you are guilty.

“Not Guilty by Reason of Insanity” verdict

If the Judge or all jurors vote not guilty by reason of insanity, the verdict is “Not Guilty by Reason of Insanity.”.

- The charges are gone.
- The legal case is over.
- You go to a state psychiatric hospital until you are safe and your mental illness symptoms are well-managed. This is not for a set amount of time but is until the Judge in your hospital case and the staff at the hospital think you are stable and you are not dangerous to yourself or others.

“Not Guilty” verdict

If the Judge or all jurors vote not guilty, the verdict is “Not Guilty.”

- The charges are gone. You were found not guilty of the charges, also called an acquittal.
- The case is over.
- You can go home.
- The district attorney cannot bring the case against you a second time. “Double jeopardy” means that you cannot be tried twice for the same crime.

“Guilty” verdict

If all jurors vote guilty, the verdict is “Guilty.”

- You will be sentenced. A sentence is the punishment the Judge gives after you are found guilty of the crime you were charged with.

No verdict

If the jurors cannot all agree on a verdict of “Guilty” or “Not Guilty,” there is no verdict. This is called a mistrial.

- The charges remain.
- The district attorney will then decide whether to have another trial or not have another trial.
- This is not considered double jeopardy because a verdict was not decided. In a mistrial, the jurors could not all agree, so there was no verdict. In the law, a mistrial is as if the trial did not take place.

Sentencing

Structured sentencing is the method of sentencing and punishing people convicted of misdemeanors and felonies in NC. (This does not apply to driving while impaired and drug trafficking convictions.) A copy of the NC Misdemeanor Sentencing chart is located on page 62 of this workbook. A copy of the NC Felony Sentencing chart is located on pages 63-64 of this workbook.

The amount of time that the you may receive as a sentence is dependent upon:

1. Severity of Offense(s)/Charge(s)
2. Prior Record Level, and
3. Aggravating and/or Mitigating Factors (N/A for Misdemeanors)

If you plead guilty under the terms of a plea bargain, or is found guilty at trial, the Judge is responsible for assigning a sentence. The sentence is the punishment for the crime. The law gives the Judge guidelines to help them make decisions about the proper sentence. The factors that the law provides for the Judge to consider in making a sentence are:

Aggravating factors

- Possibly increase your sentence.
- Could be related to the crime(s) (especially cruel, gang related, etc.).
- Could be related to the victim (young, old, impaired, public servant, etc.).
- Could be related to you (caused serious harm, not sorry, repeat offender, etc.).

Mitigating factors

- Possibly decrease your sentence.
- Could be related to the crime(s) (no serious injury, etc.).
- Could be related to the victim (16 or older and a voluntary participant, provoke defendant, etc.).
- Could be related to you (no prior convictions, honest about crime(s), made amends to victim, etc.).

If the crime(s) is serious and is violent, the Judge will likely sentence you to some time in jail (misdemeanor) or prison (felony). Some crimes require the Judge to sentence you to time in prison or jail.

If the crime(s) is your first and is less serious and/or did not involve violence, the Judge may keep you in the community and sentence you with probation.

You should speak with your attorney to see if there are aggravating or mitigating factors for the crime(s). If you have these factors added to the charge(s), this could become part of a plea bargain.

Types of Punishment

Probation - Instead of sentencing you to jail or prison, the Judge can suspend your sentence and allow you to remain in the community. The Judge will set conditions that must be followed, or the sentence will be activated, and you will be sent to jail (misdemeanor) or prison (felony). Some conditions of probation may include:

- Report to probation officer on a regular schedule.
- Complete urine or blood tests when told to do so.
- Pay fines or restitution.
- Do not leave the area without the permission of the probation officer.
- Do not commit crimes.
- Do not use alcohol or “non-prescribed” drugs.
- Do not possess weapons.
- Get treatment at a clinic or hospital.
- Look for work.
- Complete GED.

Community Punishment - Includes any sentence other than an active punishment that the Judge designates as community punishment. A community punishment may consist of one or more of the following:

- Supervised or unsupervised probation.
- House arrest with electronic monitoring.
- Community service.
- Period or periods of confinement in a local confinement facility.
- Substance abuse assessment, monitoring, or treatment.
- Educational or vocation skills development program, or satellite - based monitoring.
- **Fine** - An amount of money you must pay the court. There could also be court costs.
- **Restitution** - Making of amends for wrong or injury done, made by giving an equivalent or compensation for loss, damage, or injury caused. These monies are paid to the victim.

Intermediate punishment - Requires a sentence of supervised probation and is restrictive but less costly than incarceration. Generally, offenders must follow strict rules, work, pay restitution, and participate in treatment. Intermediate punishments may include one or more of the following conditions:

- Special probation.
- Drug treatment court.
- House arrest.
- Community service.
- Period(s) of confinement in a local confinement facility (Confinement in response to violation, known as a “quick dip”).
- Substance abuse assessment, monitoring, or treatment.
- Educational or vocational skills development program.
- Satellite - based monitoring.

Active Punishment - A length of time that you would have to spend in jail (misdemeanor) or prison (felony). There is a mandatory period of post-release supervision that starts once an individual is release from prison.

Probation v Post-Release Supervision

- **Probation** - You live in the community, under the supervision of a probation officer, who tells you what you can and cannot do.

- **Post-Release Supervision (PRS)** - Period of supervision served after you are released from prison. Your sentence is not complete upon release, all felons must serve a term of PRS after release from prison. It is mandatory; you cannot refuse it. During the term of PRS, you are supervised by a probation/parole officer. These are same officers who supervise probationers in NC. The length of the PRS term is governed by the type of conviction.

Offense Class	Length of PRS
Class F - I	9 Months
Class B1 - E	12 Months
B1 – E Sex Offenses	60 Months

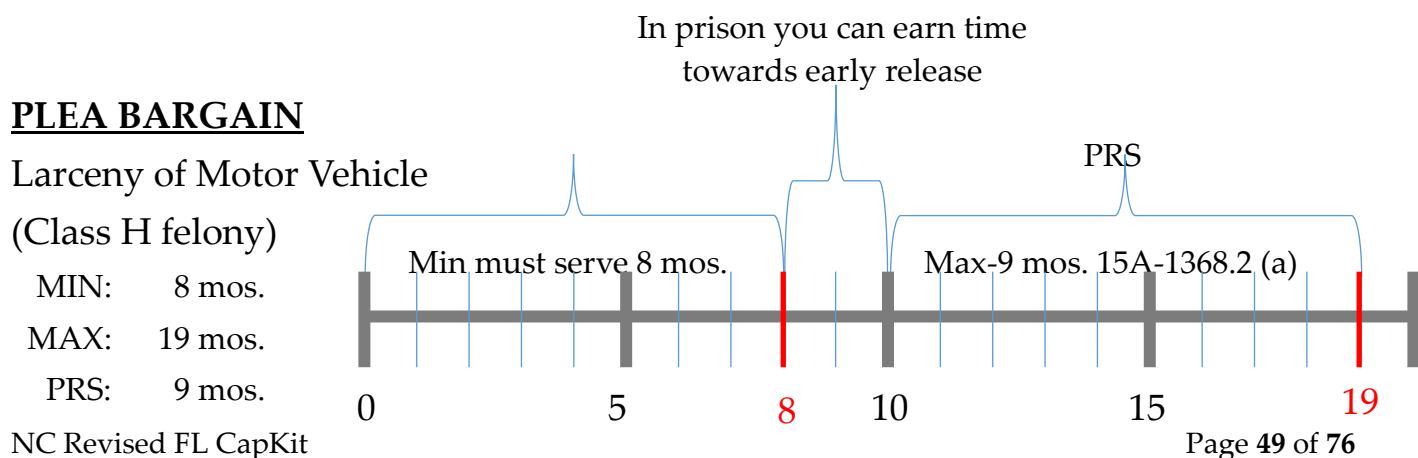
In 1994, NC enacted the Structured Sentencing Act, which eliminated the system of parole.

