

STATE OF NORTH CAROLINA

HAYWOOD County WAYNESVILLE Seat of Court

File No. 15CR 000026 02

In The General Court Of Justice
 District Superior Court Division

NOTE: (This form is to be used for misdemeanor offense(s). Use AOC-CR-342 or AOC-CR-310 for DWI offense(s).)

STATE VERSUS

JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR PUNISHMENT: COMMUNITY INTERMEDIATE (STRUCTURED SENTENCING)

(For Offenses Committed On Or After Dec. 1, 2011)
 G.S. 15A-1341, -1342, -1343, -1343.2, -1346

Name Of Defendant
NICHOLSON, ROBERT, GARY

Race W Sex M Date Of Birth 07/19/1963

Attorney For State
JEFF DOUGLAS JONES

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant
BILL JONES

Appointed Retained

Crit Rptr Initials

The defendant pled guilty (pursuant to Alford) to was found guilty by the Court of was found guilty by a jury of pled no contest to

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	CL.	*Pun. CL.
15CR 000026	02	FICTITIOUS INFO TO OFFICER	12/20/2014	20-29		2
15CR 000026	01	POSS OPN CNT/CONS ALC PSG AREA	12/20/2014	20-138.7(A1)		

*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement). The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be 05 Level: I (0) II (1-4) III (5+)

- 1. The Court finds: (a) enhancement for G.S. 90-95(e)(4) (drugs). G.S. 14-3(c) (hate crime). G.S. 14-50.22 (gang). (b) enhancement from required suspended sentence to Class 2 misdemeanor, G.S. 90-95(e)(7). This finding is based on a determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.
- 2. The Court imposes mandatory punishment pursuant to G.S. 14-33(d) (assault in the presence of a minor).
- 3. The Court finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 and therefore imposes the special conditions of probation set forth on the attached AOC-603C, Page Two, Side Two, and makes the additional findings and orders on the attached AOC-CR-615, Side Two.
- 4. The Court finds the above-captioned offense(s) involved the (check all that apply) physical or mental sexual abuse of a minor (If No. 3 not found) and therefore imposes the special conditions of probation set forth on the attached AOC-CR-603C, Page Two, Side Two.
- 5. The Court finds this is an offense involving assault, communicating a threat, or an act defined in G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
- 6. The Court finds that the above-designated offense(s) involved criminal street gang activity, G.S. 14-50.25.
- 7. The Court did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) the defendant refused to consent. (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.
- 8. (for judgments entered on or after Dec. 1, 2013, only) The Court finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor, G.S. 15A-1382.1(a1).
- 9. The Court finds that the defendant refused to consent to conditional discharge under G.S. 14-204.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned for a term of 60 days in the custody of the: (check only one)

Sheriff of HAYWOOD County. Other: _____

Misdemeanant Confinement Program (sentences greater than 90 days for which a facility is not otherwise specified above).

This sentence shall run at the expiration of the sentence imposed in file number _____

The defendant shall be given credit for _____ days spent in confinement prior to the date of this Judgment as a result of this/these charge(s), to be applied toward the sentence imposed above. imprisonment required for special probation set forth on AOC-CR-603C, Page Two.

SUSPENSION OF SENTENCE

Subject to the conditions set out below, the execution of this sentence is suspended and the defendant is placed on supervised unsupervised probation for 24 months.

- 1. The Court finds that a longer shorter period of probation is necessary than that which is specified in G.S. 15A-1343.2(d).
 - 2. The Court finds that it is NOT appropriate to delegate to the Section of Community Corrections the authority to impose any of the requirements in G.S. 15A-1343.2(e) for community punishment or G.S. 15A-1343.2(f) for intermediate punishment.
 - 3. This period of probation shall begin when the defendant is released from incarceration at the expiration of the sentence in the case below.
- | File No. | Offense | County | Court | Date |
|----------|---------|--------|-------|------|
| | | | | |
- 4. The defendant shall comply with the conditions set forth in file number _____
 - 5. The defendant shall provide a DNA sample pursuant to G.S. 15A-266.4. (AOC-CR-319 required)

MONETARY CONDITIONS

The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below, plus the probation supervision fee, pursuant to a schedule determined by the probation officer. set out by the court as follows: _____

Costs	Fine	Restitution*	Attorney's Fees	Comm Serv Fee	EHA Fee	SBM Fee	Appt Fee/Misc	Total Amount Due
\$ 210.00	\$	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 210.00

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)" AOC-CR-611, which is incorporated by reference.

The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other: _____

Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to unsupervised probation.

