

**NORTH CAROLINA CONFERENCE
OF
SUPERIOR COURT JUDGES**

2009 SUMMER CONFERENCE



JURIES: INTERFERING WITH JURORS

PRESENTED BY:

**JUDGE RON SPIVEY, RESIDENT SUPERIOR COURT JUDGE
FORSYTH COUNTY**

STATE v. THOMAS JENKINS.

SUPREME COURT OF NORTH CAROLINA
116 N.C. 972; 20 S.E. 1021; 1895 N.C. LEXIS 308
FEBRUARY , 1895, Decided

PRIOR HISTORY: [***1] The defendant was convicted upon the trial of an indictment for injuring stock running at large, at Fall Term, 1894, of BEAUFORT, before McIver, J., and moved for a new trial upon the ground of misconduct of the jury. Upon affidavits submitted by both the State and the defendant the court found the following facts:

"The court charged the jury before dinner, and they immediately returned to the jury room, which was on the lower floor of the courthouse, where they remained until supper time. At supper time the court instructed the sheriff to give the jury supper. The sheriff took them in a body down town and carried them to Mrs. Smith's restaurant, where they got supper. They stopped at Wright's, on the way back to the court house, and got some cigars or tobacco. They went upstairs in the court room on their return, and a deputy sheriff was placed with them. On that night the jury had some whiskey, one a pint and another a quart. Nearly all of them drank of this whiskey. Some of them were under its influence. The next morning being Saturday morning, the jury having been put in the grand jury room, on the lower floor of the court house, some whiskey was passed through the window into [***2] the room. All the whiskey which the jury drank was purchased by them. There was no allegation, proof or evidence that there was any outside influence brought to bear upon the jury, or that there was any improper influence, and no misconduct on the part of the jury, except as above stated. The jury returned a verdict about ten o'clock Saturday morning."

The motion was overruled, and the defendant excepted and appealed from the judgment pronounced, assigning as error the refusal of his Honor to grant a new trial on account of the misconduct of the jury.

DISPOSITION: New trial.

COUNSEL: The Attorney-General and W. B. Rodman for the State.

Charles F. Warren for defendant.

JUDGES: MONTGOMERY, J.

OPINION BY: MONTGOMERY

OPINION

[*973] [**1021] MONTGOMERY, J. The question for determination is, do the findings of his Honor show such misconduct on the part of the jury as to vitiate the verdict, and to make it in law no verdict? For otherwise [*974] the verdict would simply be erroneous, and, therefore, under the final control of the judge below as to his discretion in granting or refusing a new trial. The answer to the question depends most largely upon the proper construction of the words, "Nearly [***3] all of them drank of this whiskey, some of them under its influence." We think the fair, reasonable and natural meaning of these words is that some of the jurors were under the controlling power, sway and ascendancy of the whiskey which they drank. This being so, they were in a condition which unfitted them to discuss evidence, and

to properly consider its weight and the effect of their conclusions. They were, on this account, not good and lawful men, as the law required them to be, and therefore their verdict was null. There was a mistrial. There is no room for the inference that these jurors might have been under the influence of strong drink on the night before they delivered their verdict on the next morning at ten o'clock, and have been sober at and before that hour. The findings of fact show that other whiskey was passed through a window to the jury on that very morning. ^{HINT} The law requires that jurors, while in the discharge of their duties, shall be temperate and in such condition of mind as to enable them to discharge those duties honestly, intelligently and free from the influence [**1022] and dominion of strong drink. No prudent man would be willing to have the facts of [***4] his case passed upon by a jury some of whom were under the influence of whiskey. Our reports contain no case in which the facts found on motions for new trials for misconduct of jurors are the same, in words or substance, as in this case, and we do not, by this decision, overrule or modify any opinion heretofore rendered by this Court in matters of this nature.