Credit & Time Served

If you are found guilty and sentenced to jail or prison, your attorney may ask the Judge to give you “time served” for the time you have already spent in confinement (jail or hospital). The time that you have already served is called “credit.” The amount of credit accrued before you are found guilty will reduce the amount of your active sentence (the amount of time you will needed to serve to complete your sentence).

Example: Let’s say Michelle stole a car. She is charged with “Larceny of Motor Vehicle”, a Class H felony. It has a possible minimum prison sentence from as low as six (6) months (mos) to as much as 39 mos.

Michelle has been in jail for two (2) mos. She then pleads guilty, pursuant to a plea bargain, and the Judge sentences her to a prison sentence of 8 mos.

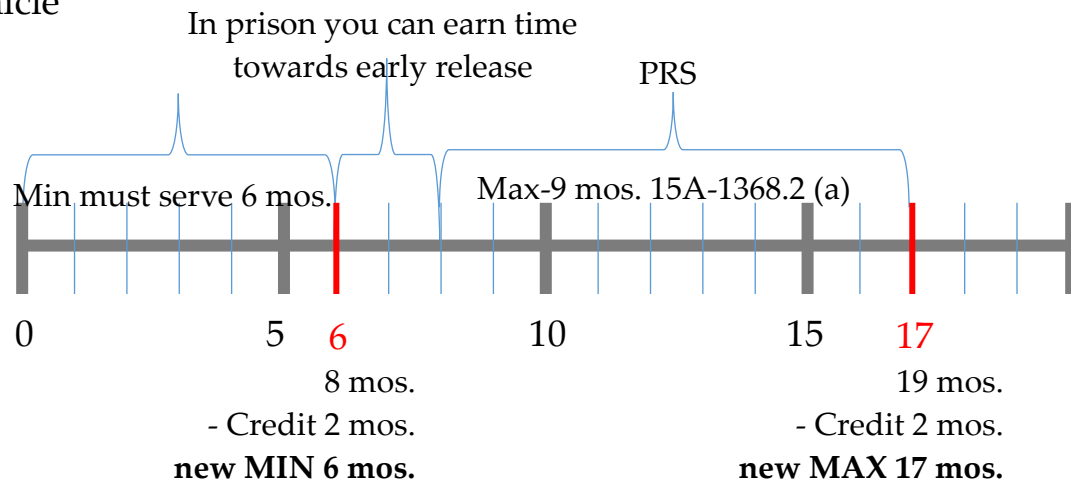


PLEA BARGAIN W/ CREDIT

Larceny of Motor Vehicle

(Class H felony)

MIN: 8 mos.
MAX: 19 mos.
PRS: 9 mos.
CREDIT: 2 mos.



Appeal

After a verdict of guilty has been reached, you must decide if you will submit a formal request for a higher-level court review in your case. An appeal is a process that allows cases to be reviewed and if an error/mistake in the process or if clarification or interpretation of a law is needed, it can be made. An appeal is asking for a formal change to an official decision.

The reviewing authority, usually the court of appeals or appellate court, reviews the case as it was presented in the lower court. At the appellate court, your team tries to show where they believe a mistake was made in your case.

No new evidence can be introduced during an appeal.

- If a prejudicial (unfair) error(s) occurred during the trial, the appellate court would set aside or reverse the conviction, vacate the judgment, and remand (or send back) the case to the trial court for a new trial. The district attorney decides whether to proceed with a new trial.
- If a prejudicial error(s) occurred during sentencing, the appellate court would uphold the conviction but remand the case to trial court for a new sentencing hearing.
- If there was insufficient evidence to support the jury's verdict, the court would reverse the conviction.

Self - Test: Verdicts & Sentencing

1. To keep from being found guilty when charged with a crime, you must:
 - A. Write the court stating what law(s) you are accused of breaking.
 - B. Admit you did something wrong.
 - C. Go to court and defend yourself against the charges.
 - D. Do nothing it will go away.
2. If you receive a verdict of not guilty, you will:
 - A. Have another trial.
 - B. Go home.
 - C. Go to a state psychiatric hospital.
 - D. Be sentenced.
3. To find you not guilty, the defense attorney must prove:
 - A. You didn't commit the crime the way the district attorney says you did.
 - B. You did it but didn't mean to commit the crime.
 - C. The district attorney has not proven, beyond a reasonable doubt, that the you committed the crime.
 - D. You are innocent.
4. If you have a jury trial, who decides the verdict, guilty or not guilty?
 - A. The jury
 - B. The Judge
 - C. The witness
 - D. The district attorney
5. The district attorney has to prove _____ for the jury to convict you.
 - A. Clear and convincing
 - B. Beyond a reasonable doubt
 - C. Preponderance
 - D. Probable cause
6. If you receive a verdict of guilty, you will:
 - A. Have another trial.
 - B. Go home.
 - C. Go to a state psychiatric hospital.
 - D. Be sentenced.

7. _____ is when you live in the community, is supervised, and must follow certain rules or could be sent to prison.
- A. Hospitalization
 - B. Credit
 - C. Probation
 - D. Active sentence
8. If you have a bench trial, who decides if you are guilty?
- A. The jury
 - B. The Judge
 - C. The witness
 - D. The prosecution

Appendix A - Self - Test Answers

Self – Test: Courtroom Personnel and Where They Sit in Court..... 9

<u>9</u> Court Reporter	<u>8</u> Bailiff	<u>7</u> Court Clerk
<u>1</u> District Attorney	<u>2</u> Defendant/you	<u>3</u> Defense Attorney
<u>5</u> Witness	<u>6</u> Judge	<u>4</u> Jury

1 – B, 2 – A, 3 – A, 4 – C, 5 – B, 6 – C, 7 – A, 8 – D, 9 – A, 10 – D, 11 – C, 12 – D, 13 – B, 14 – A, 15 – D

Self - Test: Important Things About Your Case & What is ITP..... 17

6 – C, 7 – C, 8 – D

Self - Test: Understanding Rights & Appropriate Courtroom Behavior..... 21

1 – False, 2 – B, D, E, 3 – False,

4, 5, 6, 7 – Answers: Look at pgs 11-12 to review if you are unsure!

Self - Test: Working with Defense Attorney/Your Attorney..... 24

1 – What things should Fernando consider in deciding whether to accept the plea bargain or not?

Correct answers will include:

- How good is the plea bargain?
- What is my attorney’s advice?
- How has the court handled situations like this in the past?

2 - How will you handle preparing to go to court with the defense attorney/your attorney?

Correct answers will address that you plan to work with your attorney. For example:

- “I will ask him what he thinks about the evidence against me.”
- “I will tell him the truth.”
- “We will have long talks about my options and which one he thinks is best.”

Self - Test: NC Criminal Justice Process..... 36

1 – E, 2 – C, 3 – A, 4 – D, 5 – B,

6 – What would you do if you were Damien and why?

Correct answers include:

- How good is the plea bargain?
- What is my attorney’s advice?
- How has the court handled situations like this in the past?

7 – B, 8 – C,

9 – If you were Shanti, what would you do and why?

Correct answers will address that you plan to work with your attorney. For example:

- “I will ask him what he thinks about the evidence against me.”
- “I will tell him the truth.”
- “We will have long talks about my options and which one he thinks is best.”

10, 11, 12, 13, 14-***If you do not know the answers, read the definitions again.