Material opposite unmarked squares is to be disregarded as surplusage. (Over)

REGULAR CONDITIONS OF PROBATION - G.S. 15A-1343(b)

NOTE: Any probationary judgment may be extended pursuant to G.S. 15A-1342. The defendant shall: (1) Commit no criminal offense in any jurisdiction. (2) Possess no firearm, explosive device, or other deadly weapon listed in G.S. 14-269. (3) Remain gainfully and suitably employed or faithfully pursue a course of study or vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) Satisfy child support and family obligations, as required by the Court. If the defendant is on supervised probation, the defendant shall also: (5) Not abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer. (6) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (7) Report as directed by the Court or the probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment. (8) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (9) Submit at reasonable times to warrantless searches by a probation officer of the defendant's person and of the defendant's vehicle and premises while the defendant is present, for purposes directly related to the probation supervision, but the defendant may not be required to submit to any other search that would otherwise be unlawful. (10) Submit to warrantless searches by a law enforcement officer of the defendant's person and of the defendant's vehicle, upon a reasonable suspicion that the defendant is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court. (11) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used. (12) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction for the actual costs of drug or alcohol screening and testing.

13. The Court finds that the defendant is responsible for acts of domestic violence and therefore makes the additional findings and orders on the attached AOC-CR-603C, Page Two, Side Two.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1)

The defendant shall also comply with the following special conditions which the Court finds are reasonably related to the defendant's rehabilitation:

- 14. Surrender the defendant's drivers license to the Clerk of Superior Court for transmittal/notification to the Division of Motor Vehicles and not operate a motor vehicle for a period of _____ or until relicensed by the Division of Motor Vehicles, whichever is later.
- 15. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- 16. Complete _____ hours of community service during the first _____ days of the period of probation, as directed by the judicial services coordinator. The fee prescribed by G.S. 143B-708 is
 - not due because it is assessed in a case adjudicated during the same term of court.
 - to be paid pursuant to the schedule set out under Monetary Conditions above within _____ days of this Judgment and before beginning service.
- 17. Report for initial evaluation by _____ participate in all further evaluation, counseling, treatment, or education programs recommended as a result of that evaluation, and comply with all other therapeutic requirements of those programs until discharged.
- 18. Not assault, threaten, harass, be found in or on the premises or workplace of, or have any contact with _____ "Contact" includes any defendant-initiated contact, direct or indirect, by any means, including, but not limited to, telephone, personal contact, e-mail, pager, gift-giving, telefacsimile machine or through any other person, except _____
- 19. (for offenses committed on or after December 1, 2012) Abstain from alcohol consumption and submit to continuous alcohol monitoring for a period of _____ days, months, the Court having found that a substance abuse assessment has identified defendant's alcohol dependency or chronic abuse.
- 20. Other: **NOT USE OR POSSESS ANY ALCOHOL DURING THE TERM OF PROBATION.**

21. Comply with the Special Conditions Of Probation which are set forth on AOC-CR-603C, Page Two.

ORDER OF COMMITMENT/APEAL ENTRIES

- 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- 3. The current pretrial release order is modified as follows: _____
- 4. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (type or print)	Signature Of Presiding Judge
02/16/2016	THE HONORABLE RICHARD K WALKER	

CERTIFICATION

I certify that this Judgment and attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <input type="checkbox"/> 1. Appellate Entries (AOC-CR-350) <input type="checkbox"/> 2. Judgment Suspending Sentence (AOC-CR-603C, Page Two) (additional conditions of probation) <input type="checkbox"/> 3. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611) <input type="checkbox"/> 4. Judicial Findings As To Required DNA Sample (AOC-CR-319) | <ul style="list-style-type: none"> <input type="checkbox"/> 5. Judicial Findings And Order For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two) <input type="checkbox"/> 6. Convicted Sex Offender Permanent No Contact Order (AOC-CR-620) <input checked="" type="checkbox"/> 7. Additional File No.(s) And Offense(s) (AOC-CR-626) <input type="checkbox"/> 8. Other: _____ |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Date	Date Certified Copies Delivered To Sheriff	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court
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SEAL

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA

File No.

15CR 000026

02

HAYWOOD County

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

Name Of Defendant
 NICHOLSON,ROBERT,GARY

ADDITIONAL FILE NO.(S) AND OFFENSE(S)

NOTE: Use this page in conjunction with all NCAOC judgment or probationary forms, to list additional offenses of conviction, deferred prosecution, or conditional discharge addressed in the court's order. There are no A, B, C, or other variations of this form, so this page can be used to continue an offense list from any of the related forms, for any date(s) of offense or conviction.

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	F/M	CL.	*Pun. CL.
14IF 705130	01	DRIVE WRONG WAY ON DUAL LANE	12/20/2014	20-146(C)	I		

***NOTE:** Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).

(Over)

NOTE: (If DWI, use AOC-CR-342 (active) or AOC-CR-310 (Probation). If active sentence to DAC, use AOC-CR-602. If supervised probation, use AOC-CR-604.) DAC

MAGISTRATE'S ORDER - MISDEMEANOR ONLY

The named defendant has been arrested without a warrant; the named officer. A copy of this Order has been delivered to the named officer. A copy of this Order has been delivered to the named officer. A copy of this Order has been delivered to the named officer.

COURT USE ONLY

District Attorney: _____ Attorney For Defendant At Time Of Trial Or Plea: B. Jones

Appointed Retained Waived

PRIOR CONVICTIONS: No./Level: 0 I (0) II (1-4) III (5+)

PLEA: guilty/resp. no contest not guilty/resp.