In some of the states of the American Union, drinking in any degree by any of the jurors in the progress of a trial vitiates the verdict. This is not the rule [*975] in North Carolina. In State v. [Sparrow, 7 N.C. 487](#), the Court held unanimously, "that it had been settled rightly that taking refreshments vitiates the verdict only in those cases where they are furnished by the party for whom the verdict is found." In State v. [Bailey, 100 N.C. 528, 6 S.E. 372](#), the Court found, as a fact, upon motion for a new trial by defendant, "that after the retirement of the jury, one of their number took a flask from his pocket and, upon his invitation, four drank of the whiskey it contained. None of the jurors were in any degree under the influence of the liquor, nor was the quantity taken sufficient [*5] to produce any sensible effects," and overruled the motion, in which ruling this Court declared there was no error.**

In State v. [Miller, 18 N.C. 500](#), the prisoner offered to prove, after motion for a new trial on other grounds had been made and denied, that while a juror was absent from the body of the jury, he visited the store of W. J. L. to get a drink of spirits, which store stands at the distance of one hundred and twenty yards from the courthouse and in view of it. The judge refused to receive this evidence, but this Court, on appeal, discussed the point though sustaining the ruling of his Honor, and held that the matters attempted to be proved, if true, did not entitle the defendant to a new trial. *Chief Justice Ruffin*, who delivered the opinion in *Miller's case*, said, however, "But in the present case there is no suggestion that he (the juror) drank to the slightest degree of intoxication." He said further: "I do not dispute that if a juror drank to excess so as to disqualify him for his office, it is not only a misdemeanor, but it ought to vitiate the verdict. I will not deny that such a case appearing in the record could be acted on by a court of errors. [***6] "

As we have already said, we have no reported case in which the use of strong drink, to the extent found in this one, has been made to appear. All the cases reported on this subject are easily to [*976] be distinguished from this.

We are of the opinion that his Honor erred in refusing the motion for a new trial, and that there was a mistrial on account of disqualification of the jury because some of them were under the influence of whiskey while they were engaged in making up their verdict. The defendant is therefore entitled to a New Trial.

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McDowell case ends in mistrial by Chuck Hubbard

Just before the opening statements of attorneys were to be heard, a judge in Wilkes Superior Court declared a mistrial in the murder trial of Freddie Lawrence McDowell. This marks the second time this year that his trial has had to be halted.

Judge Edgar B. Gregory of Wilkesboro declared a mistrial after it was revealed that a juror had been told by a female custodian at the courthouse that defense attorneys for McDowell were seeking a plea bargain in the case.

Gregory, after consulting with District Attorney Tom Horner, instructed State Bureau of Investigation agents to initiate an investigation into jury tampering. He is also sending a formal letter to the SBI in this regard.

Jury selection in the case began Friday and was completed Tuesday morning with the selection of two alternate jurors. The jury was impaneled late Tuesday morning.

McDowell, 22, of Hope Mills, is charged with first-degree murder in the June 30, 2006 shooting death of 19-year-old Drew Lee Howell. The death penalty is not being sought by the state.

The shooting took place at a part-time residence about six-tenths of a mile off Phillips Gap Road in a mountainous section of northwestern Wilkes County.

Investigators with the Wilkes Sheriff's Department said in an earlier hearing that McDowell shot Howell some 45 times with a .38 caliber revolver, meaning that he had to reload a number of times. This was a five-shot revolver, investigators said.

Howell's body, dragged from the residence, was located at a nearby woodpile, investigators said.

Attorneys were preparing to deliver opening statements in the case when juror Dale Cromartie informed Gregory that she needed to speak to the court.

After other jurors were removed from the courtroom, Ms. Cromartie told Gregory that she had seen a courthouse employee whispering to a juror the day before. This occurred in the courthouse's breakroom.

Juror Betty McNeil, who next was brought into the courtroom, told Gregory that a female custodian had approached her. She said the woman "whispered in my ear that the (defense) lawyers were asking for a (plea) bargain deal."

Ms. McNeil said she had never met the custodian before beginning her jury service.