Self - Test: Trial 42

1 – B, 2 – B, 3 – A, 4 – D

5 – Finish this sentence: If a witness who is testifying against me in court gave incorrect evidence while on the witness stand, I would

Answer: A correct answer should demonstrate that you recognized that the witness was saying something that was wrong, and you did something appropriate about it. Examples might include:

- “Quietly tell my attorney that the witness was perjuring [i.e., lying on purpose under oath] himself.”
- “Write a note to my attorney.”
- “Get my attorney’s attention and write her a note.”

6 – B, 7 – C, 8 – C, 9 – B, 10 – A, 11 – D, 12 – B, 13 – D, 14 – B

15 - The State has the burden of proof-you are not guilty until the State (aka the prosecutor) proves that you are guilty.

- The prosecutor (aka the State) must show you did the crime(s).

You are not guilty until the Judge or jury decides you are guilty.

Self - Test: Verdicts & Sentencing 51

1 – C, 2 – B, 3 – C, 4 – A, 5 – B, 6 – D, 7 – C, 8 – B

Appendix B - Forms

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice Superior Court Division
STATE VERSUS		<p>INDICTMENT</p> <p>ASSAULT WITH DEADLY WEAPON</p> <p>WITH INTENT TO KILL</p> <p>INFLECTING SERIOUS INJURY (1348)</p> <p><input type="checkbox"/> This is a superseding indictment.</p>
<small>Name And Address Of Defendant</small>		
<small>Race</small>	<small>Sex</small>	
<small>Date Of Offense</small>		<small>Offense In Violation Of G.S.</small>
		14-32(a)
<p>The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did assault _____ with _____, a deadly weapon, with the intent to kill and inflicting serious injury.</p>		
		<small>Signature Of Prosecutor</small>
WITNESSES		
<input type="checkbox"/> _____	<input type="checkbox"/> _____	
<input type="checkbox"/> _____	<input type="checkbox"/> _____	
<input type="checkbox"/> _____	<input type="checkbox"/> _____	
<input type="checkbox"/> _____	<input type="checkbox"/> _____	
<p>The Witnesses marked "X" were sworn by the undersigned Foreperson of the Grand Jury and, after hearing testimony, this Bill was found to be:</p> <p><input type="checkbox"/> A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreperson of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.</p> <p><input type="checkbox"/> NOT A TRUE BILL.</p>		
<small>Date</small>		<small>Signature Of Grand Jury Foreperson</small>

File No.	Law Enforcement Case No.	LID No.	SID No.	FBI No.	
WARRANT FOR ARREST					
Offense					
STATE OF NORTH CAROLINA In The General Court Of Justice District Court Division					
County					
THE STATE OF NORTH CAROLINA VS.					
<i>Name And Address Of Defendant</i>					
Race	Sex	Date Of Birth	Age		
Social Security No./Tax ID No.	Drivers License No. & State				
Name Of Defendant's Employer					
Offense Code(s)					
Offense In Violation Of G. S.					
Date Of Offense					
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)					
Complainant (Name, Address Or Department)					
Names & Addresses Of Witnesses (Including Counties & Telephone Nos.)					
<input type="checkbox"/> Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan					
					Date Issued
<input type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court					
(Over)					
Signature					
Location Of Court					
Court Date					
Court Time					
<input type="checkbox"/> AM <input type="checkbox"/> PM					

To any officer with authority and jurisdiction to execute a warrant for arrest for the offense(s) charged below: I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

If this Warrant For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon.	RETURN OF SERVICE I certify that this Warrant was received and served as follows: Date Received _____ Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM Date Returned _____	District Attorney <input type="checkbox"/> Waived <input type="checkbox"/> Not Indigent <input type="checkbox"/> Denied	Attorney For Defendant VERDICT: <input type="checkbox"/> guilty <input type="checkbox"/> not guilty	Appointed <input type="checkbox"/> Retained <input type="checkbox"/>	PRIOR CONVICTIONS: No./Level: 0 <input type="checkbox"/> I (0) <input type="checkbox"/> II (1-4) <input type="checkbox"/> III (5+)
<input type="checkbox"/> By arresting the defendant and bringing the defendant before: Name Of Judicial Official _____	<input type="checkbox"/> This Warrant WAS NOT served for the following reason: Signature Of Officer Making Return _____ Name Of Officer (type or print) _____ Department Or Agency Of Officer _____	PLEA: <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty <input type="checkbox"/> guilty <input type="checkbox"/> no contest <input type="checkbox"/> not guilty	M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 M.C.L. <input type="checkbox"/> A1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3	JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict, it is ORDERED that the defendant: <input type="checkbox"/> pay costs and a fine of \$ _____ <input type="checkbox"/> be imprisoned for a term of _____ days in the custody of the <input type="checkbox"/> sheriff. <input type="checkbox"/> MCP. <input type="checkbox"/> DACJ.J.* Pretrial credit _____ days served. <input type="checkbox"/> Work release <input type="checkbox"/> is recommended. <input type="checkbox"/> is not recommended. <input type="checkbox"/> is ordered. (use form AOC-CR-602)] <input type="checkbox"/> The Court finds that a <input type="checkbox"/> longer <input type="checkbox"/> shorter period of probation than that which is specified in G.S. 15A-1343.2(d) is necessary. <input type="checkbox"/> Execution of the sentence is suspended and the defendant is placed on unsupervised probation* for _____ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or other deadly weapon listed in G.S. 14-269. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of 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) pay to the Clerk the costs of court and any additional sums shown below.	
REDELIVERY/REISSUANCE Date _____ Signature _____ <input type="checkbox"/> Dep. CSC <input type="checkbox"/> Assat. CSC <input type="checkbox"/> CSC	RETURN FOLLOWING REDELIVERY/REISSUANCE I certify that this Warrant was received and served as follows: Date Received _____ Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM Date Returned _____	Fine \$ _____ Restitution** \$ _____ Attorney's Fee \$ _____ Community Service Fee \$ _____ Other \$ _____	6. complete _____ hours of community service during the first _____ days of probation, as directed by the judicial services coordinator, and pay the fee prescribed by G.S. 143B-708 within _____ days. 7. not be found in or on the premises of the complainant or _____ days. 8. not assault, communicate with or be in the presence of the complainant or _____ 9. provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319) 10. Other: _____		
<input type="checkbox"/> By arresting the defendant and bringing the defendant before: Name Of Judicial Official _____	<input type="checkbox"/> This Warrant WAS NOT served for the following reason: Signature Of Officer Making Return _____ Name Of Officer (type or print) _____ Department Or Agency Of Officer _____	It is ORDERED that this: <input type="checkbox"/> Judgment is continued upon payment of costs. <input type="checkbox"/> case be consolidated for judgment with _____ <input type="checkbox"/> sentence is to run at the expiration of the sentence in _____ <input checked="" type="checkbox"/> COMMITMENT: It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.			
APPEAL ENTRIES <input type="checkbox"/> The defendant, in open court, gives notice of appeal to the <input type="checkbox"/> District <input type="checkbox"/> Superior Court. <input type="checkbox"/> The current pretrial release order is modified as follows:	WAIVER OF PROBABLE CAUSE HEARING The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing. Date Waived _____ Signature Of Defendant _____ Signature Of Attorney _____	PROBABLE CAUSE: <input type="checkbox"/> Probable cause is found as to all Counts except _____ and the defendant is bound over to Superior Court for action by the grand jury. <input type="checkbox"/> No probable cause is found as to Count(s) _____ of this Warrant and the Count(s) is dismissed.			
I certify that this Judgment is a true and complete copy of the original which is on file in this case. Date _____ Signature _____ Date Delivered To Sheriff _____ Signature _____		CERTIFICATION Name Of District Court Judge Or Magistrate (type or print) _____ Signature Of District Court Judge Or Magistrate _____			

*NOTE: If DWI, use AOC-CR-342 (active) or AOC-CR-310 (probation). If active sentence to DACJ.J, use AOC-CR-602. If supervised probation, use AOC-CR-604.

