

Felony Sentencing for District Court Judges

Jamie Markham
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www.sog.unc.edu

Overview

- Jurisdiction
- Changes to felony sentencing under JRA
- Highlight common errors



Jurisdiction

- District court may accept guilty or no contest pleas for Class H and Class I felonies with consent of:
 - Presiding district court judge
 - Prosecutor
 - Defendant
- Appeals are to Appellate Division

Jurisdiction

- Of 30,000 felony sentences entered in FY 2009-2010, 5,000 were in district court

Jurisdiction

- By default, probation violations for felony pleas accepted in district court are in superior court
- May be heard in district court with consent of:
 - Prosecutor
 - Defendant
- Appeals of revocation are to superior court
 - State v. Hooper, 358 N.C. 122 (2004)

Jurisdiction

- Felony drug treatment court cases may be supervised in district court with consent of:
 - Chief district court judge
 - Senior resident superior court judge
- If district court revokes, appeal is to Court of Appeals

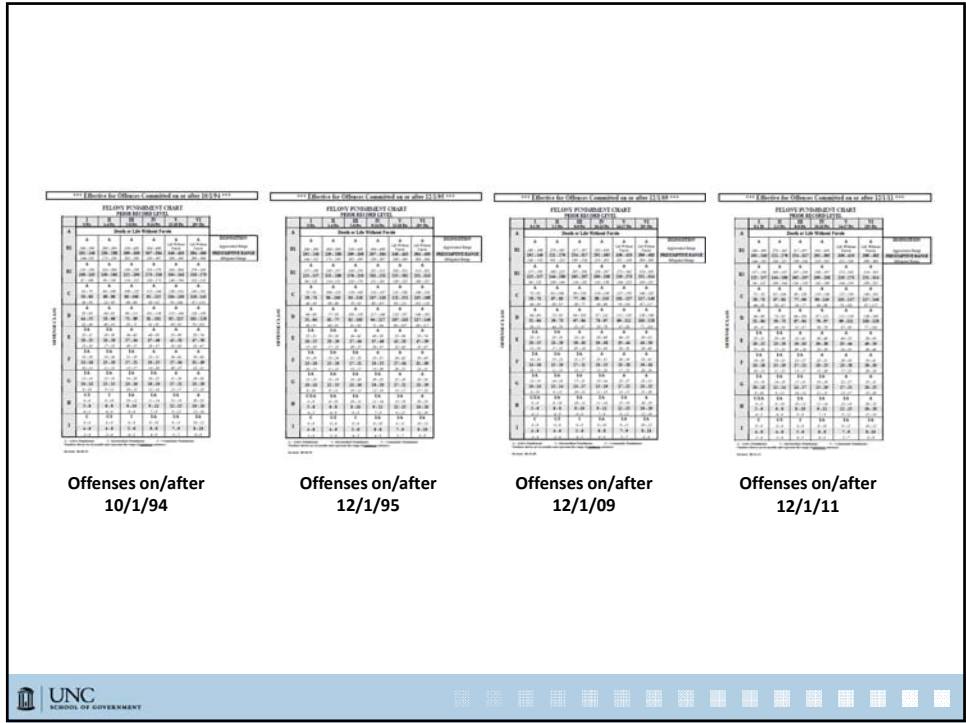


Basic Steps

1. Determine the applicable law
2. Determine the offense class
3. Determine the prior record level
4. Consider aggravating and mitigating factors
5. Select a minimum sentence
6. Determine the maximum sentence
7. Choose a sentence disposition

Applicable law

- Structured Sentencing
 - Effective October 1, 1994
 - Amended December 1, 1995
 - Amended December 1, 2009
 - Amended December 1, 2011
- Offense date determines applicable law



All felons get post-release supervision
Offenses committed on or after December 1, 2011

Post-release supervision (PRS) for all felonies

- Class F-I: 9 months PRS (was 0 months)
- **Corresponding increase in maximum sentences**

