

# STATE OF NORTH CAROLINA

Special Proceeding File No.

Criminal File No.

Additional File Nos.

County

In The General Court Of Justice  
☐ District ☐ Superior Court Division

## STATE VERSUS

Name Of Defendant/Respondent

Social Security No.

☐ Has No Social Security No.

State Mental Health Facility Where Defendant/Respondent Is Committed

## PETITION AND APPOINTMENT OF DEFENSE COUNSEL FOR COMMITTED RESPONDENT CHARGED WITH VIOLENT CRIME

G.S. 7A-451; 15A-1008, -1009; 122C-261(c), -268, -268.1, -270(a)

**INSTRUCTIONS:** Special Counsel at a state mental health facility completes Part I of this form to petition the Court for appointment of criminal defense counsel for a respondent who has been involuntarily committed after a finding of incapacity to proceed in a criminal case, and may be entitled to dismissal of the criminal charges pursuant to G.S. 15A-1008. The Court completes Part II of this form to assign or deny appointed counsel for the criminal case and completes AOC-CR-224. The Clerk records the criminal case appointment in the Automated Criminal Information System and provides a copy of the form to the appointed criminal defense attorney.

### I. SPECIAL COUNSEL PETITION FOR APPOINTMENT OF DEFENSE COUNSEL

The above named defendant/respondent is charged in the above named county with the violent crime of (specify offense) \_\_\_\_\_, and was previously found by the Court to be incapable of proceeding to trial pursuant to G.S. 15A-1002 and involuntarily committed pursuant to G.S. 122C-268.

Upon information and belief, the defendant/respondent was previously found to be indigent and entitled to appointed counsel in the criminal case pursuant to G.S. 7A-450(a); was again found to be indigent pursuant to G.S. 122C-261(c) and -270(a), or refused to retain counsel in the commitment proceedings as provided in G.S. 122C-268(d) or -268.1(d); and has been committed since that time.

The criminal charge(s) identified above is still pending or has been dismissed with leave pursuant to G.S. 15A-1009.

The undersigned Special Counsel believes that (check all that apply):

- ☐ 1. The defendant/respondent will not gain capacity to proceed and the court may dismiss the criminal charge(s) pursuant to G.S. 15A-1008(1).
- ☐ 2. The defendant/respondent has been substantially deprived of his liberty for a period of time equal to or in excess of the maximum permissible period of confinement for the crime(s) charged and the court may dismiss the criminal charge(s) pursuant to G.S. 15A-1008(2).
- ☐ 3. The charge(s) identified above is a misdemeanor, 5 years have passed from the date of determination of incapacity to proceed in the case, and the court may dismiss the criminal charge(s) pursuant to G.S. 15A-1008(3).
- ☐ 4. The charge(s) identified above is a felony, 10 years have passed from the date of determination of incapacity to proceed in the case, and the court may dismiss the criminal charge(s) pursuant to G.S. 15A-1008(3).

I, the undersigned, am employed as Special Counsel at the above named state mental health facility and make application for appointment of a criminal defense attorney in the above named county to take appropriate action in the criminal case(s) pursuant to G.S. 15A-1008 and any other applicable provision of law.

Date	Signature Of Special Counsel	Name Of Special Counsel (Type Or Print)
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### II. ASSIGNMENT OR DENIAL OF COUNSEL

It appears to the Court that the above named defendant/respondent is charged in the above named county with a violent crime, which is a proceeding listed in G.S. 7A-451(a); and, after consideration of the prior indigency findings and involuntary commitment in this case, it is determined that the defendant/respondent:

- ☐ 1. is financially able to provide the necessary expenses of legal representation in the criminal case; it is ORDERED that the defendant/respondent is not an indigent and the petition is denied.
- ☐ 2. is **not** financially able to provide the necessary expenses of legal representation in the criminal case; it is ORDERED that the defendant/respondent is an indigent and is entitled to the services of counsel as contemplated by law, and that he/she shall be represented by: ☐ the attorney named below. ☐ the public defender in this judicial district.

It is further ORDERED that the Clerk of Superior Court shall record this appointment of counsel in the Automated Criminal Information System.

Name Of Appointed Criminal Defense Attorney (If Applicable)	Next Court Date
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Date	Signature Of Judge	Name Of Judge (Type Or Print)
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