File No.	<input type="checkbox"/> See Attachment	Law Enforcement Case No.	LID No.	SID No.	FBI No.
ORDER FOR ARREST					
#	STATE OF NORTH CAROLINA				
Offense	In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division <input type="checkbox"/> County				
To any officer with authority and jurisdiction to serve an Order For Arrest: The Court finds that:					
<input type="checkbox"/> 1. FTA - RELEASE ORDER [G.S. 15A-305(b)(2)] the defendant has been arrested and released from custody and has failed on the date shown to appear as required by the Release Order. <input type="checkbox"/> This is the defendant's second or subsequent failure to appear on these charges. <input type="checkbox"/> 2. FTA - CRIMINAL SUMMONS OR CITATION (Do not use for infraction.) [G.S. 15A-305(b)(3)] the defendant has failed on the date shown to appear as required by a duly executed Criminal Summons or by a Citation that charged the defendant with a misdemeanor. <input type="checkbox"/> 3. TRUE BILL OF INDICTMENT [G.S. 15A-305(b)(1)] a Grand Jury has returned a true bill of indictment against the defendant, a copy of which is attached. [Note To Arresting Officer: If this option is checked, defendant must be fingerprinted. G.S. 15A-502(a).] <input type="checkbox"/> 4. FTA - SHOW CAUSE AFTER FTC [G.S. 15A-305(b)(8)] the defendant has failed on the date shown to appear as required in a Show Cause Order entered in this criminal proceeding. <input type="checkbox"/> 5. FTA - SHOW CAUSE ORDER IN ORIGINAL CRIMINAL JUDGMENT [G.S. 15A-305(b)(8); -1362(c); -1364(a)] the defendant has failed by the date shown to pay a fine or costs or both as required by a judgment entered in this case and has also failed, as required upon such failure, to appear on that date and show cause why the defendant should not be imprisoned. <input type="checkbox"/> 6. PROBABLE CAUSE THAT DEFENDANT MAY FAIL TO APPEAR - CRIMINAL CONTEMPT [G.S. 15A-305(b)(9); 5A-16] this Court has initiated plenary proceedings for contempt against the defendant under G.S. 5A-16, has issued a show cause order and finds probable cause to believe that the defendant will not appear as required in response to that order. <input type="checkbox"/> 7. PROBATION VIOLATION [G.S. 15A-305(b)(4); -1345(a)] the probation officer has provided the court with a written statement, signed by the probation officer, alleging that the defendant has violated specified conditions of the defendant's probation and a copy of the written statement is attached. <input type="checkbox"/> 8. Other: (specify)					
You are DIRECTED to take the defendant into custody and bring the defendant before a judicial official for the purpose of: <input type="checkbox"/> determining conditions of release, and for commitment if the defendant is unable to comply. <input type="checkbox"/> commitment since release of the defendant is not authorized.					
Name, Address & Telephone No. Of Defendant		Signature		Location Of Court	
THE STATE OF NORTH CAROLINA VS.		Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> DC Judge <input type="checkbox"/>		Court Date	
Name, Address & Telephone No. Of Defendant		Asst. CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> SC Judge <input type="checkbox"/>		Court Time <input type="checkbox"/> AM <input type="checkbox"/> PM	
Race	Sex	Date Of Birth	Age		
Social Security No.	Drivers License No. & State				
Name And Address of Defendant's Employer					
Date Defendant Failed To Appear					
Amount Of Bond	Type Of Bond				
\$					
TRUE BILL OF INDICTMENT ONLY					
Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)					
Offense Code					
Offense In Violation Of G.S.					
Date Of Offense	Date Issued				

(Over)

If this Order For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon.

RETURN OF SERVICE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	
<input type="checkbox"/> By arresting the defendant and bringing the defendant before: Name Of Judicial Official			
<input type="checkbox"/> This Order WAS NOT served for the following reason:			
Signature Of Officer Making Return <i>Name Of Officer (type or print)</i>			
Department Or Agency Of Officer			
REDELIVERY/REISSUANCE			
Date	Signature	<input type="checkbox"/> Dep. CSC	<input type="checkbox"/> Assst. CSC
		<input type="checkbox"/> CSC	
RETURN FOLLOWING REDELIVERY/REISSUANCE			
I certify that this Order was received and served as follows:			
Date Received	Date Served	Time Served	Date Returned
		<input type="checkbox"/> AM <input type="checkbox"/> PM	
<input type="checkbox"/> By arresting the defendant and bringing the defendant before: Name Of Judicial Official			
<input type="checkbox"/> This Order WAS NOT served for the following reason:			
Signature Of Officer Making Return <i>Name Of Officer (type or print)</i>			
Department Or Agency Of Officer			

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name And Address Of Respondent

INVOLUNTARY COMMITMENT
CUSTODY ORDER
DEFENDANT FOUND
INCAPABLE TO PROCEED
(For Offenses Committed On Or After Dec. 1, 2013)

G.S. 15A-1003, -1004; 122C-261, -262, -263

I. FINDINGS

The respondent has been charged in File No. with a criminal offense in the above named county and has been found incapable of proceeding to trial under G.S. 15A-1002. The Court considered the opinion of (name of forensic evaluator) in the report dated (1st date of report) as evidence of incapacity to proceed. A copy of the evaluator's report is attached.

Based on the evidence presented, the Court finds that there are reasonable grounds to believe that the respondent is probably mentally ill and either dangerous to self or others or in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness in that (insert appropriate findings)

In addition, the Court finds that the respondent

1. is probably mentally retarded, in that (insert appropriate findings)

2. is charged with a violent crime in violation of G.S. in that (insert appropriate findings)

NOTE TO JUDGE: If this finding is made, you must designate a law enforcement agency below to take custody of the defendant upon release from treatment.

ORDER

To The Sheriff Of County:

- 1. The Court ORDERS you to take the above named respondent into custody and transport the respondent:
a. to a local person authorized by law to conduct an examination, for examination. (Use when not charged with a violent crime.)
b. directly to the 24-hour facility named below for temporary custody, examination and treatment pending a district court hearing. (Use when charged with a violent crime.)

- 2. The Court further ORDERS that you deliver a copy of the forensic evaluation report referenced in the Findings above, by the forensic evaluator named above, to the 24-hour facility named below.

To The Director Of The 24-Hour Facility Named Below:

The Court ORDERS you to deliver a copy of the forensic evaluation report referenced above to the Assistant Attorney General and the Special Counsel at the program where the respondent is to receive capacity restoration and that report is ordered released to them.

Notice To Hospital, Institution, 24-Hour Facility:

Criminal charges are still pending against the respondent. If defendant-respondent is released he/she must be released to the law enforcement agency named below. If the defendant-respondent is not charged with a violent crime and no law enforcement agency is specified, you may release him/her to whomever you think appropriate. You must examine the defendant-respondent to determine whether he/she has gained the capacity to proceed to trial prior to releasing him/her from custody. A report of the examination must be provided to the court pursuant to G.S. 15A-1002.

Name Of Law Enforcement Agency

Name And Address Of 24-Hour Facility

Date

Signature Of Judge

Or Following Facility Designated By Area Authority:

Name Of Judge (type or print)

NOTE: Use AOC-SP-910M for involuntary commitment if defendant found not guilty by reason of insanity.

(Over)

AOC-SP-304B, Rev. 4/18, © 2018 Administrative Office of the Courts

II. RETURN OF SERVICE

I certify that this Order was received and served as follows:

Date Respondent Taken Into Custody	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM
------------------------------------	------	---

A. FOR USE WHEN RESPONDENT NOT CHARGED WITH VIOLENT CRIME

- 1. The respondent was presented to an authorized examiner locally available as shown below.
- 2. The respondent was temporarily detained at the facility named below until the respondent could be examined by an authorized examiner locally available.

