

North Carolina Civil Commitment Law

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I. Procedure: From the Initiating Document to the 24-Hour Facility.

A. The Layperson (or “Citizen”) Petition

1. **Petition.** Anyone who has knowledge of an individual who is
 - a. mentally ill and dangerous to self or dangerous to others,
 - b. mentally ill and in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, or
 - c. a substance abuser and dangerous to self or dangerous to others may appear before a clerk of superior court or a magistrate, execute an affidavit to this effect, and petition for the issuance of an order to take the respondent into custody for examination by a commitment examiner. G.S. 122C-261; 122C-281.
2. **Magistrate Review and Order.** If the clerk or magistrate finds *reasonable grounds to believe* that the respondent probably meets the criteria for commitment, the clerk or magistrate shall issue an order to
 - a. a law enforcement officer or
 - b. any other person authorized under G.S. 122C- 251(g)to take the respondent into custody for examination by a commitment examiner. G.S. 122C-261; 122C-281.
3. **Facts.** The initiating document—the affidavit and petition—must provide facts to show that the legal standard for issuing a custody order has been met.
 - a. Reasonable grounds to believe: The *knowledge of facts* that would lead a reasonable person of ordinary intelligence and prudence to *believe* the respondent probably meets the commitment *criteria*.
 - b. Factual assertions: To have knowledge of facts that would give reasonable grounds to believe, the *affiant must assert facts* in the affidavit.
 - c. “Statute requires the affidavit to contain the facts on which the affiant’s opinion is based. Mere conclusions do not suffice to establish reasonable grounds for issuance of custody order.” In re Ingram, 74 N.C. App. 579 (1985).
 - d. Mere conclusions or opinions do not suffice to give the magistrate or clerk reasonable grounds to believe, for the magistrate cannot simply adopt the belief of others. Rather, *the magistrate must come to his or her own belief* based on facts asserted in the affidavit.
4. **Transportation and Custody.** Upon receipt of the custody order, a law enforcement officer or other individual designated under G.S. 122C-251(g) shall take the respondent into custody

within 24 hours after the order is signed and take the respondent to a commitment examiner to perform a commitment examination. G.S. 122C-261(e).

- a. Law-enforcement officer means sheriff, deputy sheriff, police officer, State highway patrolman, or an officer employed by a city or county under G.S. 122C-302 (officers employed and trained to assist individuals who are intoxicated in public). G.S. 122C-3(19).
- b. Individual designated under G.S. 122C-251(g): The governing body of a city or county may adopt a plan to designate non-law-enforcement personnel to provide all or part of the transportation required by involuntary commitment proceedings. G.S. 122C-251(g).

5. Examination. The commitment examiner shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination to determine whether the respondent meets the criteria for

- a. Inpatient commitment
- b. Outpatient commitment, or
- c. Substance abuse commitment. G.S. 122C-263; 122C-283.

6. “Commitment examiner” means:

- a. A physician,
- b. A PhD psychologist with a health services provider certificate, or
- c. Any other health or mental health professional who is **certified** by the NC Secretary of HHS to perform the first examination for involuntary commitment. G.S. 122C-3(8a), G.S. 122C-263.1. The DHHS Sec’y may individually certify the following professionals:
 - licensed clinical social worker (LCSW)
 - master’s level or higher nurse practitioner (NP)
 - physician assistant (PA)
 - licensed clinical mental health counselor (LCMHC)
 - licensed marital and family therapist (LMFT)
 - licensed clinical addictions specialist (LCAS)—for substance abuse commitment only

Note: No less than annually, the Department shall

- submit a list of certified first commitment examiners **to the Chief District Court Judge of each judicial district** in North Carolina, and
- maintain a current list of certified first commitment examiners on its Internet Web site. dmhdsohf.ncdhhs.gov/IVCCredentials/ProviderList

7. Transportation and Custody Following the First Examination. G.S. 122C-263.

- a. If the commitment examiner finds that the respondent does not meet the criteria for inpatient commitment or finds that the respondent meets the criteria for outpatient commitment, the person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county. The respondent shall be released from custody.

