

STATE OF NORTH CAROLINA
[] COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. []

STATE OF NORTH CAROLINA)
)
 v.)
)
 [JS, A JUVENILE])

MOTION AND ORDER TO
DETERMINE COMPETENCY

NOW COMES the Juvenile, by and through his attorney, and requests this Honorable Court to grant him a competency determination. In support of said motion the Juvenile states the following:

BACKGROUND

1. On [date], the Juvenile was charged with [CHARGE], in violation of N.C. Gen. Stat. § [STATUTE NUMBER].
2. Juvenile's counsel, [name of counsel], was assigned to represent him on [date].
3. On [DATE] at approximately [TIME], Counsel visited JS at the home of his grandmother.
4. Throughout the interview, JS seemed very distracted and preoccupied and appeared unable to concentrate. While Counsel was interviewing JS and explaining the pending charges to him, JS was inattentive and at times appeared confused. When she asked JS to read the police report with her, JS refused and asked her to read it to him. While Counsel read the police report, JS did not pay attention but instead looked away and fidgeted with his hands and

with nearby objects. *Id.*

5. There were several times during their meeting when Counsel had to insist that JS focus on her instead of watching television. During their conversations, when Counsel repeatedly asked JS to look into her eyes, he refused, responding, "I can't do it!" *Id.*
6. After interviewing JS, Counsel had serious questions about his ability to comprehend and understand on a rational level, as JS had persistently exhibited an extreme lack of concern, motivation, and appreciation for the ramifications of his decisions and actions. *Id.*
7. That same evening, Counsel spoke with JS's grandmother who told her that JS has an IQ of 68 and that he is considered borderline mentally-retarded. His grandmother also stated that JS has been diagnosed with attention-deficit hyperactivity disorder (ADHD) and is prescribed medication for the condition. *Id.*
8. His grandmother told Counsel that JS attends school regularly but has been suspended several times for disrupting the class and "acting out" with his teachers. JS has told his grandmother that he often finds it impossible to control his actions and that he isn't always aware of what is going on around him. *Id.*

9. As a result of the foregoing, Counsel has grave concerns about JS's capacity to fully understand the charges pending against him. Counsel questions whether JS is capable of understanding these charges and assisting her in his defense. Counsel therefore requests an evaluation to determine her client's ability to proceed with this case.

ARGUMENT

10. As set out in G.S. § 15A-1001(a) and as noted in *State v. McCoy*, 303 N.C. 1 (1981), the test of a defendant's mental capacity to stand trial is whether "by reason of mental illness or defect, he is unable to understand the nature and object of the proceedings against him, to comprehend his situation in reference to the proceedings, or to assist in his defense in a rational or reasonable manner. See also *State v. McRae*, 139 N.C. App. 387 (2000) (trial court erred in not conducting competency hearing).

11. Therefore, as a result of her observations of and interactions with JS, and supported by the information provided by his grandmother, counsel contends that a psychological assessment of JS is necessary to determine whether JS has the capacity to proceed.

WHEREFORE, the Juvenile prays that this Honorable Court:

A. Grant him an assessment before proceeding with the

charges brought against him.

B. Grant him any other mental or psychological evaluations that are deemed just and proper for effective defense in this case.

This the [] day of [], [].

[Attorney]
[Address]
[City, State, Zip]
[Telephone Number]

* * * * *

Certificate of Service

I hereby certify that a copy of the foregoing motion was served on the District Attorney for the [NUMBER], Judicial District by deposit of said copy with [NAME], Assistant District Attorney.

This the _____ day of _____ [YEAR].

[ATTORNEY]

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[JS, a Juvenile]

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This matter coming before the undersigned district court judge for hearing on the Juvenile's Motion to Determine Competency, upon good cause shown, the Court finds as follows:

On [DATE], the Juvenile was charged with [CHARGES], in violation of N.C. Gen. Stat. § [STATUTE NUMBER].

1. The Juvenile is represented by [ATTORNEY].
2. For good cause shown, the Court has found that the Juvenile should be evaluated for competency before proceeding to adjudication.
3. Pursuant to the Motion to Determine Competency filed in this case on [DATE], the Court finds that the Juvenile is in need of a psychological assessment to determine whether he has the capacity to proceed to adjudication.

Therefore, it is ordered that the Juvenile be so evaluated.

This the [] day of [], [].

[JUDGE]
District Court Judge