Post-release supervision (PRS) for all felonies

MAXIMUM SENTENCES UNDER PRIOR LAW

- Class F-I: 120% of minimum

MAXIMUM SENTENCES UNDER NEW LAW

- Class F-I: 120% of minimum, plus 9

	I 0-1 Pts	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts
A	Death or Life Without Parole					
B1	A	A	A	A	A	A
	240 - 300	276 - 345	317 - 397	365 - 456	Life Without Parole	Life Without Parole
	192 - 240	221 - 276	254 - 317	292 - 365	336 - 420	386 - 485
	144 - 192	166 - 221	190 - 254	219 - 292	252 - 336	290 - 386
B2	A	A	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
	94 - 125	108 - 144	124 - 165	143 - 190	164 - 219	189 - 251
C	A	A	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
	44 - 58	50 - 67	58 - 77	66 - 88	76 - 101	87 - 117
D	A	A	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
	38 - 51	44 - 59	51 - 67	58 - 78	67 - 89	77 - 102
E	I/A	I/A	A	A	A	A
	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
F	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
	10 - 13	11 - 15	13 - 17	15 - 20	17 - 23	20 - 26
G	I/A	I/A	I/A	I/A	A	A
	13 - 16	14 - 18	17 - 21	19 - 24	22 - 27	25 - 31
	10 - 13	12 - 14	13 - 17	15 - 19	17 - 22	20 - 25
	8 - 10	9 - 12	10 - 13	11 - 15	13 - 17	15 - 20
H	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
	4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16
I	C	C/I	I	I/A	I/A	I/A
	6 - 8	6 - 8	6 - 8	8 - 10	9 - 11	10 - 12
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8

*** Effective for Offenses Committed on or after 12/1/11 ***							
MINIMUM AND MAXIMUM SENTENCES							
The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months).							
FOR OFFENSE CLASSES B1 THROUGH E							
15-30	52-75	89-119	126-164	163-208	200-252	237-297	274-341
16-32	53-76	90-120	127-165	164-209	201-254	238-298	275-342
17-33	54-77	91-122	128-166	165-210	202-255	239-299	276-344
18-34	55-78	92-123	129-167	166-212	203-256	240-300	277-345
19-35	56-80	93-124	130-168	167-213	204-257	241-302	278-346
20-36	57-81	94-125	131-170	168-214	205-258	242-303	279-347
21-38	58-82	95-126	132-171	169-215	206-260	243-304	280-348
22-39	59-83	96-128	133-172	170-216	207-261	244-305	281-350
23-40	60-84	97-129	134-173	171-218	208-262	245-306	282-351
24-41	61-86	98-130	135-174	172-219	209-263	246-308	283-352
25-42	62-87	99-131	136-176	173-220	210-264	247-309	284-353
26-44	63-88	100-132	137-177	174-221	211-266	248-310	285-354
27-45	64-89	101-134	138-178	175-222	212-267	249-311	286-356
28-46	65-90	102-135	139-179	176-224	213-268	250-312	287-357
29-47	66-91	103-136	140-180	177-225	214-269	251-314	288-358
30-48	67-93	104-137	141-182	178-226	215-270	252-315	289-359
31-50	68-94	105-138	142-183	179-227	216-271	253-316	290-360
32-51	69-95	106-140	143-184	180-228	217-273	254-317	291-362
33-52	70-96	107-141	144-185	181-230	218-274	255-318	292-363
34-53	71-98	108-142	145-186	182-231	219-275	256-320	293-364
35-54	72-99	109-143	146-188	183-232	220-276	257-321	294-365
36-56	73-100	110-144	147-189	184-233	221-278	258-322	295-366
37-57	74-101	111-146	148-190	185-234	222-279	259-323	296-368
38-58	75-102	112-147	149-191	186-236	223-280	260-324	297-369
39-59	76-104	113-148	150-192	187-237	224-281	261-326	298-370
40-60	77-105	114-149	151-193	188-238	225-282	262-328	299-371
41-61	78-106	115-150	152-194	189-239	226-283	263-330	300-372
42-62	79-107	116-151	153-195	190-240	227-284	264-332	301-373
43-63	80-108	117-152	154-196	191-241	228-285	265-334	302-374
44-64	81-109	118-153	155-197	192-242	229-286	266-336	303-375
45-65	82-110	119-154	156-198	193-243	230-287	267-338	304-376
46-66	83-111	120-155	157-199	194-244	231-288	268-340	305-377
47-67	84-112	121-156	158-200	195-245	232-289	269-342	306-378
48-68	85-113	122-157	159-201	196-246	233-290	270-344	307-379
49-69	86-114	123-158	160-202	197-247	234-291	271-346	308-380
50-70	87-115	124-159	161-203	198-248	235-292	272-348	309-381
51-71	88-116	125-160	162-204	199-249	236-293	273-350	310-382
To d							
next							
Sex							
requ							
next							

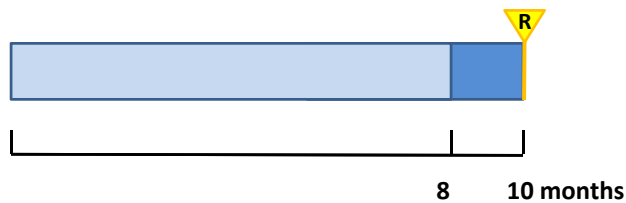
A Prior Record Level II defendant is convicted of a Class H felony.