- b. If the physician or eligible psychologist finds that the respondent meets the criteria for inpatient commitment, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing.¹

- 8. Temporary detention.** If a 24-hour facility is not
- a. immediately available or
 - b. appropriate to the respondent's medical condition

the respondent may be “**temporarily detained under appropriate supervision**” at the site of the first examination, provided that the respondent may be released and the proceedings terminated at any time that the commitment examiner determines that the respondent is no longer in need of inpatient commitment, or the respondent may be released on a recommendation of outpatient commitment if the commitment examiner determines the respondent meets the criteria for outpatient commitment.

9. Seven-day limitation on temporary detention.

- a. If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate **seven days** after the issuance of the custody order, a physician or psychologist shall report this fact to the clerk of superior court and the proceedings shall be terminated.
- b. Termination of proceedings shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. (Requires a new affidavit/petition and a new custody order.)

Note: The 7-day limitation and the authority to initiate new proceedings could lead to successive custody orders. If the respondent is temporarily detained at the site of first examination and is subject to a series of successive custody orders, the **hearing** shall be held within 10 days after the day the respondent is taken into custody under the most recent custody order. G.S. 122C-268(a).

B. The Commitment Examiner (or “Clinician”) Petition

1. Petition. If the affiant

- a. Is authorized to perform the first commitment exam (is a “commitment examiner”), [See A. 6., above.]
- b. Examines the respondent (physical face to face presence or via telemedicine equipment and procedures), and

¹ G.S. 122C-252 provides that state facilities, 24-hour facilities licensed under Chapter 122C, or hospitals licensed under Chapter 131E may be designated by the Secretary as facilities for the custody and treatment of involuntary clients. Facilities so designated may detain a client under the involuntary commitment procedures both before a district court hearing and after commitment of the respondent.

- c. Signs the “Affidavit and Petition” before an official authorized to administer oaths (notary),

Then the affiant may deliver the required submissions by delivering copies through facsimile or electronic transmission. Personal appearance is not required. The affiant must submit two forms: the affidavit and petition [AOC-SP-300] and the examination form [“First Examination for Involuntary Commitment” (Form DMH 5-72-19)].

Note: For the magistrate to know that a clinician petitioner other than a physician or psychologist is authorized to perform the first exam—and is therefore authorized to avoid personal appearance when submitting the petition—they must have access to one of the following:

- the list of certified first commitment examiners submitted by NC DHHS **to the Chief District Court Judge of each judicial district** in North Carolina, or
- a current list of certified first commitment examiners maintained by DHHS on its Internet Web site. dmhdsohf.ncdhhs.gov/IVCCredentials/ProviderList

2. Affiant recommendation → magistrate custody order.

- a. If the commitment examiner recommends inpatient commitment, and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order [AOC-SP-302B] for transportation to and custody at a 24-hour facility described in G.S. 122C-252. See G.S. 122C-261(d)(4).
- b. If the affiant recommends outpatient commitment, and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order [AOC-SP-305] that a hearing in the community be held. Respondent is not taken into custody.
- c. If the commitment examiner affiant recommends, recommends substance abuse commitment, and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for substance abuse commitment, the clerk or magistrate shall either issue an order for transportation to a 24-hour facility [AOC-SP-302B] or that a hearing in the community be calendared [AOC-SP-305].

3. Transportation and Custody. Upon receipt of the custody order, a law enforcement officer or other person designated in the order shall take the respondent into custody within 24 hours after the order is signed and take the respondent directly to a 24-hour facility. G.S. 122C-261(e) and 122C-263(b).

4. Temporary detention. If a 24-hour facility is not

1. immediately available or
 2. appropriate to the respondent's medical condition
- the respondent may be “**temporarily detained under appropriate supervision,**” provided that the respondent may be released and the proceedings terminated at any time that the

physician or eligible psychologist determines that the respondent is no longer in need of inpatient commitment, or the respondent may be released on a recommendation of outpatient commitment if the physician or psychologist determines the respondent meets the criteria for outpatient commitment. G.S. 122C-261(d)(4), -263(d)(2).

5. **Seven-day limitation.** If the respondent is temporarily detained and a 24-hour facility is not immediately available or medically appropriate seven days after the issuance of the custody order, a physician or psychologist shall report this fact to the clerk of superior court and the proceedings shall be terminated. Termination of proceedings shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. G.S. 122C-263(d)(2). (Requires a new affidavit/petition and a new custody order.)