Assistant district attorneys Leigh Bricker and John Sherrill and defense attorneys Jay Vannoy and Ashley Johnson, representing McDowell, went into Gregory's chambers to discuss the matter with the judge.

After the attorneys returned to the courtroom, Vannoy made a motion for mistrial, saying the jury had been contaminated by the mention of a possible plea bargain. He said the mention of this planted the notion of his client's guilt in the minds of the jurors and would prevent McDowell from receiving a fair trial.

At 3:30 p.m., Gregory, noting that it was clear that a discussion of a plea bargain occurred, declared a mistrial, dismissed the jury and recessed court. In entering this order, Gregory said this incident caused "substantial and irreparable prejudice" to McDowell's ability to get a fair trial.

Gregory ordered the district attorney's office to set another date for the trial. Bricker said this morning that no decision has been made yet on the date of the trial. The district attorney's office will likely ask for another special session of court, he said.

Ms. Cromartie "did the right thing in reporting (the incident) to the judge," Bricker commented.

Jury selection was attempted in February, but the case had to be continued in early March because of the continuing illness of the lead prosecutor in the case, Assistant District Attorney Leigh Bricker, who was suffering from influenza. The trial was then set for a special session of court, beginning last week.

The case was continued on a day-to-day basis, but when it became clear that Bricker's health wasn't improving, Judge Henry E. Frye Jr. of Greensboro continued the trial to this week's session.

McDowell's \$350,000 bond was revoked in July 2007 and he has since been held in the Wilkes County Jail with no bond allowed. His bond was revoked when evidence came to light that he was buying alcohol, a violation of his pre-trial release.



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Police probe murder case tampering allegations



Photo courtesy WECT

By [Veronica Gonzalez](#)
Staff Writer

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Wilmington police are investigating whether jury tampering occurred when a woman held up a sign that read: "Nicholas Brown. Please free my daddy" in front of potential jurors for a murder trial earlier this week inside the courthouse.

The 20-year-old woman, Kayla Resha Ganey, claimed a TV reporter put her up to it. It happened on Tuesday as jurors were still being selected for the trial. Nicholas Brown, a 24-year-old Leland man, is charged with first-degree murder in the Christmas Eve 2006 shooting of Willie Duane Davis, 23. Jury selection for the trial started Monday.

Resident Superior Court Judge Jay Hockenbury, questioned Ganey after bailiffs, clerks and jurors reported seeing her with the sign around the courthouse. "Your honor, I made the poster for the media," Ganey, the mother of Brown's 3-year-old girl, told the judge. Ganey's sign also featured a picture of their daughter.

Ganey testified that she displayed the sign at the edge of a hallway that leads into the lobby after a TV reporter, Lynda Figueredo from WECT, asked to film on camera with it, according to a court transcript. Figueredo has been a general assignment reporter for the station since June 2008, according to the TV's Web site. Reached by phone one Friday, Figueredo referred questions to the station's news director, Raeford Brown.

Raeford Brown, who is no relation to the defendant, said Ganey was in the lobby with the sign, and the TV reporter and cameraman asked her to step into the hallway away from jurors to film it in a phone booth somewhat sheltered from sight of the jurors – and that was their only involvement.

"Lynda and the photographer saw her standing there with the poster unfurled," he said in a phone interview Friday. "We didn't ask her to unfurl it. We asked her to put it on a wall so we could take a picture. We covered what was there. We didn't force her to unfurl that poster." As for Ganey's comments about making the poster for the media, the news director said his reporters did not instruct her to make it.

"WECT News, in no way, was involved in coercing the defendant's girlfriend to construct or display the poster she displayed in the lobby of the courthouse. Our team was waiting in the lobby for court to reconvene, and the lady was standing there, with the poster," he wrote in an e-mail. Ganey said in court testimony that the TV reporter didn't specifically ask her to show the sign in the courthouse.

A court bailiff, Sgt. Curtis Barnhill, testified that he had seen Ganey with the poster folded up in the courtroom where the murder trial was taking place. He asked her to keep the sign folded in the courtroom. In later testimony, he said "the media had the poster board up against the wall with the camera panned on it."

