

STATE OF NORTH CAROLINA

File No.

County

Seat Of Court

In The General Court Of Justice

NOTE: (Applies to a Class H or I felony or a misdemeanor)

☐ District

☐ Superior Court Division

STATE VERSUS

Name Of Defendant

Race

Sex

Date Of Birth

Drivers License No.

State

Attorney For State

☐ Def. Found
Not Indigent

☐ Def. Waived
Attorney

Attorney For Defendant

☐ Appointed
☐ Retained

Ct Rptr Initials

G.S. 15A-1341(a1)

MOTION/AGREEMENT AND ORDER TO DEFER PROSECUTION (STRUCTURED SENTENCING) (For Deferrals Entered On Or After Dec. 1, 2011)

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

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

CONDITIONS OF AGREEMENT TO DEFER PROSECUTION

- ☐ 1. With approval of the Court and consent of the defendant, prosecution will be deferred by the prosecutor for the purpose of allowing the defendant to demonstrate good conduct, and subject to the conditions set out below, the defendant is placed on:
(check one) ☐ unsupervised probation ☐ supervised probation for _____ months (max. of 2 years, G.S. 15A-1342(a)), as provided for a
(check one) ☐ community punishment. ☐ intermediate punishment (**NOTE:** AOC-CR-603A, B or C, Page Two, required; select the form appropriate to the date of offense for which prosecution is deferred.).
- ☐ 2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.
- ☐ 3. The Court finds that a ☐ longer ☐ shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
- ☐ 4. The defendant shall comply with the regular conditions of probation applicable to unsupervised or supervised probation, as imposed above, and which are set forth on the following form, incorporated herein by reference:
(**NOTE:** Select judgment form appropriate to the date of offense for which prosecution is deferred.)
☐ AOC-CR-603A ☐ AOC-CR-603B ☐ AOC-CR-603C
☐ AOC-CR-604A ☐ AOC-CR-604B ☐ AOC-CR-604C
- ☐ 5. The defendant shall comply with the following special conditions of probation that are set forth on the form cited in No. 4, above, and incorporated herein by reference: _____
and/or other Special Conditions:
- ☐ 6. The defendant shall complete _____ hours of community service during the first _____ days of the deferral period, as directed by the judicial service coordinator. The fee prescribed by G.S. 143B-708 is
☐ (for offenses committed on or after December 1, 2009) not due because it is assessed in a case adjudicated during the same term of court.
☐ to be paid ☐ pursuant to the schedule set out below. ☐ within _____ days of this Order and before beginning service.
- ☐ 7. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" below, plus the probation supervision fee if placed on supervised probation above, pursuant to a schedule ☐ determined by the probation officer. ☐ set out by the Court as follows:

Costs	Fine	Restitution*	Attorney's Fees	Community Service Fee	EHA Fee	Miscellaneous	Total Amount Due
\$	\$	\$	\$	\$	\$	\$	\$

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

- ☐ 8. The Court finds just cause to waive costs.
- ☐ 9. The admission of responsibility given by me and any stipulation of facts shall be used against me and admitted into evidence without objection in the State's prosecution against me for this offense should prosecution become necessary as a result of these terms and conditions of deferred prosecution.
- ☐ 10. Regular reports will be made on my progress to the prosecutor's office.
- ☐ 11. The prosecutor will
☐ a. take a voluntary dismissal with leave upon the Court's approval of this Agreement, and a voluntary dismissal upon the defendant's compliance with this Agreement.
☐ b. take a voluntary dismissal upon the defendant's compliance with this Agreement.

DEFENDANT'S OATH/AGREEMENT/MOTION

The defendant after being duly sworn, states under oath:

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

SWORN AND SUBSCRIBED TO BEFORE ME

Date	Signature	Date
		Signature Of Defendant (under oath)
<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
<input type="checkbox"/> District Court Judge	<input type="checkbox"/> Superior Court Judge	

ATTORNEYS' CERTIFICATION/AGREEMENT/MOTION

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

Date	Signature Of Lawyer For Defendant	Signature Of Prosecutor

FINDINGS

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

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

ORDER

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

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

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

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

SIGNATURE OF JUDGE

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

CERTIFICATION

I certify that this Motion/Agreement and Order and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- ☐ 1. Restitution Worksheet, Notice And Order [Initial Sentencing] (AOC-CR-611)
- ☐ 2. Additional File No.(s) And Offense(s) (AOC-CR-626)
- ☐ 3. Other: _____

Date	Name (Type Or Print)	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> CSC
			SEAL

Material opposite unmarked squares is to be disregarded as surplusage.

File No.

In The General Court Of Justice

☐ District ☐ Superior Court Division

NOTE: Use this page in conjunction with all AOC judgment or probationary forms, to list additional offenses of conviction, deferred prosecution, or conditional discharge addressed in the court's order. There are no A, B, C, or other variations of this form, so this page can be used to continue an offense list from any of the related forms, for any date(s) of offense or conviction.

ADDITIONAL FILE NO.(S) AND OFFENSE(S)

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

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