Date Presented	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Examiner
----------------	------	---	------------------

Name Of Local Facility

- 1. Upon examination, the examiner named above found that the respondent did meet the criteria for outpatient commitment. I returned the respondent to his/her regular residence or to the home of a consenting person.
- 2. Upon examination, the examiner named above found that the respondent did meet the criteria for inpatient commitment.
 - I transported the respondent and placed the respondent in the temporary custody of the 24-hour facility named below for observation and treatment.
 - I placed the respondent in the custody of the agency named below for transportation to the 24-hour facility.
- 3. Upon examination, the examiner named above found that the respondent did not meet the criteria for inpatient or outpatient commitment.
 - I examined the respondent for capacity to proceed to trial and returned him/her to his/her regular residence or the home of a consenting person. (Use for offenses occurring on or after December 1, 2013.)
(NOTE: Submit report of capacity examination to Clerk of Superior Court in accordance with G.S. 15A-1002.)
- 4. The examiner's written statement is attached. will be forwarded.

Name Of 24-Hour Facility	Date Delivered	Time Delivered	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date Of Return
--------------------------	----------------	----------------	---	----------------

Name Of Transporting Agency	Signature Of Law Enforcement Official
-----------------------------	---------------------------------------

B. FOR USE WHEN RESPONDENT CHARGED WITH VIOLENT CRIME

I transported the respondent directly to and placed him/her in the temporary custody of the facility named below.

Name Of 24-Hour Facility	Date Delivered	Time Delivered	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date Of Return
--------------------------	----------------	----------------	---	----------------

Name Of Transporting Agency	Signature Of Law Enforcement Official
-----------------------------	---------------------------------------

C. FOR USE WHEN ANOTHER AGENCY TRANSPORTS THE RESPONDENT

I took custody of the respondent from the officer named above, transported the respondent and placed him/her in the temporary custody of the facility named below for observation and treatment.

Name Of 24-Hour Facility	Date Delivered	Time Delivered	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date Of Return
--------------------------	----------------	----------------	---	----------------

Name Of Transporting Agency	Signature And Rank Of Law Enforcement Official
-----------------------------	--

D. FOR USE WHEN STATE FACILITY TRANSFERS WITHOUT ADMISSION

Pursuant to G.S. 122C-261(f), I took custody of the respondent from the State 24-hour facility named above, where he/she was not admitted, and transported the respondent and placed him/her in the temporary custody of the facility named below for observation and treatment.

Name Of Facility To Which Transferred	Date Delivered	Time Delivered	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date Of Return
---------------------------------------	----------------	----------------	---	----------------

Name Of Transporting Agency	Signature Of Law Enforcement Or State Facility Official
-----------------------------	---

Misdemeanor Offenses Committed on or after **December 1, 2013**

OFFENSE CLASS	PRIOR CONVICTION LEVEL		
	I No Prior Convictions	II One to Four Prior Convictions	III Five or More Prior Convictions
A1	C/I/A	C/I/A	C/I/A
	1-60 days	1-75 days	1-150 days
1	C	C/I/A	C/I/A
	1-45 days	1-45 days	1-120 days
2	C	C/I	C/I/A
	1-30 days	1-45 days	1-60 days
3	C	One to Three Prior Convictions C	Four Prior Convictions C/I
	Fine Only* 1-10 days	Fine Only* 1-15 days	1-15 days
			C/I/A 1-20 days

*Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine.

A—Active Punishment **I**—Intermediate Punishment **C**—Community Punishment

Misdemeanor Offenses Committed before **December 1, 2013**

OFFENSE CLASS	PRIOR CONVICTION LEVEL		
	I No Prior Convictions	II One to Four Prior Convictions	III Five or More Prior Convictions
A1	C/I/A	C/I/A	C/I/A
	1-60 days	1-75 days	1-150 days
1	C	C/I/A	C/I/A
	1-45 days	1-45 days	1-120 days
2	C	C/I	C/I/A
	1-30 days	1-45 days	1-60 days
3	C	C/I	C/I/A
	1-10 days	1-15 days	1-20 days

A—Active Punishment **I**—Intermediate Punishment **C**—Community Punishment

Felony Offenses Committed on or after **October 1, 2013**

MINIMUM SENTENCES AND DISPOSITIONAL OPTIONS

OFFENSE CLASS	PRIOR RECORD LEVEL						DISPOSITION
	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
A Max. Death or Life w/o Parole	Death or Life without Parole Defendant under 18 at Time of Offense: Life with or without Parole						
B1 Max. Life w/o Parole	A	A	A	A	A	A	Aggravated PRESUMPTIVE Mitigated
	240-300	276-345	317-397	365-456	Life w/o Parole	Life w/o Parole	
	192-240	221-276	254-317	292-365	336-420	386-483	
B2 Max. 484 (532)	A <small>EM</small>	A <small>EM</small>	A	A	A	A	
	157-196	180-225	207-258	238-297	273-342	314-393	
	125-157	144-180	165-207	190-238	219-273	251-314	
C Max. 231 (279)	A <small>EM</small>	A <small>EM</small>	A	A	A	A	
	73-92	83-104	96-120	110-138	127-159	146-182	
	58-73	67-83	77-96	88-110	101-127	117-146	
D Max. 204 (252)	A <small>EM</small>	A <small>EM</small>	A	A	A	A	
	64-80	73-92	84-105	97-121	111-139	128-160	
	51-64	59-73	67-84	78-97	89-111	103-128	
E Max. 88 (136)	A <small>ASR</small>	A <small>ASR</small>	A <small>ASR</small>	A <small>ASR</small>	A	A	
	38-51	44-59	51-67	58-78	67-89	77-103	
	I/A	I/A	A	A	A	A	
F Max. 59	25-31	29-36	33-41	38-48	44-55	50-63	
	20-25	23-29	26-33	30-38	35-44	40-50	
	15-20	17-23	20-26	23-30	26-35	30-40	
G Max. 47	I/A	I/A	I/A	A	A	A	
	16-20	19-23	21-27	25-31	28-36	33-41	
	13-16	15-19	17-21	20-25	23-28	26-33	
H Max. 39	I/A	I/A	I/A	I/A	A	A	
	10-13	11-15	13-17	15-20	17-23	20-26	
	8-10	9-12	10-13	11-15	13-17	15-20	
I Max. 24	C/I/A	I/A	I/A	I/A	I/A	A	
	6-8	8-10	10-12	11-14	15-19	20-25	
	5-6	6-8	8-10	9-11	12-15	16-20	
I Max. 24	C	C/I	I	I/A	I/A	I/A	
	4-5	4-6	6-8	7-9	9-12	12-16	
	6-8	6-8	6-8	8-10	9-11	10-12	
I Max. 24	C	C/I	I	I/A	I/A	I/A	
	4-6	4-6	5-6	6-8	7-9	8-10	
	3-4	3-4	4-5	4-6	5-7	6-8	

Note: Numbers shown are in months. The number shown below each offense class reflects the maximum possible sentence for that class of offense (the highest maximum sentence from the aggravated range in prior record level VI). The maximum sentence for a defendant convicted of a reportable Class B1 through E sex crime is indicated in parentheses.

A—Active Punishment
I—Intermediate Punishment
C—Community Punishment

EM **Extraordinary Mitigation**
 (possible eligibility). See page 4.

ASR **Advanced Supervised Release**
 (possible eligibility). See page 5.