VERDICT/FINDING: guilty/resp. not guilty/resp. Fict. info open container

MISD. CLASS: A1 1 2 3

JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea; on the above verdict/finding, it is ORDERED that the defendant: pay costs and a fine/penalty of \$ _____ be imprisoned for a term of _____ days in custody of the sheriff. Pretrial credit _____ days served. The Court finds that a longer shorter period of probation than specified in G.S. 15A-1343.2(d) is necessary. Execution of sentence is suspended and the defendant is placed on unsupervised probation for _____ months, subject to the regular conditions of probation and the following: (1) pay costs and a fine/penalty of \$ _____; (2) not operate a motor vehicle until properly licensed by DMV; (3) complete _____ hours of community service within _____ days and pay the fee; (4) Other: _____

It is ORDERED that this: Judgment is continued upon payment of costs. case be consolidated for judgment with _____ The Court finds just cause to waive costs.

sentence is to run at the expiration of the sentence in _____

COMMITMENT: It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and that the sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant in open court, gives notice of appeal to the Superior Court. The current pretrial release order is modified as follows: _____

Date: _____ Signature Of District Court Judge: _____ I certify that this Judgment is a true copy. Date: _____ Signature Of Deputy/Assistant/CSC: _____

File No. 15CR 00026

Defendant is To Appear In District Court: Waverlyville

Day Of Week: Tues Month: 04 Day: 28 Year: 15 Time: 8:30 AM/PM: PM

Address: 330 S. HEN BRANCH RD

Name Of Defendant: Robert Gary N. Nielson

City: CLYDE State: NC Zip: 28721

Drivers License No.: _____ Sex: M Date Of Birth: 07-19-63 Age: 51

Vehicle License No.: BMX-4344 State: NC

Vehicle Type: Truck Year: 2014

Name and Telephone No. Of Defendant's Employer: Vulcan

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card): _____

ACKNOWLEDGEMENT: I, the undersigned, do hereby certify that the information furnished herein is true and correct to the best of my knowledge and belief.

DEPARTMENTAL USE ONLY

Officer: ML Holcombe No. 1688 Troop 6 District 5

Area: DC Via: CL Traffic: NO Accident: A-35

On Highway: SR 1503, Charlotte Rd Injury Or Serious Injury: NO

In Vehicle: Clyde Passenger(s) Under 18: NO

Witness: ML Holcombe Refused:

STATE OF NORTH CAROLINA Haywood County

The undersigned officer has provided cause to believe that on or about 12-21-14 at Waverlyville in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) Waverlyville (State Route No.) 1503 in violation of G.S. 20-137.1.

1. At a speed of _____ MPH in a _____ zone, G.S. 20-141.

2. In a motor vehicle without having the provided seat belt properly fastened about the defendant's body, G.S. 20-135.2A.

3. By transporting a passenger of less than 16 years of age without having the passenger in a (separate) appropriate child passenger restraint system, (seat belt), G.S. 20-137.1.

4. By transporting a child of less than the years of age and less than 40 pounds in weight without the child being secured in a seat when the vehicle was equipped with an motor passenger-side front air bag and the vehicle had a rear seat, G.S. 20-137.1(a).

5. While subject to an interlocking substance, G.S. 20-138.1.

6. Without being licensed as a driver by the Division of Motor Vehicles of North Carolina, G.S. 20-7(a).

7. While the defendant's driver license was revoked, G.S. 20-29(a).

8. While operating an expired registration plate on the vehicle knowing the same to be expired, G.S. 20-111(b).

9. Without displaying thereon a current approved inspection certificate (having a current electronic inspection authorization for the vehicle), such vehicle requiring inspection in North Carolina, G.S. 20-153.8, Motor Exhaust.

10. By failing to use brake (stalling, idling) (turning from a direct line) that such movement could be made in safety, G.S. 20-154.

11. By failing to stop at a duly erected (stop sign) (flashing red light), G.S. 20-156(a)(1), (b)(5).

12. By entering an intersection while a traffic signal was emitting a steady red circular light for traffic in defendant's direction of travel, G.S. 20-156(b)(2).

13. Without having in full force and effect the financial responsibility required by G.S. 20-313. The defendant was the owner of the motor vehicle that was registered (required to be registered) in this State, G.S. 20-313.

14. Possess an open container of (alcoholic) (alcoholic beverages) in the passenger area of a motor vehicle, G.S. 20-135.7(a). (NOTE: Since "operator a (motor) vehicle" and "public vehicular area" above.)

15. Without decreasing speed as necessary to avoid colliding with a (vehicle) (person), G.S. 20-141(h).

16. Gave the name of Patrick Deitz Nielson, A False name to Troop M.L. Holcombe said name being false, The said name was Robert Gary Nielson, The do forward Gary name to be false at time given to Troop M.L. Holcombe.

17. And on or about the date and time shown above in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) Waverlyville (State Route No.) 1503 in violation of G.S. 20-137.1.

With an open container of alcoholic beverage even though the defendant is not under 21.

Date: 12-21-14 Signature Of Officer: _____

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In The General Court Of Justice District Court Division

66U3891-1

ORIGINAL-COURT COPY