Hockenbury banned Ganey from the trial, but she was not charged with contempt.

"I feel that not only have you had a very bad lapse in judgement, but you've come very, very close to being in contempt of court, where I could put you in jail," Hockenbury told Ganey, according to a court transcript of the proceedings.

On Friday, Ganey could not be located at her mother's house or in a Leland mobile home where she stays.

Most of the 16 jurors selected for the trial testified that they saw Ganey with the sign either inside or outside the courthouse. One woman was excused from jury duty after she said she was unsure if she could forget about the incident and be impartial during Brown's trial. New Hanover County District Attorney Ben David said he was concerned about possible jury tampering.

"Any allegation involving tampering with the process is taken very seriously," he said. "Verdicts have to be based on impartial facts of the law. Any appeal to emotion or sympathy by either a party of interested observers or witnesses is unacceptable."

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FACED WITH INFORMATION ABOUT POSSIBLE JURY TAMPERING, WHAT SHOULD YOU DO?

1. MAKE A PRELIMINARY EVALUATION OF THE INFORMATION AND CIRCUMSTANCES TO DETERMINE WHETHER OR NOT YOU BELIEVE THAT THE REPORT OF JURY TAMPERING MAY BE SUBSTANTIATED, SUBSTANTIAL, AND/OR MAY WARRANT FURTHER ACTION. (You may elect to do one or more of the following)

A. VOIR DIRE OF THE JUROR

(In Judge Gregory's case, he elected to request the SBI to investigate after his voir dire of the juror.)

B. VOIR DIRE OF THE COURT PERSONNEL OR OTHERS WHO WITNESSED THE ALLEGED TAMPERING OR ITS AFTERMATH (Voir dire of the person who is suspected of tampering raises self incrimination considerations.)

C. REVIEW ANY TANGIBLE EVIDENCE, SUCH AS LETTERS OR NOTES, PHONE CALL RECORDINGS, OR OTHER SUCH INFORMATION THAT WOULD SHED LIGHT ON THE NATURE OF THE SITUATION.

2. IF YOU BELIEVE THAT WHATEVER APPEARS TO HAVE TAKEN PLACE IS OF SUCH SEVERITY OR CONCERN THAT FURTHER ACTION SHOULD BE TAKEN, THEN THERE ARE GENERALLY TWO POSSIBILITIES:

A: JUDGE INSTITUTES AN INDIRECT CRIMINAL CONTEMPT ACTION

(Be mindful of 5A-15(a) regarding return before another judge)

B: THE STATE PURSUES CRIMINAL CHARGES FOR HARASSMENT OR COMMUNICATION WITH A JUROR PURSUANT TO N.C.G.S 14-225.2 OR THE COMMON LAW OFFENSE OF OBSTRUCTION OF JUSTICE

(Caution: Conducting an indirect criminal contempt hearing, regardless of the outcome MAY/WILL preclude future criminal prosecutions pursuant to the jury tampering statute due to the double jeopardy clause. US vs. Davis 509 US 688, 1993.

"The Double Jeopardy Clause's protection attaches in nonsummary criminal contempt prosecutions just as it does in other criminal prosecutions. In the contexts of both multiple punishments and

successive prosecution, the double jeopardy bar applies if the two offenses for which the defendant is punished or tried cannot survive the "same elements" or "*Blockburger*" test. See, e. g., [*Blockburger v. United States*, 284 U.S. 299, 304, 76 L. Ed. 306, 52 S. Ct. 180](#). That test inquires whether each offense contains an element not contained in the other; if not, they are the "same offence" within the Clause's meaning, and double jeopardy bars subsequent punishment or prosecution. "

BUT SEE 5A-12 (e), which appears to dispense with the double jeopardy clause under these circumstances by statutory authority!

RELEVANT STATUTES

§ 14-220. Bribery of jurors.