I/A	PRIOR LAW
8 - 10	• 8-10 months
6 - 8	NEW LAW
4 - 6	• 8-19 months

What Does the Sentence Mean?

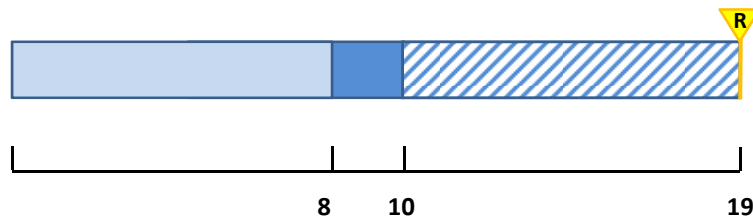
Pre-12/1/11: No Post-Release Supervision

- **Earned Time:** Credit for work/programs
 - Reduces the inmate's maximum sentence
 - No reduction below minimum



What Does the Sentence Mean?

- **On or after 12/1/11: Post-Release Supervision**
 - Maximum is 120% of minimum, plus 9 months
 - Release 9 months before maximum (less earned time)
 - 9-month period of post-release supervision



What Does the Sentence Mean?

- **Earned Time:** 3, 6, or 9 days/month, depending on job/program completion

Average percentage of minimum served:

Class B1-C:	102%
Class D:	105%
Class E-F:	106%
Class G:	107%
Class H:	111%
Class I:	114%

Post-Release Supervision

- Class F-I Sex offenders:
 - Supervised release period is 60 months instead of 9
 - Max. sentence is 120% of min., plus 9
- Drug trafficking
 - Maximums in G.S. 90-95 weren't fixed by JRA

Multiple Convictions

Multiple Convictions

- You may consolidate multiple offenses
 - Most serious offense controls
- You may run sentences concurrently or consecutively
 - Silence in the judgment = concurrent
- You may not stack probation periods
- You may run a probation period consecutive to a period of imprisonment (“contingent”)

2 counts felony larceny (Class H)
 Prior Record Level I
 Offense date: January 10, 2012

C/A
6 - 8
5 - 6
4 - 5

What sentences are permissible?

- Consolidate (active or suspended)
[6-17]
- Concurrent (active or suspended)
[6-17]
- Consecutive (active or suspended)
[6-17] [6-17]
- Contingent (active, followed by probation)
[6-17, active] [6-17, suspended for 36 months]

Consecutive Felonies

- DOC will apply a “one-sentence theory” or “single sentence rule” (15A-1354(b))
 - Sum all minimums
 - Sum all maximums, minus 9 months for second/subsequent PRS terms



Consecutive Felonies

Class H 8 – 19 months

Class H + 8 – 19 (-9)

16 – 38 (sum of all mins and maxes)

- 9 (to remove duplicate “PRS time”)

16 – 29 months

- Release from DAC 9 months before reaching maximum
- Serve a single 9-month term of post-release supervision

Consecutive Felonies

Class H 8 – 19 months

Class H + 8 – 19 (-9)

Class H + 8 – 19 (-9)

Class I + 6 – 17 (-9)

Class I + 6 – 17 (-9)

36 – 91 (sum of all mins and maxes)

- 36 (to remove duplicate “PRS time”)

40 – 55 months

- Release from DAC 9 months before reaching maximum
- Serve a single 9-month term of post-release supervision

Prior Record Level

COUNT

- All felonies
- Class 1 and Class A1 non-traffic misdemeanors
- DWI, commercial DWI, and death by vehicle
- Prayer for Judgment (PJC)
- Crimes from other jurisdictions

DON'T COUNT

- Class 2 & 3 misdemeanors
- Traffic misdemeanors (other than DWI, commercial DWI, and death by vehicle)
- Infractions
- Contempt adjudications
- Probation revocations
- Juvenile adjudications

Crimes from other Jurisdictions

- By default, count as follows:
 - Prior out-of-state felonies: Class I (2 points)
 - Prior out-of-state misd.: Class 3 mids. (0 points)
- State or defendant can show “substantial similarity” to a NC offense
 - If “substantial similarity” proved, count the out-of-state offense like its NC counterpart
 - **This is a question of law to which the parties cannot validly stipulate (common error)**

your completed form if you would like a copy for your records.

(c) while on escape.