MAXIMUM SENTENCES

FOR OFFENSE CLASSES B1 THROUGH E (*Sex Crimes*)

15-30 (78)	56-80 (128)	97-129 (177)	138-178 (226)	179-227 (275)	220-276 (324)	261-326 (374)	302-375 (423)
16-32 (80)	57-81 (129)	98-130 (178)	139-179 (227)	180-228 (276)	221-278 (326)	262-327 (375)	303-376 (424)
17-33 (81)	58-82 (130)	99-131 (179)	140-180 (228)	181-230 (278)	222-279 (327)	263-328 (376)	304-377 (425)
18-34 (82)	59-83 (131)	100-132 (180)	141-182 (230)	182-231 (279)	223-280 (328)	264-329 (377)	305-378 (426)
19-35 (83)	60-84 (132)	101-134 (182)	142-183 (231)	183-232 (280)	224-281 (329)	265-330 (378)	306-380 (428)
20-36 (84)	61-86 (134)	102-135 (183)	143-184 (232)	184-233 (281)	225-282 (330)	266-332 (380)	307-381 (429)
21-38 (86)	62-87 (135)	103-136 (184)	144-185 (233)	185-234 (282)	226-284 (332)	267-333 (381)	308-382 (430)
22-39 (87)	63-88 (136)	104-137 (185)	145-186 (234)	186-236 (284)	227-285 (333)	268-334 (382)	309-383 (431)
23-40 (88)	64-89 (137)	105-138 (186)	146-188 (236)	187-237 (285)	228-286 (334)	269-335 (383)	310-384 (432)
24-41 (89)	65-90 (138)	106-140 (188)	147-189 (237)	188-238 (286)	229-287 (335)	270-336 (384)	311-386 (434)
25-42 (90)	66-92 (140)	107-141 (189)	148-190 (238)	189-239 (287)	230-288 (336)	271-338 (386)	312-387 (435)
26-44 (92)	67-93 (141)	108-142 (190)	149-191 (239)	190-240 (288)	231-290 (338)	272-339 (387)	313-388 (436)
27-45 (93)	68-94 (142)	109-143 (191)	150-192 (240)	191-242 (290)	232-291 (339)	273-340 (388)	314-389 (437)
28-46 (94)	69-95 (143)	110-144 (192)	151-194 (242)	192-243 (291)	233-292 (340)	274-341 (389)	315-390 (438)
29-47 (95)	70-96 (144)	111-146 (194)	152-195 (243)	193-244 (292)	234-293 (341)	275-342 (390)	316-392 (440)
30-48 (96)	71-98 (146)	112-147 (195)	153-196 (244)	194-245 (293)	235-294 (342)	276-344 (392)	317-393 (441)
31-50 (98)	72-99 (147)	113-148 (196)	154-197 (245)	195-246 (294)	236-296 (344)	277-345 (393)	318-394 (442)
32-51 (99)	73-100 (148)	114-149 (197)	155-198 (246)	196-248 (296)	237-297 (345)	278-346 (394)	319-395 (443)
33-52 (100)	74-101 (149)	115-150 (198)	156-200 (248)	197-249 (297)	238-298 (346)	279-347 (395)	320-396 (444)
34-53 (101)	75-102 (150)	116-152 (200)	157-201 (249)	198-250 (298)	239-299 (347)	280-348 (396)	321-398 (446)
35-54 (102)	76-104 (152)	117-153 (201)	158-202 (250)	199-251 (299)	240-300 (348)	281-350 (398)	322-399 (447)
36-56 (104)	77-105 (153)	118-154 (202)	159-203 (251)	200-252 (300)	241-302 (350)	282-351 (399)	323-400 (448)
37-57 (105)	78-106 (154)	119-155 (203)	160-204 (252)	201-254 (302)	242-303 (351)	283-352 (400)	324-401 (449)
38-58 (106)	79-107 (155)	120-156 (204)	161-206 (254)	202-255 (303)	243-304 (352)	284-353 (401)	325-402 (450)
39-59 (107)	80-108 (156)	121-158 (206)	162-207 (255)	203-256 (304)	244-305 (353)	285-354 (402)	326-404 (452)
40-60 (108)	81-110 (158)	122-159 (207)	163-208 (256)	204-257 (305)	245-306 (354)	286-356 (404)	327-405 (453)
41-62 (110)	82-111 (159)	123-160 (208)	164-209 (257)	205-258 (306)	246-308 (356)	287-357 (405)	328-406 (454)
42-63 (111)	83-112 (160)	124-161 (209)	165-210 (258)	206-260 (308)	247-309 (357)	288-358 (406)	329-407 (455)
43-64 (112)	84-113 (161)	125-162 (210)	166-212 (260)	207-261 (309)	248-310 (358)	289-359 (407)	330-408 (456)
44-65 (113)	85-114 (162)	126-164 (212)	167-213 (261)	208-262 (310)	249-311 (359)	290-360 (408)	331-410 (458)
45-66 (114)	86-116 (164)	127-165 (213)	168-214 (262)	209-263 (311)	250-312 (360)	291-362 (410)	332-411 (459)
46-68 (116)	87-117 (165)	128-166 (214)	169-215 (263)	210-264 (312)	251-314 (362)	292-363 (411)	333-412 (460)
47-69 (117)	88-118 (166)	129-167 (215)	170-216 (264)	211-266 (314)	252-315 (363)	293-364 (412)	334-413 (461)
48-70 (118)	89-119 (167)	130-168 (216)	171-218 (266)	212-267 (315)	253-316 (364)	294-365 (413)	335-414 (462)
49-71 (119)	90-120 (168)	131-170 (218)	172-219 (267)	213-268 (316)	254-317 (365)	295-366 (414)	336-416 (464)
50-72 (120)	91-122 (170)	132-171 (219)	173-220 (268)	214-269 (317)	255-318 (366)	296-368 (416)	337-417 (465)
51-74 (122)	92-123 (171)	133-172 (220)	174-221 (269)	215-270 (318)	256-320 (368)	297-369 (417)	338-418 (466)
52-75 (123)	93-124 (172)	134-173 (221)	175-222 (270)	216-272 (320)	257-321 (369)	298-370 (418)	339-419 (467)
53-76 (124)	94-125 (173)	135-174 (222)	176-224 (272)	217-273 (321)	258-322 (370)	299-371 (419)	
54-77 (125)	95-126 (174)	136-176 (224)	177-225 (273)	218-274 (322)	259-323 (371)	300-372 (420)	
55-78 (126)	96-128 (176)	137-177 (225)	178-226 (274)	219-275 (323)	260-324 (372)	301-374 (422)	

FOR OFFENSE CLASSES F THROUGH I

3-13	9-20	15-27	21-35	27-42	33-49	39-56	45-63
4-14	10-21	16-29	22-36	28-43	34-50	40-57	46-65
5-15	11-23	17-30	23-37	29-44	35-51	41-59	47-66
6-17	12-24	18-31	24-38	30-45	36-53	42-60	48-67
7-18	13-25	19-32	25-39	31-47	37-54	43-61	49-68
8-19	14-26	20-33	26-41	32-48	38-55	44-62	

The tables above show the maximum sentence that corresponds to each minimum sentence. For minimum sentences of 340 months or more, the maximum sentence is 120 percent of the minimum sentence, rounded to the next highest month, plus 12 additional months. G.S. 15A-1340.17(e1).

Sex Crimes: The maximum sentence for a Class B1 through E felony subject to the registration requirements of G.S. Chapter 14, Article 27A is 120 percent of the minimum sentence, rounded to the next highest month, plus 60 additional months, as indicated in parentheses above. G.S. 15A-1340.17(f).