If any juror, either directly or indirectly, shall take anything from the plaintiff or defendant in a civil suit, or from any defendant in a State prosecution, or from any other person, to give his verdict, every such juror, and the person who shall give such juror any fee or reward to influence his verdict, or induce or procure him to make any gain or profit by his verdict, shall be punished as a Class F felon. (5 Edw. III, c. 10; 34 Edw. III, c. 8; 38 Edw. III, c. 12; R.C., c. 34, s. 34; Code, s. 990; Rev., s. 3697; C.S., s. 4375; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1209; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-225.2. Harassment of and communication with jurors.

(a) A person is guilty of harassment of a juror if he:

- (1) With intent to influence the official action of another as a juror, harasses, intimidates, or communicates with the juror or his spouse; or
- (2) As a result of the prior official action of another as a juror in a grand jury proceeding or trial, threatens in any manner or in any place, or intimidates the former juror or his spouse.

(b) In this section "juror" means a grand juror or a petit juror and includes a person who has been drawn or summoned to attend as a prospective juror.

(c) A person who commits the offense defined in subdivision (a)(1) of this section is guilty of a **Class H felony**. A person who commits the offense defined in subdivision (a)(2) of this section is guilty of a **Class I felony**. (1977, c. 711, s. 16; 1979, 2nd Sess., c. 1316, s. 15; 1981, c. 63, s. 1, c. 179, s. 14; 1985, c. 691; 1993, c. 539, s. 1211; 1994, Ex. Sess., c. 24, s. 14(c).)

COMMON LAW OFFENSE "OBSTRUCTION OF JUSTICE" – THAT THE ACCUSED PREVENTED, OBSTRUCTED, IMPEDED OR HINDERED JUSTICE, A MISDEAMEANOR (CLASS 1)

THIS OFFENSE CAN BE A FELONY (CLASS H) IF THE STATE PROVES THAT THE ACT WAS DONE WITH DECEIT AND INTENT TO DEFRAUD.

SEE BURGESS V. BUSBY 142 NC App. 393 (2001)

§ 5A-11. Criminal contempt.

(a) Except as provided in subsection (b), each of the following is criminal contempt:

- (1) Willful behavior committed during the sitting of a court and directly tending to interrupt its proceedings.
- (2) Willful behavior committed during the sitting of a court in its immediate view and presence and directly tending to impair the respect due its authority.
- (3) Willful disobedience of, resistance to, or interference with a court's lawful process, order, directive, or instruction or its execution.
- (4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or affirmed, willful refusal to answer any legal and proper question when the refusal is not legally justified.
- (5) Willful publication of a report of the proceedings in a court that is grossly inaccurate and presents a clear and present danger of imminent and serious threat to the administration of justice, made with knowledge that it was false or with reckless disregard of whether it was false. No person, however, may be punished for publishing a truthful report of proceedings in a court.
- (6) Willful or grossly negligent failure by an officer of the court to perform his duties in an official transaction.
- (7) Willful or grossly negligent failure to comply with schedules and practices of the court resulting in substantial interference with the business of the court.
- (8) Willful refusal to testify or produce other information upon the order of a judge acting pursuant to Article 61 of Chapter 15A, Granting of Immunity to Witnesses.
- (9) Willful communication with a juror in an improper attempt to influence his deliberations.**
- (9a) Willful refusal by a defendant to comply with a condition of probation.
- (10) Any other act or omission specified elsewhere in the General Statutes of North Carolina as grounds for criminal contempt.

The grounds for criminal contempt specified here are exclusive, regardless of any other grounds for criminal contempt which existed at common law.

(b) No person may be held in contempt under this section on the basis of the content of any broadcast, publication, or other communication unless it presents a clear and present danger of an imminent and serious threat to the administration of criminal justice.

(c) This section is subject to the provisions of G.S. 7A-276.1, Court orders prohibiting publication or broadcast of reports of open court proceedings or reports of public records banned. (1977, c. 711, s. 3; 1994, Ex. Sess., c. 19, s. 1.)