TOTAL

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

MISDEMEANOR	FELONY								
<p>NOTE: If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">No. Of Prior Convictions</td> <td></td> </tr> <tr> <td style="text-align: center;">0</td> <td><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">1 - 4</td> <td><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">5+</td> <td><input type="checkbox"/></td> </tr> </table> <p><input type="checkbox"/> The Court to be</p> <p><input type="checkbox"/> In making State's evi computer printout of P</p>	No. Of Prior Convictions		0	<input type="checkbox"/>	1 - 4	<input type="checkbox"/>	5+	<input type="checkbox"/>	<p>NOTE: If sentencing for a felony, locate the prior record level which corresponds to the total points determined in Section I above.</p> <p>PRIOR RECORD LEVEL </p> <p>prior record points and the e as shown herein.</p> <p>t has relied upon the State's ctions from a computer</p> <p><input type="checkbox"/> In finding a prior record level point under G.S. 15A-1340.14(b)(7), the Court has relied on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue.</p>
No. Of Prior Convictions									
0	<input type="checkbox"/>								
1 - 4	<input type="checkbox"/>								
5+	<input type="checkbox"/>								

“For each out-of-state conviction listed in Section V on the reverse, the Court finds by a preponderance of the evidence that the offense is substantially similar to a North Carolina offense....”

The Court finds that all of the elements of the present offense are included in a prior offense.

For each out-of-state conviction listed in Section V on the reverse, the Court finds by a preponderance of the evidence that the offense is substantially similar to a North Carolina offense and that the North Carolina classification assigned to this offense in Section V is correct.

The Court finds that the State and the defendant have stipulated in open court to the prior convictions, points and record level.

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

UNC SCHOOL OF GOVERNMENT



Prior Record “Bonus Points”

- +1 Offense committed while on probation, parole, post-release supervision, in prison, or on escape
- +1 All elements of present offense included in any prior offense (a question of law—no stipulations)

(c) while on escape.

TOTAL

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

MISDEMEANOR		FELONY															
<p>NOTE: If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.</p> <table border="1"> <tr> <th>No. Of Prior Convictions</th> <th>Level</th> </tr> <tr> <td>0</td> <td></td> </tr> <tr> <td>1 - 4</td> <td></td> </tr> <tr> <td>5+</td> <td></td> </tr> </table>		No. Of Prior Convictions	Level	0		1 - 4		5+		<p>NOTE: If sentencing for a felony, locate the prior record level which corresponds to the total points determined in Section I above.</p> <table border="1"> <tr> <th>Points</th> <th>Level</th> </tr> <tr> <td>0 - 1</td> <td>I</td> </tr> <tr> <td>2 - 5</td> <td>II</td> </tr> </table>		Points	Level	0 - 1	I	2 - 5	II
No. Of Prior Convictions	Level																
0																	
1 - 4																	
5+																	
Points	Level																
0 - 1	I																
2 - 5	II																
<input type="checkbox"/> The Court to be		PRIOR RECORD LEVEL															
<input type="checkbox"/> In making State's evi computer printout of		<p>prior record points and the e as shown herein. It has relied upon the State's ctions from a computer</p>															
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<input type="checkbox"/> The Court finds that the State and the defendant have stipulated in open court to the prior convictions, points and record level.																	
Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge															

“The Court finds that all of the elements of the present offense are included in a prior offense.”

UNC SCHOOL OF GOVERNMENT



A defendant has the following prior record:

- ✓ 11/1/98 First-degree rape (Pennsylvania)
- ✗ 8/4/01 DWLR (Class 1 misdemeanor)
- ✓ 1/12/03 DWI
- ✓ 4/25/08 2d deg burglary (Class G)
- ✗ 4/25/08 Poss. stolen goods (Class H)
- ✗ 2/14/10 Simple assault (Class 2 misdemeanor)

