

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

STATE OF NORTH CAROLINA,)
)
 vs.)
)
 Juvenile)
)
)
)
 _____)

**MOTION FOR DISCOVERY AND
EXCULPATORY MATERIAL**

Pursuant to N.C.G.S. Sec. 7B-2300 and Sec. 7B-2303, the Juvenile, through counsel, hereby moves the Court to require the District Attorney for the Fourteenth Judicial District to produce, divulge, and permit counsel for the Juvenile to inspect and copy or photograph the following:

1. Any written or recorded statements made by the Juvenile, within the possession, custody, or control of the State or any of its law enforcement officials and any form waiving his rights.
2. The substance of any oral statement made by the Juvenile, regardless of to whom the statement was made, within the possession, custody, or control of the State, indicating to whom each such statement was made and the date each such statement was made.
3. All prior criminal records of the Juvenile, from any source as are available to the Office of the District Attorney.
4. All books, papers, documents, statements, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or copies or portions thereof which are within the possession, custody, or control of the State which are intended for use by the State as evidence of any kind at the adjudication of the Juvenile, which may be material to the Juvenile's defense, or which, were obtained from or belong to the Juvenile.
5. All results or reports of physical or mental examinations or of tests, measurements, or experiments made in connection with the case, or copies thereof, within the possession, custody, or control of the State, and any physical evidence, which may be offered as an exhibit or evidence in the case, including, but not limited to, any fingerprint or handwriting analysis made in connection with the case.
6. A copy of any prior criminal record available to the State or any of its law enforcement agencies of witnesses whom the State intends to or

will offer as a witness on behalf of the State of the adjudication of the Juvenile.

7. The Juvenile, through counsel, further requests that the District Attorney or his agents, pursuant to United States v. Agurs, 427 U.S. 97, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976) and Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963), disclose to, and permit counsel for the Juvenile to inspect, copy, or photograph all evidence, of whatever kind within the possession, custody, or control of the State or any of its law enforcement officials, which is favorable to, may be favorable to, or tends to be favorable to the Juvenile in the cause, or which may be material and relevant to the Juvenile's defense. This request for voluntary discovery of evidence favorable or tending to be favorable to the Juvenile includes, but is not necessarily limited to the following items:

- a. A disclosure of all criminal charges known to the State or any of its law enforcement agencies pending against any person whom the State intends to or will offer as a witness on behalf of the State of the adjudication of the Juvenile.
- b. All written, recorded, or oral statements made by any person who is a witness or an alleged witness to any of the transactions involving the offenses with which the Juvenile is charged, which statements, written, recorded, or oral are inconsistent with the Juvenile's guilt of any of the charges against him, or which are or may tend to be favorable to the Juvenile on the issue of mitigation or punishment. This request for disclosure concerns witnesses or alleged witnesses to any of the transactions described in the petition filed against the juvenile, whether the State intends to call such person or persons as witnesses or not.

WHEREFORE, the Juvenile requests the Court to issue an Order compelling the State to provide the foregoing items of discovery pursuant to N.C.G.S. Secs. 7B-2300 and 2303.

This the ____ day of _____ 20____.

Respectfully submitted,

John Doe
Attorney for the Juvenile
NCCU School of Law Juvenile Law Clinic
1512 S. Alston Ave.
Durham, NC 27707
(919) 530-7166

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

STATE OF NORTH CAROLINA,)
)
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)
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**ORDER FOR PAYMENT OF
NEUROPSYCHOLOGICAL
EVALUATION**

AFTER hearing arguments of counsel, the Juvenile is allowed to retain the services of _____, an expert in forensic psychology, to assist the Juvenile in preparation of his defense and/or disposition. The State is ordered to pay for his services in an amount not to exceed \$2500.00.

The Honorable _____
District Court Judge

STATE OF NORTH CAROLINA
[] COUNTY

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

IN THE MATTER OF
[JS, A JUVENILE]

)
) EX PARTE MOTION AND ORDER FOR
) FUNDS TO HIRE AN INVESTIGATOR
)

NOW COMES the Juvenile, [JUVENILE], *ex parte*, through counsel, and respectfully moves that the Court order that the juvenile be provided funds to him to employ an investigator to be paid by the State of North Carolina for the following purposes: (1) to investigate the circumstances of the incident which gave rise to the petitions against the juvenile; (2) to investigate the juvenile's personal history, which necessitates inquiry into [BRIEF STATEMENT OF REASONS FOR DISPOSITION INFORMATION]. Juvenile requests a hearing *ex parte* because it will be necessary to reveal to the court information which is potentially damaging to the defense in order to make an adequate showing for the necessary funds.

The requested funds are required to assist counsel in discovering, documenting, and presenting (1) the defenses to the crimes as charged in the petitions, and (2) disposition defenses based on the juvenile's social, mental health, and educational status at the time of the incident. The juvenile will employ an experienced investigator who can perform the necessary investigation at an hourly rate generally provided for counsel representing a juvenile, who can testify if necessary to impeach

witnesses called by the state, and who are trained to discuss with potential witnesses the sensitive issues necessary to an adequate investigation of juvenile court issues. This motion is made pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, Article 1, §§ 19, 23, and 27 of the North Carolina Constitution, and N.C. Gen. Stat. § 7A-454.

In support of this motion, the Juvenile shows the following:

1. [BRIEF FACTS DESCRIBING JUVENILE'S ARREST AND PETITIONS FILED]

2. On [DATE], Juvenile was appointed counsel per N.C. Gen. Stat. § 7B-2000.

3. [FURTHER PROCEEDURAL INFORMATION]

4. [REASONS WHY INVESTIGATOR IS NECESSARY, LIST AS NEEDED]

5. Undersigned counsel, therefore, desires to retain the services of [INVESTIGATOR NAME], an experienced investigator.

6. Counsel requests authorization to spend up to [AMOUNT] for the services of [INVESTIGATOR NAME] whose rate is [AMOUNT] an hour.

7. Counsel reserves the right to seek additional funds upon documentation to the Court that it is warranted under the circumstances.

8. The requested expert assistance is essential to the preparation of Juvenile's adjudicatory hearing and potential disposition hearing. The services of an investigator are necessary to enable Juvenile's counsel to prepare effectively and

to present evidence on his behalf.

9. If the Juvenile is not provided with this expert assistance, he will be deprived of due process of law, the equal protection of the laws, the effective assistance of counsel, his right to confront the witnesses against him, his right to a fair trial, and his right to present evidence on his own behalf. Under these circumstances, the Constitution of the United States and North Carolina require that funds for expert assistance be provided.

ACCORDINGLY, Juvenile requests that this court order that he be allowed to expend up to [AMOUNT] to retain [INVESTIGATOR NAME] as an investigator, without prejudice to the Juvenile to renew application for funds if this amount is exhausted.

Respectfully submitted, 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 [], [].

[ATTORNEY]

STATE OF NORTH CAROLINA
[] COUNTY

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

IN THE MATTER OF
[JS, A JUVENILE]

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)

ORDER FOR EX PARTE MOTION FOR
FUNDS FOR INVESTIGATOR

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 [INVESTIGATOR NAME] 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 Presiding