§ 5A-12. Punishment; circumstances for fine or imprisonment; reduction of punishment; other measures.

(a) **A person who commits criminal contempt, whether direct or indirect, is subject to censure, imprisonment up to 30 days, fine not to exceed five hundred dollars (\$500.00), or any combination of the three**, except that a person who commits a contempt described in G.S. 5A-11(8) is subject to censure, imprisonment not to exceed 6 months, fine not to exceed five hundred dollars (\$500.00), or any combination of the three and a person who has not been arrested who fails to comply with a nontestimonial identification order, issued pursuant to Article 14 of G.S. 15A is subject to censure, imprisonment not to exceed 90 days, fine not to exceed five hundred dollars (\$500.00), or any combination of the three.

(b) **Except for contempt under G.S. 5A-11(5) or 5A-11(9), fine or imprisonment may not be imposed for criminal contempt, whether direct or indirect, unless:**

- (1) **The act or omission was willfully contemptuous; or**
- (2) **The act or omission was preceded by a clear warning by the court that the conduct is improper.**

(c) The judicial official who finds a person in contempt may at any time withdraw a censure, terminate or reduce a sentence of imprisonment, or remit or reduce a fine imposed as punishment for contempt if warranted by the conduct of the contemnor and the ends of justice.

(d) A person held in criminal contempt under this Article shall not, for the same conduct, be found in civil contempt under Article 2 of this Chapter, Civil Contempt.

(e) **A person held in criminal contempt under G.S. 5A-11(9) may nevertheless, for the same conduct, be found guilty of a violation of G.S. 14-225.1, but he must be given credit for any imprisonment resulting from the contempt.** (1977, c. 711, s. 3; 1985 (Reg. Sess., 1986), c. 843, s. 1; 1987 (Reg. Sess., 1988), c. 1040, ss. 2, 4; 1989 (Reg. Sess., 1990), c. 1039, s. 4; 1991, c. 686, s. 3; 1999-361, s. 3.)

§ 5A-13. Direct and indirect criminal contempt; proceedings required.

- (a) Criminal contempt is direct criminal contempt when the act:
- (1) Is committed within the sight or hearing of a presiding judicial official; and
 - (2) Is committed in, or in immediate proximity to, the room where proceedings are being held before the court; and
 - (3) Is likely to interrupt or interfere with matters then before the court.

The presiding judicial official may punish summarily for direct criminal contempt according to the requirements of G.S. 5A-14 or may defer adjudication and sentencing as provided in G.S. 5A-15. If proceedings for direct criminal contempt are deferred, the judicial official must, immediately following the conduct, inform the person of his intention to institute contempt proceedings.

(b) Any criminal contempt other than direct criminal contempt is indirect criminal contempt and is punishable only after proceedings in accordance with the procedure required by G.S. 5A-15. (1977, c. 711, s. 3.)

§ 5A-15. Plenary proceedings for contempt.

(a) When a judicial official chooses not to proceed summarily against a person charged with direct criminal contempt or when he may not proceed summarily, he may proceed by an **order directing the person to appear before a judge at a reasonable time specified in the order and show cause why he should not be held in contempt of court.** A copy of the order must be furnished to the person charged. **If the criminal contempt is based upon acts before a judge which so involve him that his objectivity may reasonably be questioned, the order must be returned before a different judge.**

(b) Proceedings under this section are before a district court judge unless a court superior to the district court issued the order, in which case the proceedings are before that court. Venue lies throughout the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where the order was issued.

(c) The person ordered to show cause may move to dismiss the order.

(d) The judge is the trier of facts at the show cause hearing.

(e) The person charged with contempt may not be compelled to be a witness against himself in the hearing.

(f) **At the conclusion of the hearing, the judge must enter a finding of guilty or not guilty. If the person is found to be in contempt, the judge must make**

findings of fact and enter judgment. The facts must be established beyond a reasonable doubt.

