STATE OF NORTH CAROLINA
[ ] COUNTY

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

STATE OF NORTH CAROLINA	)	
	)	
v.	)	EX PARTE MOTION AND ORDER
	)	FOR FUNDS TO HIRE AN EXPERT
	)	
[JS, A JUVENILE]	)	

NOW COMES the Juvenile, by and through his counsel, and respectfully moves this Honorable Court, pursuant to N.C. Gen. Stat. § 7A-454, Article I of the North Carolina Constitution, and the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, for an ex parte Order allowing him to retain the services of a competent and qualified physician, psychologist or psychiatrist to assist counsel in the preparation of his defense.

As grounds for this Motion, the Juvenile alleges:

1) He is indigent and is represented in this matter by appointed counsel.

2) He faces charges of [LIST CHARGES] in the above-captioned case.

3) In *Ake v. Oklahoma*, 470 U.S. 68, 84 L.Ed. 2d 53 (1985) the United States Supreme Court determined that a Defendant was entitled to make his showing for the necessity of money for an expert's assistance ex parte 470 U.S. at 82, 84 L.Ed. 2d at 66.

4) The North Carolina Supreme Court reiterated the rule of

Ake in *State v. Ballard*, 333 N.C. 515 (1993), in which the court reversed the defendant's murder conviction for failure of the trial court to allow the defense to make an ex parte showing of the need for the assistance of an expert witness.

5) Privately employed counsel representing a non-indigent juvenile would not be required to reveal to the prosecution her employment of or consultation with an expert witnesses, except as required by the rules of discovery. Equal protection guarantees of the United States Constitution and of the North Carolina Constitution require that appointed counsel not be forced to reveal their thoughts, reasoning and strategy as to expert assistance to the State during a hearing on application to the court for funds for those experts.

6) Further, for the court to require an in-court showing of the need for expert assistance would pose a risk to the juvenile's privilege against self-incrimination and to confidential communications between attorney and client.

7) After speaking with the Juvenile and otherwise reviewing the case, counsel has reason to believe that an expert in the field of psychology, psychiatry and/or medical testing is crucial to the preparation of his defense. *See Williams v. Martin*, 618 F. 2d 1021 (4th Cir. 1980)(the obligation of the government to provide an indigent defendant with the assistance of an expert is firmly based on the Equal Protection Clause).

8) The State has used and is expected further to utilize the services of numerous experts, including criminal investigators, medical experts, and others in the investigation, preparation and trial of this case.

9) Without the funds to hire experts to conduct investigations necessary for the preparation of a defense, the Juvenile=s constitutional rights to a fair trial and to present a defense are rendered meaningless. *See*, e.g., *Westbrook v._Zant*, 704 F.2d 1487, 1496 (11th Cir. 1983)(permitting an indigent defendant to introduce mitigating evidence has little meaning if the funds necessary for compiling the evidence is unavailable).

10) The Juvenile is entitled to expert assistance to assure him of his rights under the North Carolina Constitution, Article I, Sections 14, 23, and 27 as well as his rights under the Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution. These rights include that of effective assistance of counsel, to be confronted by the witnesses against him and to obtain witnesses in his favor, to present a defense, to due process, to equal protection, and to individual, reliable sentencing.

11) Because of the nature of the charges and the age and mental characteristics of the Juvenile, an expert in the areas of psychology or psychiatry with a specialization in cognitive functioning is essential to the preparation of an adequate

defense and to a fair trial and is a necessary expense of representation under N.C. Gen. Stat. § 7A-450.

12) The Juvenile requests that the Court authorize him to spend up to [AMOUNT] for the consultation with such an expert in this case.

Wherefore, the Juvenile, requests this Honorable Court enter an Order authorizing him to retain the services of a qualified expert for the preparation of his case and to expend no more than [AMOUNT] for this purpose.

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

_____
[ATTORNEY]
[ADDRESS]
[CITY, STATE, ZIP]
[TELEPHONE]

STATE OF NORTH CAROLINA
[ ] COUNTY

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

IN THE MATTER OF)
[JS, A JUVENILE]) ORDER EX PARTE

This motion came on to be heard upon motion of the attorney for the Juvenile and was heard by the undersigned District Court Judge and for good cause shown and detailed in the Juvenile's Motion, it is ORDERED, ADJUDGED and DECREED as follows:

1. Counsel for the Juvenile is authorized to retain [EXPERT] as investigator to assist him and that the State of North Carolina shall pay for such services and expenses in the amount of [AMOUNT] an hour, not to exceed [AMOUNT].

2. If counsel demonstrates need for further services of the investigator, he shall seek leave of this court.

3. The Order and accompanying Motion and Affidavit are to be sealed and placed in the record.

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

_____
[JUDGE]
District Court Judge