Note: The 7-day limitation and the authority to initiate new proceedings could lead to successive custody orders. If the respondent is temporarily detained at the site of first examination and is subject to a series of successive custody orders, the **hearing** shall be held within 10 days after the day the respondent is taken into custody under the most recent custody order. G.S. 122C-268(a).

C. The 24-Hour Facility

1. Within 24 hours of the respondent's arrival at a 24-hour facility under a custody and transportation order, a physician must examine the respondent.
2. If the 24-hour facility is the same facility where the first IVC exam was performed, the second examination shall occur not later than the following regular working day.
3. A hearing must be held within 10 days of the day that the respondent was initially taken into law enforcement custody under the authority of a custody order. If the respondent was temporarily detained at the site of first examination [see A., 9., and B., 5., above] and is subject to a series of successive custody orders, the hearing shall be held within 10 days after the day the respondent is taken into custody under the most recent custody order. G.S. 122C-268(a).
4. The findings of the physician and the facts on which they are based shall be in writing and sent to the clerk of superior court by "reliable and expeditious means." Facility should send to the clerk:
 - a. "24 Hour Facility Exam for Involuntary Commitment" (Form DMH 5-72-19-2)
 - b. "Request for Hearing" (Form DMH 5-76-1)
5. Facility should provide respondent's counsel copies of:
 - a. Petition and Affidavit (AOC-SP-300)
 - b. Custody order (AOC-SP-302A or AOC-SP-302B)
 - c. The examination form completed at site of first exam (Form DMH 5-72-19)
 - d. The examination form ("second exam") completed at the 24-hour facility (Form DMH 5-72-19-2)
 - e. Request for Hearing (Form DMH 5-76-1)

6. Upon receipt of the physician’s findings that the respondent meets the criteria for inpatient commitment, the clerk of court shall assign counsel, calendar a hearing, and notify the respondent, his counsel, and the petitioner of the time and place of the hearing.
7. Fifteen days before the end of the initial inpatient commitment, if the attending physician determines that commitment beyond the initial period will be necessary, she shall so notify the clerk. (Form DMH 5-76-1)
8. At least 10 days before the end of the initial period, the clerk shall calendar the rehearing.

II. The District Court Order

A. Findings of Fact. When the Court of Appeals reviews an appeal based on the argument that the trial court erred in concluding that the respondent meets the criteria for commitment, the appellate court potentially reviews two things, depending on the respondent’s argument.

1. Is there any competent evidence to support the findings of fact recorded in the order?
2. Do the court’s findings of fact recorded in the order support its conclusions of law (e.g., that respondent is mentally ill and dangerous to others).

It is not sufficient for there to be competent evidence of mental illness and dangerousness in the hearing record. The district court must establish the nexus between the evidence and its conclusions of law by recording in the order findings that show what evidence establishes, and how the evidence establishes, the trial court’s conclusions (e.g., that the respondent is mentally ill and dangerous). In essence, the trial court must reveal the thinking or analysis that gets the trial court from the evidence to the necessary legal conclusions. (The court shall record the facts that support its findings [conclusions]. G.S. 122C-268(j); In Re Whatley, 224 N.C. App. 267, 271 (2012))

B. Discussion: Under the statutory definitions of dangerousness, there are three ways to be dangerous to self and three ways to be dangerous to others. All have a two-part definition. If we take one of the ways to be dangerous to self—danger due to a lack of self-care ability—we see that it has a two-prong test that requires a finding of:

- a lack of self-care ability regarding one’s daily affairs, and
- a probability of serious physical debilitation resulting from the more general finding of lack of self-caring ability. In re Monroe, 49 N.C.App. 23 (1980).

1. The trial court’s findings in Whatley included,
 - Respondent was exhibiting psychotic behavior that *endangered her and her newborn child*. She is bipolar and was experiencing a manic stage.