+1 Current crime committed while on probation

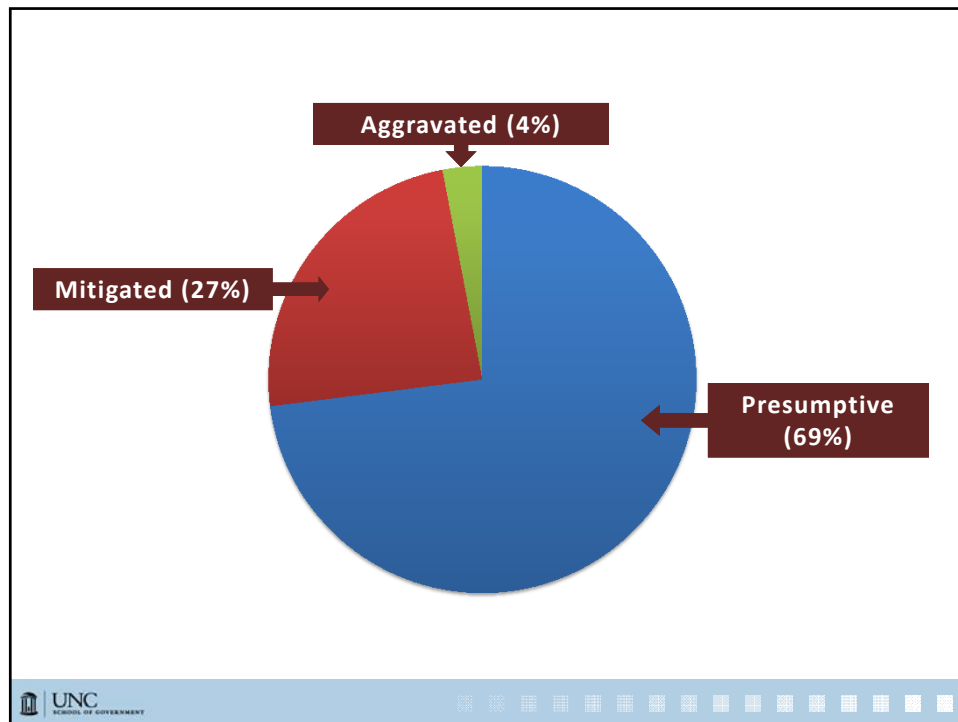
What is his prior record level?

- 8 points → Level III

What if State shows "substantial similarity" of rape?

- 15 points → Level V

Aggravating Factors

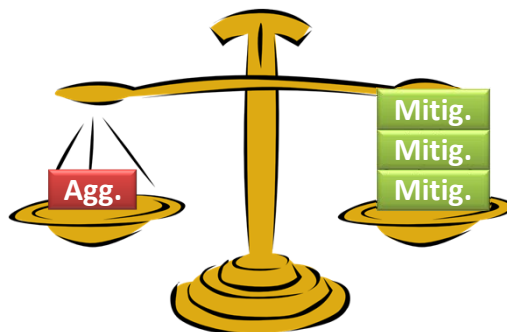


Aggravating Factors

- Must be proved to jury or admitted to by defendant
- Burden of proof on State (beyond reasonable doubt)
- Statutory agg. factors need not be pled
- Nonstatutory (ad hoc) agg. factors must be pled
- State must provide notice of intent to prove aggravators 30 days before trial (unless waived)

Mitigating Factors

- Found by the court (no jury finding required)
- Burden of proof on the defendant (preponderance of the evidence)



Aggravating and Mitigating Factors

- Balance aggravators vs. mitigators is in the court's discretion
 - Not a mathematical balance
- Decision to depart from presumptive range is in the discretion of the court
- If you depart from the presumptive, you **MUST** make written findings of agg./mitig. factors

Aggravating Factors

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division
STATE VERSUS		FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING) G.S. 15A-1340
Name Of Defendant		
Offense		
NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.		

AGGRAVATING FACTORS

DETERMINATION

- The Court finds that:
 - the State provided the defendant with appropriate notice of the aggravating factor(s) in this case.
 - the defendant waived any notice requirements as to the aggravating factor(s) in this case.
- The Court finds that the State included in its criminal pleading the statement required by G.S. 15A-924(a)
- The Court, having considered the evidence and arguments presented at the trial and sentencing hearing admission(s) and findings of aggravating and mitigating factors as noted above,
 - finds that the factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is warranted.
 - finds that the factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is warranted.
 - makes no determination as to the relative weights of the factors found above, because the sentence is within the presumptive range.



Probationary Judgments

Period of Probation

- Default periods for felonies
 - Community: Not less than 12 nor more than 30
 - Intermediate: Not less than 18 nor more than 36
- May be longer/shorter if court makes findings
- Maximum length (with findings) is 60 months

toward the sentence imposed above. imprisonment required for special probation set forth on AOC-CR-603A, Page Two.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised unsupervised probation for _____ months.

1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).

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. This period of probation shall begin when the defendant is released from incarceration at the expiration of the sentence in the case below.

