

STATE OF NORTH CAROLINA
[] COUNTY

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

IN RE)
[JS, A JUVENILE]) APPLICATION FOR WRIT OF
) HABEAS CORPUS
)

NOW COMES the above named juvenile Respondent, by and through her attorney of record, [attorney], and respectfully moves this Court pursuant to N.C. Gen. Stat. § 17-3 for a remedy without delay resulting from her unlawful detention by the State of North Carolina. In support thereof, Respondent states as follows.

1. Respondent entered an admission to the charge of simple assault at the juvenile session of District Court in [COUNTY], on [DATE].

2. Upon her admission, she was ordered to remain in detention at the [COUNTY DETENTION CENTER] in [CITY], North Carolina pending the disposition of her case pursuant to N.C. Gen. Stat. § 1903(c) by the presiding District Court judge.

3. Respondent's attorney requested that a detention review hearing pursuant to N.C. Gen. Stat. § 1906(b) be held within 10 days as provided by that statute. This request was denied on the basis that the presiding judge did not believe that detention review hearings pursuant to N.C. Gen. Stat. § 1906(b) are required when a juvenile is placed in detention pursuant to N.C. Gen. Stat. § 1903(c).

4. N.C. Gen. Stat. § 7B-1906(b) states as follows:

"As long as the juvenile remains in secure or nonsecure custody, further hearings to determine the need for continued secure custody shall be held at intervals of no more than 10 calendar days . . ."

There are no exceptions to these secure custody review hearings stated anywhere in the Juvenile Code.

5. The Juvenile has a disposition hearing scheduled on [DATE], and will remain in detention pending that hearing without any further detention reviews unless the relief requested is

granted. The maximum punishment for the adjudicated offense is only 5 days in detention.

6. The denial of Respondent's request for a detention review every 10 days as provided by N.C. Gen. Stat. § 7B-1906(b) amounts to an unlawful detainer and restraint on liberty because the Respondent is not entitled to a bond hearing, nor is the order of the District Court subject to an immediate appeal. N.C. Gen. Stat. § 7B-2602 (right to appeal limited to a final order or when no disposition entered within 60 days of adjudication).

7. WHEREFORE, Respondent respectfully requests this Court hold a hearing upon this application for Writ of Habeas Corpus without delay, and finally enter an order requiring the Respondent be released from custody if a secure custody hearing pursuant to N.C. Gen. Stat § 1906(b) is not held in this matter within 10 days of the adjudication of the juvenile on [DATE].

Respectfully submitted this the [] day of [], [].

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