

STATE OF NORTH CAROLINA

File No. [REDACTED]

[REDACTED] County

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Defendant

DISMISSAL NOTICE OF REINSTATEMENT

G.S. 15A-302(e), -931, -932, -1009

File Number	Count No.(s)	Offense(s)
[REDACTED]		TRAFFICKING IN COCAINE

☒ DISMISSAL

NOTE: Recall all outstanding Orders For Arrest in a dismissed case.

The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:

- ☐ 1. No crime is charged.
☐ 2. There is insufficient evidence to warrant prosecution for the following reasons:

- ☐ 3. Defendant has agreed to plead guilty to the following charges:

in exchange for a dismissal of the following charges:

- ☒ 4. Other: (specify) See attached.
☐ See additional information on reverse.

A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.)

☐ DISMISSAL WITH LEAVE

The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:

- ☐ 1. The defendant failed to appear for a criminal proceeding at which the defendant's attendance was required and the prosecutor believes that the defendant cannot readily be found.
☐ 2. The defendant has been indicted and cannot readily be found to be served with an Order For Arrest.
☐ 3. The defendant has entered into a deferred prosecution agreement with the prosecutor in accordance with the provisions of Article 82 of G.S. Chapter 15A.
☐ 4. The defendant has been found by a court to be incapable of proceeding pursuant to Article 56 of G.S. Chapter 15A.
☐ 5. Other: (specify) ☐ See additional information on reverse.

NOTE: This form must be completed and signed by the prosecutor when the dismissal occurs out of court. The better practice is for the prosecutor to complete and sign the form when the charges are orally dismissed in open court.

Also, in accordance with G.S. 15A-931(a1), unless the defendant or the defendant's attorney has been otherwise notified by the prosecutor, a written dismissal of the charges against the defendant must be served in the same manner prescribed for motions under G.S. 15A-951. If the record reflects that the defendant is in custody, the written dismissal shall also be served by the prosecutor on the chief officer of the custodial facility where the defendant is in custody.

Date 10-04-2013	Name Of Prosecutor (Type Or Print) [REDACTED]	Signature Of Prosecutor [REDACTED]
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☐ REINSTATEMENT

This case, having previously been dismissed with leave as indicated above, is now reinstated for trial.

Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor

(Over)

STATE OF NORTH CAROLINA

File No. [REDACTED]

[REDACTED] County

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Defendant

DISMISSAL NOTICE OF REINSTATEMENT

G.S. 15A-302(e), -931, -932, -1009

File Number	Count No.(s)	Offense(s)
[REDACTED]		CONSPIRACY TO TRAFFICK IN COCAINE

☒ DISMISSAL

NOTE: Recall all outstanding Orders For Arrest in a dismissed case.

The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:

- ☐ 1. No crime is charged.
☐ 2. There is insufficient evidence to warrant prosecution for the following reasons:

- ☐ 3. Defendant has agreed to plead guilty to the following charges:

in exchange for a dismissal of the following charges:

- ☒ 4. Other: (specify) See attached.
☐ See additional information on reverse.

A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.)

☐ DISMISSAL WITH LEAVE

The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:

- ☐ 1. The defendant failed to appear for a criminal proceeding at which the defendant's attendance was required and the prosecutor believes that the defendant cannot readily be found.
☐ 2. The defendant has been indicted and cannot readily be found to be served with an Order For Arrest.
☐ 3. The defendant has entered into a deferred prosecution agreement with the prosecutor in accordance with the provisions of Article 82 of G.S. Chapter 15A.
☐ 4. The defendant has been found by a court to be incapable of proceeding pursuant to Article 56 of G.S. Chapter 15A.
☐ 5. Other: (specify) ☐ See additional information on reverse.

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Date 10-04-2013	Name Of Prosecutor (Type Or Print) [REDACTED]	Signature Of Prosecutor [REDACTED]
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☐ REINSTATEMENT

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Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
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(Over)

STATE OF NORTH CAROLINA

File No. [REDACTED]

[REDACTED] County

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Defendant

DISMISSAL NOTICE OF REINSTATEMENT

G.S. 15A-302(e), -931, -932, -1009

File Number	Count No.(s)	Offense(s)
[REDACTED]		TRAFFICKING IN COCAINE

☒ DISMISSAL

NOTE: Recall all outstanding Orders For Arrest in a dismissed case.

The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:

- ☐ 1. No crime is charged.
☐ 2. There is insufficient evidence to warrant prosecution for the following reasons:

- ☐ 3. Defendant has agreed to plead guilty to the following charges:

in exchange for a dismissal of the following charges:

- ☒ 4. Other: (specify) See attached.
☐ See additional information on reverse.

A jury has not been impaneled nor has evidence been introduced. (If a jury has been impaneled, or if evidence has been introduced, modify this sentence accordingly.)

☐ DISMISSAL WITH LEAVE

The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:

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Date 10-04-2013	Name Of Prosecutor (Type Or Print) [REDACTED]	Signature Of Prosecutor [REDACTED]
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☐ REINSTATEMENT

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Date	Name Of Prosecutor (Type Or Print)	Signature Of Prosecutor
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(Over)

This case is being dismissed due to an adverse ruling that was made after a hearing on a motion to suppress. After the Court entered its decision which had the result of suppressing the evidence, the State entered Notice of Appeal within the appropriate time as required by statute.

Given the system of perfecting appeals in the State, the District Attorney's Office contacted the Attorney General's Office to confer about the matter. The Attorney General's Office had access to the written Order, the transcript of the hearing and video evidence of the transaction in question. The prosecutor who handled the matter also spoke with members of the Attorney General's staff.

The Attorney General's Office was of the opinion that given the findings of fact entered by the Court, the State would not prevail. The Attorney General's Office indicated that they would not proceed on the matter. The Attorney General also suggested that the District Attorney's Office not attempt to perfect the appeal on its own.

The District Attorney's Office is aware that it is difficult, at best, to convince the Court of Appeals that there is insufficient evidence to support findings of fact made by the Court. This fact is particularly true when findings are based on the Court's findings of credibility of witnesses.

While the District Attorney's Office disagrees with the Court's findings of fact, particularly those that relate to the credibility of the State's witnesses, the State is not in a position to challenge those findings nor is there a reasonable possibility that should the District Attorney's Office continue the appeal that it would prevail. Without the evidence that was suppressed, the State cannot go forward with its prosecution of the case.

Since the dismissal is a matter of record, it needs to be stated that while the State strongly disagrees with the Court's findings of fact, particularly those that relate to the credibility of its witnesses, it also has no doubt that the Court took the action it felt was warranted under the evidence as it perceived it to be. This case is one in which reasonable parties differed in their beliefs and took the actions they felt were appropriate.