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

Name Of Defendant		
DOB	Age	Highest Level Of Education Completed

TRANSCRIPT OF PLEA

G.S. 15A-1022, 15A-1022.1

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:

- | | Answers |
|--|------------|
| 1. Are you able to hear and understand me? | (1) _____ |
| 2. Do you understand that you have the right to remain silent and that any statement you make may be used against you? | (2) _____ |
| 3. At what grade level can you read and write? | (3) _____ |
| 4. (a) Are you now using or consuming alcohol, drugs, narcotics, medicines, pills, or any other substances? | (4a) _____ |
| (b) When was the last time you used or consumed any such substance? | (4b) _____ |
| (c) How long have you been using or consuming this medication or substance? | (4c) _____ |
| (d) Do you believe your mind is clear, and do you understand what you are doing in this hearing? | (4d) _____ |
| 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? | (5) _____ |
| 6. (a) Have you and your lawyer discussed the possible defenses, if any, to the charges? | (6a) _____ |
| (b) Are you satisfied with your lawyer's legal services? | (6b) _____ |
| 7. (a) Do you understand that you have the right to plead not guilty and be tried by a jury? | (7a) _____ |
| (b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you? | (7b) _____ |
| (c) Do you understand that by your plea(s) you give up these and other important constitutional rights to a jury trial? | (7c) _____ |
| 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? | (8) _____ |
| <input type="checkbox"/> 9. Do you understand that upon conviction of a felony you may forfeit any State licensing privileges you have in the event that your probation is revoked? | (9) _____ |
| 10. Do you understand that following a plea of guilty or no contest there are limitations on your right to appeal? | (10) _____ |
| 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? | (11) _____ |

(Over)

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

PLEAS

✓	Plea*	File Number	Count No.(s)	Offense(s)	Date Of Offense OR Date Range Of Offense	G.S. No.	F/M	CL.	‡Pun. CL.	Maximum Punishment

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

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

TOTAL MAXIMUM PUNISHMENT ▶ _____

MANDATORY MINIMUM FINES & SENTENCES (if any) ▶ _____

✓ **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 guilty pursuant to *Alford* no contest to the charges (13) _____ I just described?

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 following aggravating factors: (15) _____

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?

16. *(Use if sentencing points are selected below)* Have you admitted the existence of the following sentencing points not related to prior convictions: offense committed while on supervised or unsupervised probation, parole, or post-release supervision offense committed while serving a sentence of imprisonment offense committed while on escape from a correctional institution, 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 the appropriate notice about these sentencing points? (16) _____

17. *(Use if No. 15 or 16 selected above)* Do you understand that at a jury trial you have the right to have a jury determine the existence of any aggravating factors and any additional sentencing points not related to prior convictions that may apply to your case beyond a reasonable doubt, and that by your plea(s) you give up this constitutional right to a jury determination? (17) _____

18. 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? (18) _____

19. 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? (19) _____

STATE VERSUS

File No. _____

Name Of Defendant _____

20. Have you agreed to plead guilty guilty pursuant to *Alford* no contest as part of a plea arrangement? (if so, review the terms of the plea arrangement as listed in No. 21 below with the defendant.) (20) _____
21. The prosecutor, your lawyer and you have informed the Court that these are all the terms and conditions of your plea:

PLEA ARRANGEMENT

- 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).

22. 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? (22) _____
23. Do you now personally accept this arrangement? (23) _____
24. (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? (24) _____
25. Do you enter this plea of your own free will, and do you fully understand what you are doing? (25) _____
26. 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? (26) _____
27. Do you have any questions about what has just been said to you or about anything else connected to your case? (27) _____

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 they 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 _____		Date _____
Date _____	Signature _____	Signature Of Defendant _____
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		Name Of Defendant (type or print) _____

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 _____	Name Of Lawyer For Defendant (type or print) _____	Signature Of Lawyer For Defendant _____
------------	--	---

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 _____	Name Of Prosecutor (type or print) _____	Signature Of Prosecutor _____
------------	--	-------------------------------

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	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
------	---	------------------------------

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)

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	Name Of Prosecutor (type or print)	Signature Of Prosecutor
------	------------------------------------	-------------------------

ITP Glossary

Accused (noun) - The person that is being charged with a crime(s).

Acquittal - The legal and formal certification of the innocence of a person who has been charged with a crime(s), after a verdict of not guilty.

Active Punishment - A sentence that requires an offender to serve a sentence of imprisonment and is not suspended.

Affidavit - A written statement made by a witness that is sworn to be true.

Aggravating Factors - A circumstance, fact, or influence that increases the minimum and/or maximum sentence time.

Alleged Crime - The crime a person is accused of committing.

Appeal - A request asking for a formal change to an official decision, by having the case reviewed by a higher-level court. There must be a perceived error/mistake in the process or if clarification/interpretation of a law is needed.

Arraignment - An act or instance of bringing someone before a criminal court to hear or read and answer to an indictment.

Arrest - When law enforcement takes a person into custody, usually put in handcuffs and taken to jail. (A person can be arrested and not charged with a crime.)

Attorney - A person with a law degree who has passed a test about the law and is licensed in North Carolina to practice law.

Attorney Client Privilege

Anything that a client says to their attorney is like a secret and the attorney is not allowed to tell anyone what the client said, unless the client gives the attorney permission.

Audience/Gallery - People watching the trial. Can be friends, family, enemies, and interested parties. Cannot talk during the trial or hearing.

Bail - Security set up by a defendant in the form of money as a promise or pledge that the defendant will return to court at an agreed upon time and place.

Bailiff - Law enforcement officer in the court that helps the Judge keep order in the court.

Bench Trial - A trial where the Judge, listens the evidence and decides on a verdict of the case, not guilty by reason of insanity, guilty, or not guilty.

Beyond a Reasonable Doubt - The highest burden of proof known to law. Proof to the exclusion of all reasonable doubt.

Bond - The money that is put up so the individual will be let out of jail while waiting for the conclusion of their case.

Burden of Proof - The requirement to prove a disputed fact in court.

Capable to Proceed - When the defendant can understand their legal proceedings, comprehend their legal situation, and assist in their defense in a rational manner.

Charge - In a criminal case, the specific statement of what crime the party is accused contained in the indictment or criminal complaint.

Circumstantial Evidence - Indirect evidence that does not, on its face, prove a fact in issue but gives rise to a logical inference that the fact exists. Requires drawing additional reasonable inferences to support the claim.

Clear Cogent and Convincing - Legal burden to have someone involuntarily committed to the hospital. Trier of fact must have a firm belief or conviction in the truth of the allegations.

Client - The person whom an attorney represents.

Closing Arguments - The attorney's last remarks to the Judge or jury about the case.

Commitment - The defendant's (your) stay at the hospital.

Community Punishment - A sentence in a criminal case that does not include an active punishment, assignment to a drug treatment court, or special probation.

Contempt of Court - Any out-of-the-ordinary courtroom behavior; it can result in an additional charge, fine, or more jail time.

Conviction - To find a person guilty of the crime they are accused of committing.

Courtroom - The place where hearings and trials take place.

Court Clerk - Secretary for the court/Judge who keeps the files and papers and schedules court dates.

Court Reporter/Stenographer - Person who types a word-for-word record of everything said in the courtroom during a hearing or trial.

Courtroom Personnel - People who work in the court.

Credit - Time an individual has spent in confinement (jail or hospital).

Crime - An act which the legislature has made unlawful by passing a statute declaring all future such acts to be illegal. When a person breaks the law, even if they do not know about that law.

Criminal case - A case in which someone is charged in court with having violated a criminal statute.

Cross-Examination - The questioning of a witness by the attorney that did not call them as a witness.

Defendant - The person accused of breaking the law in a court case.

Defense - The defendant's team. Includes defendant and defense attorney.

Defense Attorney - An attorney who represents the defendant.

