

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

PETITION FOR APPOINTMENT OF DEFENSE COUNSEL FOR COMMITTED RESPONDENT CHARGED WITH VIOLENT CRIME (For Offenses Committed On Or After Dec. 1, 2013)

State Mental Health Facility Where Defendant/Respondent Is Committed

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

INSTRUCTIONS: Special Counsel at a state mental health facility completes 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 AOC-CR-224 to assign or deny counsel. If the defendant/respondent is charged with first degree murder or an undesignated degree of murder and was over 18 at the time of the offense, the Court completes AOC-CR-427 to notify the Office of the Capital Defender of the need to assign counsel.

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 and defendant is not represented by counsel in the criminal proceeding.

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

- 1. The defendant/respondent will not gain capacity to proceed and the court must dismiss the criminal charge(s) pursuant to G.S. 15A-1008(a)(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 term of imprisonment for prior record Level VI for felonies or prior conviction level III for misdemeanors for the most serious offense charged and the court must dismiss the criminal charges pursuant to G.S. 15A-1008(a)(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 must dismiss the criminal charge(s) pursuant to G.S. 15A-1008(a)(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 must dismiss the criminal charge(s) pursuant to G.S. 15A-1008(a)(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	Name Of Special Counsel (Type Or Print)	Signature Of Special Counsel
------	---	------------------------------

NOTE: After consideration of the prior indigency findings and the involuntary commitment in this case, the Court completes AOC-CR-224 or AOC-CR-427 as instructed above.

NOTE TO CLERK: Record the criminal case appointment in the Automated Criminal/Infraction System. File this petition and a copy of the appointment/denial of counsel in the SP file. File the original appointment/denial of counsel in the CR file. Do not file a copy of this petition in the CR file.