- She was initially noncompliant in taking her medications but has been compliant the past 7 days.
 - Respondent continues to exhibit disorganized thinking that causes her not to be able to *properly care for herself*. She continues to need medication monitoring.
2. The appellate court in Whatley said, that the trial court’s findings do not demonstrate that there was a “reasonable probability of [respondent] suffering serious debilitation within the near future.” The italicized language above in the trial court’s findings clearly show that the trial court is focusing on danger based on lack of self-care ability. However, the respondent’s inability to care for herself referenced by the trial court in its findings either
- Is conclusory by not saying *how* the respondent’s behavior “*endangered her*,” or what specific behavior led the trial court to conclude she was probably going to suffer serious debilitation in the near future [2nd prong of definition], or
 - Does not show how the inability to “*property care for herself*” creates a reasonable probability that the respondent will suffer serious physical debilitation in the near future unless adequate treatment is given.
3. In another case, the Court of Appeals said, a critical analysis of [the] findings and the underlying record evidence shows that they “[do] not demonstrate a ‘reasonable probability of [respondent] suffering serious physical debilitation within the near future’ without immediate, involuntary commitment,” W.R.D., 248 N.C. App. at 516, with the trial court having failed to couple its findings concerning respondent’s past and current condition with any findings regarding the extent to which respondent faced a risk of “serious physical debilitation” in the event that he did not remain in inpatient care.” *In re G.G.*, __ N.C. __, 2022 NCSC 123
4. Take aways:
- a. Dangerous to self, like each definition of dangerousness, is a two-prong test.
 - b. The trial court should make specific finding of facts with regard to *each* prong of the definition of dangerousness that applies to the case.
 - c. Where danger to self is based on lack of self-care ability, the evidence must show that the inability to care for self, by its nature or degree, *creates or causes* a reasonable probability of *serious physical* debilitation in the *near* future unless adequate treatment given.
 - d. The court’s findings of fact recorded in the order should not rely on the unstated inference that evidence of the first prong gets the trier of fact to the second prong. The court should explicitly address the second prong and speak to the record evidence that establishes either

- a probability of serious physical debilitation in the near future can be inferred from evidence of the first prong because of the nature, degree, extent, or severity of respondent's inability to care for self, or
- that the lack of self-care ability has already resulted in physical deterioration or debilitation

Or, as the case may be, make specific findings of fact with regard to the second prong of whichever definition of dangerousness applies to the case.

C. Outpatient Criteria and Outpatient-Specific Findings.

1. Criteria:

- Mentally ill,
- Based on psychiatric history, in need of treatment to prevent further disability or deterioration that would predictably result in dangerousness,
- Current mental status or nature of illness limits or negates the patient's ability to make an informed decision to seek treatment voluntarily or to comply with recommended treatment, and
- Capable of surviving safely in the community with available supervision from family, friends, or others

2. Specific Findings. The court shall

- Make findings of fact as to the availability of outpatient treatment from an outpatient treatment physician or center that has agreed to accept the respondent as a client of outpatient treatment services, and
- Designate on the order the outpatient treatment provider responsible for managing the commitment.
- If the provider will be providing the treatment pursuant to a contract with an LME/MCO, identify on the order the LME/MCO.
 - An LME/MCO (local management entity/managed care organization, aka, "area authority" under G.S. 122C) is
 - not an outpatient treatment physician or center
 - responsible for contracting with providers to provide outpatient commitment services to "clients of the LME/MCO" who meet outpatient commitment criteria
 - An LME/MCO contracted provider shall not be designated on commitment order as the outpatient treatment provider unless respondent is eligible for services through the LME/MCO or otherwise qualifies for services offered by the provider

Criteria for Involuntary Commitment in North Carolina

Mental Illness (Adults)

an illness that so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control.

Mental Illness (Minors)

a mental condition, other than an intellectual disability alone, that so impairs the youth's capacity to exercise age-adequate self-control or judgment in the conduct of his activities and social relationships that he is in need of treatment.

Substance abuse

the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

Dangerous to self

Within the relevant past, the individual has:

1. acted in such a way as to show that
 - a. he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and
 - b. there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given. Behavior that is grossly irrational, actions that the individual is unable to control, behavior that is grossly inappropriate to the situation, or other evidence of severely impaired insight and judgment creates an inference that the individual is unable to care for himself; or
2. attempted suicide or threatened suicide and there is a reasonable probability of suicide unless adequate treatment is given; or
3. mutilated himself or attempted to mutilate himself and there is a reasonable probability of serious self-mutilation unless adequate treatment is given.