File No.	Offense	County	Court	Date

4. The defendant shall comply with the conditions set forth in file number _____.

Intermediate Punishment

- | Offense before 12/1/11 | Offense on/after 12/1/11 |
|--|---|
| <ul style="list-style-type: none"> • Supervised probation that MUST include: <ul style="list-style-type: none"> – Special probation – Intensive supervision – Residential program – Electronic house arrest – Day reporting center – Drug treatment court | <ul style="list-style-type: none"> • Supervised probation that MAY include: <ul style="list-style-type: none"> – Special probation – Drug treatment court – “Community and Intermediate conditions” |

Advanced Supervised Release (ASR)

- Early release program for certain inmates
- Eligible inmates released on “ASR date” if they complete “risk reduction incentives” in DOC
- Sentencing court and prosecutor are gatekeepers
 - No ASR unless court-ordered at sentencing
 - No ASR if prosecutor objects

ASR Eligibility

- Active sentences
 - Class D, I–III
 - Class E, I–IV
 - Class F, I–V
 - Class G, I–VI
 - Class H, I–VI

	I 0-1 Pts	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
Death or Life Without Parole							DISPOSITION <i>Mitigated Range</i> PRESUMPTIVE RANGE <i>Mitigated Range</i>
A	A	A	A	A	A	A	
B1	260 - 260	275 - 325	317 - 397	393 - 476	438 Without Parole	438 Without Parole	
	192 - 240	221 - 276	284 - 317	292 - 365	336 - 420	386 - 493	
	144 - 192	188 - 221	190 - 254	219 - 292	252 - 336	291 - 381	
	A	A	A	A	A	A	
B2	137 - 198	160 - 223	207 - 276	233 - 297	271 - 342	314 - 393	
	125 - 157	144 - 180	165 - 207	190 - 238	219 - 273	251 - 314	
	94 - 125	108 - 140	134 - 165	151 - 188	184 - 219	199 - 257	
	A	A	A	A	A	A	
C	72 - 92	81 - 104	98 - 120	110 - 138	127 - 159	148 - 182	
	88 - 73	67 - 83	77 - 96	88 - 110	101 - 127	117 - 146	
	64 - 81	61 - 82	64 - 84	68 - 88	75 - 101	87 - 117	
	A	A	A	A	A	A	
D	51 - 64	59 - 73	67 - 84	78 - 97	89 - 111	103 - 128	
	52 - 57	47 - 51	51 - 57	58 - 78	67 - 81	89 - 103	
	EA	EA	EA	EA	EA	EA	
E	31 - 37	31 - 37	31 - 37	31 - 37	44 - 57	39 - 63	
	28 - 28	23 - 29	26 - 33	30 - 38	35 - 44	40 - 50	
	22 - 26	17 - 21	20 - 26	21 - 27	26 - 34	30 - 40	
	EA	EA	EA	EA	EA	EA	
F	13 - 16	14 - 18	17 - 21	20 - 25	23 - 28	24 - 33	
	10 - 17	17 - 21	21 - 27	24 - 30	27 - 35	30 - 38	
	EA	EA	EA	EA	EA	EA	
G	10 - 11	12 - 14	13 - 17	15 - 19	17 - 22	20 - 25	
	12 - 12	10 - 11	10 - 11	11 - 13	12 - 17	13 - 17	
	EA	EA	EA	EA	EA	EA	
H	6 - 8	6 - 8	6 - 8	6 - 8	6 - 8	6 - 8	
	EA	EA	EA	EA	EA	EA	
I	C	CB	I	EA	EA	EA	
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10	
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8	

Advanced Supervised Release (ASR)

- ASR date is:
 - Lowest mitigated minimum sentence the defendant could have received
 - If already mitigated, then 80% of imposed minimum

After January 1, a Prior Record Level III defendant pleads guilty to a Class H felony. The plea agreement calls for a sentence at the top of the presumptive range and admission to the ASR program. What is the sentence, including the ASR date?

I/A
10 - 12
8 - 10
6 - 8

10-21 months
ASR date: 6 months



STATE OF NORTH CAROLINA

NOTE: This form is to be used for (1) felony offenses and (2) misdemeanor offenses which are committed in a program or by a defendant who is on probation or parole.

STATE VERSUS

JUDGMENT AND COMMITMENT
ACTIVE PUNISHMENT - FELONY
(STRUCTURED SENTENCING)
(For Convictions On Or After Jan. 1, 2012)

The defendant pled guilty pursuant to Affidavit was found guilty by a jury of pled no contest to

File No. (s)	CR	Offense Description	Offense Date	G.S. No.	STW	CL	PL

NOTE: Fine punishment class F defined for underlying offense class (punishment class represents a class or enhancement)

The Court: 1. has determined pursuant to G.S. 15A-1343.14, the prior record points of the defendant to be Any prior record level point order G.S. 15A-1343.14(b)(7) is based on the jury's determination of the issue beyond a reasonable doubt or the defendant's admission to this issue. 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offense.