Defense Witnesses - Witnesses that are called by the defense.

Deliberation - When the Judge or jury considers the evidence, discusses it to come to a verdict for the case.

Direct-Examination - The questioning of a witness by the attorney who called them to testify.

Discovery - The evidence the district attorney has for the defendant's case.

Dismissal - The Judge decides there is not enough evidence or that there are other problems with the district attorney's case and court decides to not proceed with the case.

District Attorney - The attorney who is against the defendant in court. The attorney who represents the State of North Carolina in a criminal case.

Evidence - The information that is presented to show that the defendant either did or did not commit the crime.

Felony - Felonies are major crime that carry have a harsher punishment.

Fine - An amount of money that an offender must pay the court.

First Appearance - The first time that the defendant appears before a court official for the alleged crime.

Forensic Evaluator - The psychiatrist or psychologist that assess the defendant (your) capacity to proceed to trial.

Forensic Evaluation - An assessment/conversation between the defendant and the forensic evaluator regarding your capacity to proceed to trial.

Grand Jury - A jury, of at least 12 people, selected to examine the validity of an accusation before trial.

Hearing - When a Judge officially hears witnesses testify and attorneys' arguments about the case.

Hung Jury - When the 12 jurors cannot reach a unanimous verdict and a mistrial occurs.

Incarceration - The state of being confined in a prison.

Indictment - A formal charge or accusation of a serious crime.

Intermediate Punishment - A sentence in a criminal case that places an offender on supervised probation.

Investigation - A formal inquiry to find and examine the facts of an incident, allegation, etc. to establish the truth.

ITP/Incapable to Proceed - When an individual has a mental illness that prevents them from having a fair trial and because of the mental illness they may not understand their legal proceedings, comprehend their legal situation, or assist in their defense in a rational manner.

Judge - The referee of the courtroom. Presides over the courtroom/authority in the courtroom

Judicial Branch - The governmental branch that interprets law and resolves disputes.

Juror - A resident from the county the alleged crime(s) has occurred who is tasked with listening to the evidence determining a verdict.

Jury Instructions - Instructions to the jury from the Judge. Also called, charge to the jury.

Jury Trial - Where a jury (12 jurors) listen to all the evidence and decide on a verdict, not guilty by reason of insanity, guilty, or not guilty.

Maximum - The most amount of time that can be served for a specific sentence.

Minimum - The least amount of time that can be served for a specific sentence.

Miranda Warning - The constitutional requirement that once an individual is detained by law enforcement, there are certain warnings law enforcement officer is required to give to a detainee.

Misdemeanor - Misdemeanors are a less serious crime, that carry a lesser punishment, typically fine and/or jail time.

Mistrial - When all the jurors cannot agree on a verdict, then there is no verdict. It is as if the trial did not take place.

Mitigating Factors - A circumstance, fact, or influence that decreases the minimum and/or maximum sentence time.

Motion - Application in court made by a lawyer to obtain a rule in favor of their client.

Oath - Having sworn to tell the truth.

Objection - When an attorney for one side feels the other attorney has violated a rule of evidence.

Offense - When a person breaks the law, even if they do not know about that law. When a person violates a criminal law.

Opening Statement - A statement made by both sides at the beginning of the trial, which gives a brief introduction of what each side intends to prove.

Overrule - When the Judge disagrees with an objection made by one of the attorneys in court.

Perjury - When someone is intentionally lying under oath. It is not perjury if a witness makes a mistake when testifying.

Physical evidence - Objects that are related to the crime.

Plea - The answer to the charges against an individual.

Plea Bargain - A deal between the district attorney and the defendant that the defense attorney presents to them and must be approved by the Judge.

Plea-Alford - A person maintaining their innocence, but the State has enough evidence to prove they are guilty.

Plea-Guilty - A person admits that they did what they were accused of doing. The person tells the Judge they committed the crime.

Plea-No Contest - The person is not wanting to fight the charge. They are not saying whether they did the crime, or they did not do the crime, they are leaving it up to the Judge to decide. Results in a guilty verdict.

Plea-Not Guilty – Person is saying that they did not do what they are accused of doing, or that they want a trial.

Plea-Not Guilty by Reason of Insanity (NGRI) – An individual is telling the Judge they committed the crime, but because of their mental illness or intellectual disability, they didn't understand the difference between right or wrong at the time of the crime.

Post-Release Supervision - Period of supervision served after an offender is released from prison.

Probable Cause - Legal standard for an arrest or a search. A reasonable belief that a person committed a crime. More than "Reasonable Suspicion."

Probable Cause Hearing - A hearing where the district attorney shows evidence that there is a reasonable belief that a crime was committed and the defendant committed the crime.

Probation - A sentence where a person lives in the community, under the supervision of a probation officer, and the Judge sets conditions that must be followed, or they could be sent to jail (misdemeanor) or prison (felony).

Prosecution - The State's team. Includes the district attorney.

Prosecution Witnesses - Witnesses that are called by the prosecution.

Prosecutor - The attorney who represents the State of North Carolina in a criminal case.

Public Defender - An attorney from the Public Defender's office, that is appointed to represent the defendant who does not have enough money to hire a private attorney.

Reality Orientation - An individual is aware of who they are, where they are, and what is currently happening in their environment.

Reasonable Doubt - The degree of proof required for a determination of guilt in a criminal trial.

Reasonable Suspicion - What a law enforcement officer needs to make a traffic stop. Specific and articulable facts along with rational inferences. More than a mere hunch.

Rebuttal - Additional evidence or arguments introduced to counter, disprove, or contradict the opposing party's evidence or argument.

Restitution - Making of amends for wrong or injury done; made by giving an equivalent or compensation for loss, damage, or injury caused. Paid to the court for the victim.

Structured Sentencing - The method of sentencing and punishing people convicted of misdemeanors and felonies in NC.

Sentence - The punishment for being found guilty.

Special Counsel - A legal team that assists during a person's stay at Broughton Hospital.

Subpoena - An order of the court requiring a witness to come to court and testify.

Summons - An order to serve as a potential juror in court.

Suspended Sentence - The active prison or jail sentence to be served for your conviction gets suspended, if you don't follow all the rules of your probation. Your probation may be violated or revoked. If this happens, you may be required to serve the jail or prison time that was suspended.

Sustain - When the Judge agrees with an objection that is made by one of the attorneys.

Testify - To speak under oath in court.

Testimony - Evidence presented under oath by witnesses at a trial.

Time Served - When the defense attorney requests that the defendant is not incarcerated due to the amount of credit that they have.

Trial - The legal proceedings held in the courtroom, with (jury trial) or without a jury (bench trial), that ends with a verdict.

Verdict - The decision found by a jury (jury trial) or a Judge (bench trial) at the end of a trial.

Verdict-Guilty - The determination in a criminal case for the prosecution; when all the jurors or the Judge agree that there is enough proof to find the defendant committed the crime.

Verdict-Not Guilty - The determination in a criminal case for the defendant when all the jurors or the Judge agree that there is not enough proof to find that the defendant committed the crime(s).

Verdict-Not Guilty by Reason of Insanity - The determination in a criminal case for the defendant; when all the jurors or the Judge agree that there was enough proof provided that the defendant had a mental illness that prevented the defendant from knowing right or wrong at the time of the crime.

Voir Dire - A preliminary examination of a witness or a juror by a Judge or counsel.

Warrant - A writ permitting or directing someone to take some action.

Witness - Character - Someone who comes to court to testify about another person's character traits or community reputation.

Witness - Expert Witness - A person who is accepted by the court as an expert about a subject they will testify about.

Witness - Eyewitness - Someone who comes to court to testify about something they saw/heard.

Witnesses - A person who knows something important about the events leading to and surrounding the alleged crime.