Previous episodes of dangerousness to self, when applicable, may be considered when determining the reasonable probability of serious physical debilitation, suicide, or serious self-mutilation.

Dangerous to others

Within the relevant past the individual has:

1. inflicted, attempted to inflict, or threatened to inflict serious bodily harm on another and there is a reasonable probability that this conduct will be repeated, or
2. acted in a way that created a substantial risk of serious bodily harm to another and there is a reasonable probability that this conduct will be repeated, or
3. engaged in extreme destruction of property and there is a reasonable probability that this conduct will be repeated.

Previous episodes of dangerousness to others, when applicable, may be considered when determining the reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is evidence of dangerousness to others.



North Carolina Involuntary Commitment Process

Layperson petition
Layperson completes petition in front of magistrate

Magistrate reviews petition & issues custody order

Officer transports respondent

Hospital ER or LME facility (1st exam)

Officer transports respondent

Clinician petition
Clinician completes petition & exam form (1st exam), then faxes to magistrate

Magistrate reviews petition & issues custody order

Officer transports respondent

24-hour facility (2nd exam)

Emergency petition*
Clinician completes exam form & emergency certificate (1st exam), submits to clerk of court for 24-hr. facility & local officer

Officer transports respondent pursuant to emergency certificate

District court judge reviews examination form

Hearing: Court orders release, outpatient, inpatient, or substance abuse commitment

*Use when respondent requires immediate hospitalization; procedure by-passes magistrate.



What Happens After a Magistrate Issues a Custody and Transportation Order

Upon request, a magistrate or clerk of court has issued an order for custody and transportation of a person alleged to be in need of examination and treatment. This is not an order of commitment. It authorizes only that the person to be evaluated and treated until a court hearing. The individual making the request has filed a petition with the court for this purpose and is called the "petitioner." The individual to be taken into custody for examination will have an opportunity to respond to the petition and is called the "respondent."

1. A law enforcement officer or other person designated in the custody order must take the respondent into custody within 24 hours. If the respondent cannot be found within 24 hours, a new custody order will be required to take the respondent into custody. Custody is not for the purpose of arrest, but for the respondent's own safety and the safety of others, and to determine if the respondent needs treatment.
2. Without unnecessary delay after assuming custody, the law enforcement officer or other individual designated to provide transportation must take the respondent to a physician or eligible psychologist for examination.
3. The respondent must be examined as soon as possible, and in any event within 24 hours, after being presented for examination. The examining physician or psychologist will recommend either outpatient commitment, inpatient commitment, substance abuse commitment, or termination of these proceedings.
 - *Inpatient commitment*: If the examiner finds the respondent meets the criteria for inpatient commitment, the examiner will recommend inpatient commitment. The law enforcement officer or other designated person must take the respondent to a 24-hour facility.
 - *Outpatient commitment*: If the examiner finds the respondent meets the criteria for outpatient commitment, the examiner will recommend outpatient commitment and identify the proposed outpatient treatment physician or center in the examination report. The person designated in the order to provide transportation must return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county. The respondent must be released from custody.
 - *Substance abuse commitment*: If the examiner finds the respondent meets the criteria for substance abuse commitment, the examiner must recommend commitment and whether the respondent should be released or held at a 24-hour facility pending a district court hearing. Depending upon the physician's recommendation, the law enforcement officer or other designated individual will either release the respondent or take him or her to a 24-hour facility.
 - *Termination*: If the examiner finds the respondent meets neither of the criteria for commitment, the respondent must be released from custody and the proceedings terminated. If the custody order was based on the finding that the respondent was probably mentally ill, then the person designated in the order to provide transportation must return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county.
4. If the law enforcement officer transports the respondent to a 24 hour facility, another evaluation must be performed within 24 hours of arrival. This evaluator has the same options as indicated in step 3 above. If the respondent is not released, the respondent will be given a hearing before a district court judge within 10 days of the date the respondent was taken into custody.

What Happens After a Clinician Petitions for Involuntary Commitment

A physician, psychologist, or other authorized clinician has requested a magistrate or clerk of court to start the legal process that may lead to court-ordered treatment for mental illness or substance abuse. The clinician making the request has filed a notarized petition with the court for this purpose. The clinician is called the "petitioner." The individual for whom treatment is being requested will have an opportunity to respond to the petition. This individual is called the "respondent."