The COURT (NOTE: Class for F MUST be checked)

1. makes no written findings regarding the prison term imposed in (a) within the presumptive range of sentences authorized under G.S. 15A-1345.17(c) (b) for a Class A felony (c) for an adjudication as a violent habitual felon G.S. 14-2.12 (d) for drug trafficking in which the Court finds the defendant has provided substantial assistance pursuant to G.S. 90-20(b)(2); 2. makes the aggravating and mitigating factors Determination as set forth on the attached ACC-CR-605 the findings of egregious aggravation for conviction under G.S. 14-27.2A or G.S. 14-27.4A, as set forth on the attached ACC-CR-618 incorporated herein by reference, which requires a sentence in excess of that authorized by G.S. 15A-1343.17; 3. adjudicates the defendant to be an habitual felon to be sentenced (offense committed before December 1, 2011) as a Class C felon (offense committed on or after December 1, 2011) four classes higher than the principal felony (or higher than Class C); 4. adjudicates the defendant to be an habitual breaking and entering status offender. To be sentenced as a Class E felon; 5. finds enhancement pursuant to: G.S. 90-20(a)(2) (stages) G.S. 14-301.1 (fire arms) G.S. 50B-4.1 (domestic violence) G.S. 14-60.22 (gangs) Other _____ This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue. 6. finds that the defendant used, displayed, or attempted to use or display a firearm or a deadly weapon at the time of the felony and, pursuant to G.S. 15A-1343.15A, has increased the minimum term of imprisonment to which the defendant would otherwise be sentenced by sixty (60) months. This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue. 7. finds the above designated offense(s) is a reportable conviction under G.S. 14-209.6, unless we are and therefore makes the additional findings and orders on the attached ACC-CR-615, Side One. 8. but makes no finding or order concerning registration or satellite-based monitoring due to defendant's sentence of the imprisonment without parole. 9. finds the above designated offense(s) involved the physical or mental sexual abuse of a minor. (NOTE: If defendant is not also a reportable conviction as Ab. 7 above, this finding requires no further action by the court.) 10. finds that a motor vehicle commercial motor vehicle was used in the commission of the offense and this conviction shall be reported to DMV. 11. finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim. 12. offense committed on or after December 1, 2008, and the above designated offense(s) involved criminal street gang activity G.S. 14-60.26.

for a minimum term of: months and a maximum term of: months ASR term (Order No. 4, Side Two) months

NOTE: The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently required to serve. The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below.

Case No.	Offense	County	Jury	Date

ACC-CR-615, Rev. 1/11
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UNC SCHOOL OF GOVERNMENT

After January 1, a Prior Record Level III defendant pleads guilty to a Class H felony. The plea agreement calls for a sentence at the bottom of the mitigated range and admission to the ASR program. What is the sentence, including the ASR date?