(g) The judge presiding over the hearing may appoint a prosecutor or, in the event of an apparent conflict of interest, some other member of the bar to represent the court in hearings for criminal contempt. (1977, c. 711, s. 3; 1987 (Reg. Sess., 1988), c. 1037, s. 44.)

§ 5A-16. Custody of person charged with criminal contempt.

(a) A judicial official may orally order that a person he is charging with direct criminal contempt be taken into custody and restrained to the extent necessary to assure his presence for summary proceedings or notice of plenary proceedings.

(b) If a judicial official who initiates plenary proceedings for contempt under G.S. 5A-15 finds, **based on sworn statement or affidavit, probable cause to believe the person ordered to appear will not appear in response to the order, he may issue an order for arrest of the person, pursuant to G.S. 15A-305. A person arrested under this subsection is entitled to release under the provisions of Article 26, Bail, of Chapter 15A of the General Statutes.** (1977, c. 711, s. 3.)

§ 15A-305. Order for arrest.

(a) Definition. – As used in this section, an order for arrest is an order issued by a justice, judge, clerk, or magistrate that a law-enforcement officer take a named person into custody.

(b) When Issued. – An order for arrest may be issued when:

- (1) A grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody pursuant to Article 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.
- (2) A defendant who has been arrested and released from custody pursuant to Article 26 of this Chapter, Bail, fails to appear as required.
- (3) The defendant has failed to appear as required by a duly executed criminal summons issued pursuant to G.S. 15A-303 or a citation issued by a law enforcement officer or other person authorized by statute pursuant to G.S. 15A-302 that charged the defendant with a misdemeanor.
- (4) A defendant has violated the conditions of probation.
- (5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.
- (6) It is authorized by G.S. 15A-803 in connection with material witness proceedings.
- (7) The common-law writ of *capias* has heretofore been issuable.
- (8) When a defendant fails to appear as required in a show cause order issued in a criminal proceeding.
- (9) It is authorized by G.S. 5A-16 in connection with contempt proceedings.**

(c) Statement of Cause and Order; Copy of Indictment. –

- (1) The process must state the cause for its issuance and order an officer described in G.S. 15A-301(b) to take the person named therein into custody and bring him before the court. If the defendant is to be held without bail, the order must so provide.
- (2) When the order is issued pursuant to subdivision (b)(1), a copy of the bill of indictment must be attached to each copy of the order for arrest.

(d) Who May Issue. – An order for arrest, valid throughout the State, may be issued by any person authorized to issue warrants for arrest. (1973, c. 1286, s. 1; 1975, c. 166, s. 6; 1977, c. 711, s. 21; 2003-15, s. 2.)

STATE OF NORTH CAROLINA
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION



INSTRUCTIONS TO JURORS

You have now been selected as a juror for this case. You are hereby instructed to abide by the following rules during the remainder of this trial. All of these rules are extremely important to the integrity of our jury trial process.

YOU ARE INSTRUCTED AS FOLLOWS:

1. It is your duty not to talk among yourselves about the case at any time before deliberations.
2. It is your duty not to talk to parties, witnesses, or counsel about *anything*.
3. It is your duty not to talk to anyone else or to allow anyone else to talk with you or in your presence about the case.
4. If anyone attempts to communicate with you about the case, you must report it to me immediately.
5. It is your duty not to form an opinion about the guilt or innocence of the Defendant or to express any opinion to anyone about the case during the trial.
6. It is your further duty to avoid reading, watching, or listening to any media accounts of the trial that may exist.
7. Finally, it is your duty not to make any independent investigation or conduct any supplemental research into any matter, or visit any place discussed during the course of the trial.
8. Please understand that a violation of any of these duties as a member of our jury will subject you to the contempt powers of the Court.

This 5th day of May, 2009.

RONALD E. SPIVEY
SUPERIOR COURT JUDGE PRESIDING

JUROR # _____

JUROR'S SIGNATURE _____

JUROR'S PRINTED NAME _____