1. The clinician has examined the respondent and recommended either outpatient commitment, inpatient commitment, or substance abuse commitment.
 - Inpatient commitment: If the clinician recommends inpatient commitment for mental illness, and the magistrate or clerk of court finds that the respondent meets the criteria for inpatient commitment, then the magistrate or clerk will issue an order to have a law enforcement officer or other designated person transport the respondent to a 24-hour facility for examination and treatment pending a district court hearing.
 - Outpatient commitment: If the clinician recommends outpatient commitment for mental illness, then the clinician must provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment physician or center. The respondent will be released from custody. If the magistrate or clerk of court finds that the respondent meets the criteria for outpatient commitment, then he or she will order that a hearing be held before a district court judge to determine whether the respondent will be involuntarily committed to outpatient treatment.
 - Substance abuse commitment: If the clinician recommends substance abuse commitment, and the magistrate or clerk of court finds that the respondent meets the criteria for substance abuse commitment, then the magistrate or clerk will order that (a) respondent be released and a district court hearing be held to determine whether the respondent should be involuntarily committed to substance abuse treatment, or (b) a law enforcement officer or other person transport the respondent to a 24-hour facility for examination and treatment pending a district court hearing at the inpatient facility.
2. If the magistrate or clerk of court issues an order to have the respondent transported to a 24-hour facility, a law enforcement officer or other designated person must take the respondent into custody within 24 hours after the order is signed. Custody is not for the purpose of arrest, but for the respondent's own safety and the safety of others, and to determine if the respondent is in need of court ordered treatment.
3. Without unnecessary delay after assuming custody of the respondent, the law enforcement officer or other person designated to provide transportation must take the respondent to a 24-hour facility where a second examination will be performed within 24 hours of arrival at the facility. This second examiner will recommend either (a) that the respondent be released and the proceedings terminated, or (b) that the respondent be held at the 24-hour facility pending a district court hearing.
4. If the respondent is not released, he or she will appear at a hearing before a district court judge within 10 days of the date that he or she was taken into custody. The judge will order outpatient commitment, inpatient commitment, substance abuse commitment, or no commitment. If outpatient commitment or no commitment is ordered, the respondent will be released. If inpatient commitment is ordered, the respondent will be held for treatment at the 24-hour facility. If substance abuse treatment is ordered, the respondent will be either (a) released and treated on an outpatient basis, or (b) held and treated at the 24-hour facility.

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Superior 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)

Date Of Birth*

Race*

Sex*

*Date of birth, race, and sex are collected so that this information may be transmitted to NICS in the event of a qualifying finding under G.S. 14-409.43(a)(5).

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

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 (list 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 probably has a mental illness and is 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. probably has an intellectual disability, 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-910 for involuntary commitment if defendant found not guilty by reason of insanity.

(Over)

RETURN OF SERVICE

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

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

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

<i>Name Of 24-Hour Facility</i>	<i>Date Delivered</i>	<i>Time Delivered</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Date Of Return</i>
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<i>Name Of Transporting Agency</i>	<i>Signature Of Law Enforcement Official</i>
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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.

<i>Name Of 24-Hour Facility</i>	<i>Date Delivered</i>	<i>Time Delivered</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Date Of Return</i>
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<i>Name Of Transporting Agency</i>	<i>Signature Of Law Enforcement Official</i>
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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.

<i>Name Of 24-Hour Facility</i>	<i>Date Delivered</i>	<i>Time Delivered</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Date Of Return</i>
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<i>Name Of Transporting Agency</i>	<i>Signature And Rank Of Law Enforcement Official</i>
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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.

<i>Name Of Facility To Which Transferred</i>	<i>Date Delivered</i>	<i>Time Delivered</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Date Of Return</i>
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<i>Name Of Transporting Agency</i>	<i>Signature Of Law Enforcement Or State Facility Official</i>
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CERTIFICATION

I certify that this Involuntary Commitment Custody Order Defendant Found Incapable To Proceed is a true and complete copy of the original on file in this case.