I/A

10 - 12

8 - 10

6 - 8

6-17 months
ASR date: 4.8 months



STATE OF NORTH CAROLINA		Case No.	
County		In The General Court Of Justice	
NOTE: (This form is to be used for (1) felony offenses and (2) misdemeanor offenses, which are committed by a defendant who is not a defendant in a prior case.)		<input type="checkbox"/> District <input type="checkbox"/> Superior Court Division	
STATE VERSUS		JUDGMENT AND COMMITMENT	
Name of Defendant		ACTIVE PUNISHMENT - FELONY	
Face		(STRUCTURED SENTENCING)	
Date of Birth		(For Convictions On Or After Jan. 1, 2012)	
Arrested For Date		G.S. 15A-1301 (a) 1	
<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor		<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	
The defendant <input type="checkbox"/> pled guilty <input type="checkbox"/> pursuant to Affidavit <input type="checkbox"/> was found guilty by a jury of <input type="checkbox"/> pled no contest to			
File No. (a)	CR	Offense Description	Offense Date
NOTE: (For punishment class F, refer to underlying offense class (punishment class represents a class or enhancement).)			
The Court: <input type="checkbox"/> 1. See defendant pursuant to G.S. 15A-1343.14, the prior record points of the defendant to be <input type="checkbox"/> Any prior record level point order G.S. 15A-1343.14(b)(7) is based on the jury's determination of the issue beyond a reasonable doubt or the defendant's admission to this issue. <input type="checkbox"/> 2. Make no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offense.			
The COURT (NOTE: Blank for F MUST be checked): <input type="checkbox"/> (a) within the presumptive range of sentences authorized under G.S. 15A-1343.17(c) <input type="checkbox"/> (b) for a Class A felony <input type="checkbox"/> (c) for an adjudication as a violent habitual felon G.S. 14-2.12 <input type="checkbox"/> (d) for drug trafficking <input type="checkbox"/> for which the Court finds the defendant has provided substantial assistance pursuant to G.S. 90-20(b)(2) <input type="checkbox"/> makes <input type="checkbox"/> the aggravating and mitigating factors Determination as set forth on the attached ACC-CR-605. <input type="checkbox"/> the findings of egregious aggravation for conviction under G.S. 14-27.2A or G.S. 14-27.4A, as set forth on the attached ACC-CR-618 incorporated herein by reference, which require a sentence in excess of that authorized by G.S. 15A-1343.17 <input type="checkbox"/> adjudicates the defendant to be an habitual felon to be sentenced <input type="checkbox"/> (offense committed before December 1, 2011) as a Class C felon <input type="checkbox"/> (offense committed on or after December 1, 2011) four classes higher than the principal felony (or higher than Class C) <input type="checkbox"/> adjudicates the defendant to be an habitual breaking and entering status offender. To be sentenced as a Class E felon <input type="checkbox"/> finds enhancement pursuant to: <input type="checkbox"/> G.S. 90-20(a)(2) (stolen) <input type="checkbox"/> G.S. 14-301 (fire arms) <input type="checkbox"/> G.S. 50B-4.1 (domestic violence) <input type="checkbox"/> G.S. 14-60.22 (gangs) <input type="checkbox"/> Other _____ This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue. <input type="checkbox"/> finds that the defendant, charged, or attempted to use or display a firearm or a deadly weapon at the time of the felony and, pursuant to G.S. 15A-1343.15A, has increased the minimum term of imprisonment to which the defendant would otherwise be sentenced by sixty (60) months. This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's admission to this issue. <input type="checkbox"/> finds the above designated offense(s) is a reportable conviction under G.S. 14-209.6, where we use <input type="checkbox"/> and therefore makes the additional findings and orders on the attached ACC-CR-615, Side One. <input type="checkbox"/> but makes no finding or order concerning registration or satellite-based monitoring due to defendant's sentence of the imprisonment without parole. <input type="checkbox"/> finds the above designated offense(s) involved the <input type="checkbox"/> physical or mental <input type="checkbox"/> sexual abuse of a minor. (NOTE: If defendant is not also a reportable conviction as Ab. 7 allows, this finding requires no further action by the court.) <input type="checkbox"/> finds that a <input type="checkbox"/> motor vehicle <input type="checkbox"/> commercial motor vehicle was used in the commission of the offense and this conviction shall be reported to DMV. <input type="checkbox"/> finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim. <input type="checkbox"/> offense committed on or after December 1, 2008, and the above designated offense(s) involved criminal street gang activity G.S. 14-60.22.			
for a minimum term of: _____ months and a maximum term of: _____ months <input type="checkbox"/> ASR term (Order No. 4, Side Two) _____ months			
The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently required to serve. <input type="checkbox"/> The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below.			
FILED	OFFICE	CLERK	DATE
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ASR Eligibility

- Pleas and findings of guilt on or after January 1, 2012

	I 0-1 Pts	II 2-5 Pts	III 6-8 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18- Pts		
Death or Life Without Parole							DISPOSITION Aggravated Range Presumptive Range Mitigated Range	
A	A	A	A	A	A	A		
B1	240-250	270-287	317-337	365-426	430-476	500-520		
	192-240	221-276	264-317	292-365	336-420	366-483		
	166-192	181-221	190-254	219-292	232-336	260-381		
B2	A	A	A	A	A	A		
	117-136	140-223	207-250	238-297	279-342	314-393		
	125-157	144-180	165-207	196-238	219-273	251-314		
	64-125	100-140	124-165	149-190	164-219	182-251		
C	A	A	A	A	A	A		
	79-92	81-104	86-120	110-138	127-170	146-192		
	38-73	47-80	57-96	68-110	81-127	117-146		
	44-59	61-69	64-89	68-88	76-101	87-117		
D	A	A	A	A	A	A		
	89-95	91-111	94-107	97-121	111-139	129-160		
	33-64	39-73	47-84	58-97	69-111	103-128		
	31-51	34-52	37-57	39-76	47-69	57-89		
E	A	A	A	A	A	A		
	27-31	28-31	31-37	33-45	44-55	50-61		
	30-25	31-29	26-33	30-38	35-44	40-50		
	27-32	27-32	26-36	23-30	28-35	31-40		
F	No PRS for offenses committed before 12/1/11						A	
							31-41	
							24-33	
							30-39	
G							A	
							31-41	
							24-33	
							30-39	
H							A	
							31-41	
							24-33	
							30-39	
I	C	CH	I	IA	IA	IA		
	4-5	4-6	4-8	4-10	4-11	4-12		
	4-6	4-6	5-6	6-8	7-9	8-10		
	1-4	1-4	4-5	4-6	5-7	6-8		