<i>Date</i>	<i>Name (type or print)</i>	<i>Signature</i>	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court	SEAL
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STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
District Court Division

_____ County

IN THE MATTER OF

**INVOLUNTARY COMMITMENT ORDER -
MENTAL ILLNESS**

Name Of Respondent

Date Of Birth Of Respondent

Full Social Security Number Of Respondent

G.S. 122C-267, -268, -271, -276

FINDINGS

The Court finds that:

- 1. The State was was not represented by counsel.
- 2. The respondent was was not represented by counsel.
- 3. The 24-hour facility was was not represented by counsel.

Based on the evidence presented, the Court

- 4. by clear, cogent, and convincing evidence, finds as facts all matters set out in the commitment examiner's report specified below, and the report is incorporated by reference as findings.

Date Of Last Commitment Examiner's Report

Name Of Commitment Examiner

- 5. by clear, cogent, and convincing evidence, finds these other facts:
 - respondent was discharged before court date
 - respondent signed voluntary commitment before court date
 - special counsel stipulates there is sufficient evidence for commitment
 - facts supporting involuntary commitment:

- 6. (required for outpatient commitments) finds the following, as to the availability of outpatient treatment from the treatment center/physician that has agreed to accept the respondent as a client:

- 7. finds that the respondent does not meet the criteria for commitment.
- 8. finds that this proceeding was begun after the respondent was charged with a violent crime and was found incapable of proceeding.

NOTE: Use AOC-SP-911M for involuntary commitment of defendant found not guilty by reason of insanity.

NOTE TO CLERK: The clerk in the hearing county should enter this order into NICS, if appropriate, and forward a copy of the original order to the clerk in the originating county.

(Over)

CONCLUSIONS

Based on the above findings, the Court concludes that the respondent:

- 1. has a mental illness.
- 2. does not have a mental illness.
- 3. in addition to having a mental illness, also has an intellectual disability.
- 4. is dangerous to self to others.
- 5. is not dangerous to self or others.
- 6. (only for nondangerous individuals with mental illnesses) is capable of surviving safely in the community with available supervision from family, friends, or others; and based on respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness to self or others; and, that the respondent's inability to make an informed decision to voluntarily seek and comply with recommended treatment is caused by:
 - the respondent's current mental status.
 - the nature of the respondent's mental illness.

ORDER

It is ORDERED that:

- 1. the respondent be committed/recommitted to the inpatient 24-hour facility named below for the period specified.
- 2. the respondent be committed/recommitted to outpatient commitment under the supervision and management of the center/physician named below for the period specified.
 - the respondent may be held at the 24-hour facility where he/she is now being held, for up to 72 hours in order for the facility to notify the designated outpatient center of respondent's treatment needs.
- 3. the respondent be committed/recommitted to an inpatient 24-hour facility named below not to exceed the specified period. Following discharge from the 24-hour facility, the respondent shall be committed to outpatient commitment under the supervision of the center/physician named below for the specified period.
- 4. the respondent be discharged and this matter dismissed.
- 5. this matter be dismissed.
- 6. the respondent be discharged. Since the respondent was charged with a violent crime and previously found incapable of proceeding, it is further ordered that the respondent be released to the custody of the law enforcement agency named below.

Name Of Law Enforcement Agency

- 7. this matter be transferred to the county named below for further proceedings.

County

INPATIENT COMMITMENT

OUTPATIENT COMMITMENT

Committed/recommitted to inpatient facility for a period not to exceed

- _____ days. 90 days.
- 180 days. 1 year.

Committed/recommitted to outpatient facility for a period not to exceed

- _____ days. 90 days. 180 days.

Name And Address Of 24-Hour Facility

Name And Address Of Treatment Center/Physician

Name And Address Of Local Management Entity Or Managed Care Organization (required if treatment center/physician is monitoring and supervising this outpatient commitment pursuant to a contract for services with an LME or MCO)

Date

Signature Of District Court Judge

Name Of District Court Judge (type or print)

NOTE TO CLERK: If outpatient commitment is ordered, by the most expeditious and reliable means, and within 48 hours after the hearing, send a copy of this Order to the designated outpatient treatment center/physician, to the respondent or legally responsible person, and where listed above, the LME/MCO.