

STATE OF NORTH CAROLINA
_____ COUNTY

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

STATE OF NORTH CAROLINA

v.

XX., A JUVENILE

)
)
) MOTION FOR RELEASE OF
) DEPARTMENT OF JUVENILE JUSTICE
) FILE
)

NOW COMES the Juvenile, by and through counsel, and respectfully moves this Honorable Court, pursuant to N.C. Gen. Stat. § 7B-3001(c) and Article I Sections 14, 23, and 27 of the North Carolina Constitution, and the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, for an Order allowing her to inspect and copy his complete file as maintained by the Department of Juvenile Justice, even if otherwise federally protected by HIPAA or otherwise, in order 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 is currently charged with _____.
- 3) The juvenile is in need of specific services related to physical and mental health diagnoses and symptoms.
- 4) Counsel has only limited information regarding the youth's situation and the youth's mother has transportation issues. The youth is recommended for placement in a psychiatric residential treatment facility. He is placed in secure custody at _____ where he continues to exhibit behaviors related to his mental health status.
- 5) Counsel is in need of access to the Department of Juvenile Justice File on the youth and the current DPS procedure in submitting the records request online requires information releases or a court order for certain protected information.

6) Counsel has requested that the youth's guardian sign releases or obtain and provide records directly to counsel. However, as noted above, the mother has indicated a hardship with transportation. As a minor, the youth has limited ability to obtain his own records without assistance. His ability to obtain records is further compromised by ongoing mental health issues and his placement in secure custody.

7) Pursuant to N.C. Gen. Stat. §7B-3001, the juvenile and the juvenile's attorney is entitled to **"examine and obtain copies of the Division [Department of Juvenile Justice] records and files concerning a juvenile without an order of the court."** (Emphasis added.) Additionally, N.C. Gen. Stat. §7B-1501(17) states that "wherever the term 'juvenile' is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well."

8) The Juvenile is entitled to certain rights under the North Carolina Constitution, Article I, Sections 14, 23, and 27 as well as 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 her and to obtain witnesses in her favor, to present a defense, to due process, to equal protection, and to individual, reliable sentencing.

9) As described above, undersigned counsel was appointed to represent XX. and defend him in the Trial Division. As part of that representation, undersigned counsel has a duty to examine all information related to the case and marshal any arguments that might benefit XX. In so doing, undersigned counsel must have access to the juvenile court file and law enforcement files in order to prepare a defense or other legal arguments for XX. The records are necessary to prepare any potential defenses, and to assist with the pending placement issues.

Wherefore, the Juvenile, requests this Honorable Court enter an Order authorizing her to obtain copies of the Juvenile's file maintained by the Department of Juvenile Justice including, but

not limited to, any CCA evaluations; family background information; any report made by any individual or group involving the juvenile or the juvenile's family's social, medical, psychological, psychiatric, or education status; any interviews made by the court counselor and/or YDC/detention staff; any notes made by the court counselor and DJJ staff (including YDC staff) whether hand written or typed; any information regarding the juvenile's prior record in any and all districts in the State of North Carolina, including but not limited to a print out of the juvenile's NCJOIN file; any disposition report/recommendations; any detention/YDC records including but not limited to reports by members of the Service Planning Team; any YASI, MAYSI, GAINS and/or detention assessments; any psychological, psychiatric, or other mental health evaluation of comprehensive clinical assessment completed by or in the possession of DJJ/YDC; and any other information gathered regarding the juvenile.

This the _____ day of _____, 20____.

Attorney for Juvenile
Address
Address
Phone

STATE OF NORTH CAROLINA
_____ COUNTY

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

IN THE MATTER OF)
XX., A JUVENILE) ORDER

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, and with the consent of the Assistant District Attorney, it is ORDERED, ADJUDGED and DECREED as follows:

1. Counsel for the Juvenile, _____, is authorized immediately to inspect and obtain copies of the Juvenile's complete file and records maintained by the Department of Juvenile Justice even if otherwise federally protected by HIPAA or otherwise including, but not limited to:

- a. Family background information;
- b. Any report made by any individual or group involving the juvenile or the juvenile's family's social, medical, psychological, psychiatric, or education status;
- c. Any interviews made by the court counselor;
- d. Any notes made by the court counselor and DJJ staff whether hand written or typed;
- e. Any information regarding the juvenile's prior record in any and all districts in the State of North Carolina, including but not limited to a print out of the juvenile's NCJOIN file;
- f. The pre-adjudication reports, disposition report/recommendations;
- g. Any detention/YDC records including Service Planning Team reports;
- h.. Any YASI, MAYSI, GAINS, and/or detention assessments;
- i. Any medical, psychological, psychiatric, or other mental or physical health evaluations and/or recommendations for treatment or placement completed by any member of the Service Planning Team or in the possession of DPS/DJJ;

- j. Any detention screening assessments;
 - k. Any other information gathered regarding the juvenile and in the possession of DPS/DJJ.
2. That Counsel is allowed to request and shall be provided updates and additional documentation until such time as the matter is resolved.
 3. That the Department of Public Safety and Division of Juvenile Justice and Delinquency Prevention shall release any and all mental health and medical health records in the possession of DJJ pertaining to the juvenile and obtained by DJJ as part of intake and/or supervision and detention of the youth.
 4. As provided in 45 C.F.R. 164.512(e), The NC Division of Juvenile Justice and Delinquency Prevention is permitted to release only the medical and mental health records specifically identified in the order. In this specific case, this is as above: any such records in the possession of DJJ.
 5. The medical/mental health records are for use in a juvenile proceeding for the legal representation of the juvenile.
 6. That counsel shall keep all confidential information received as confidential. Any further disclosure may be made only by the Order of the Court upon a finding that further dissemination is necessary for the full and proper prosecution or defense of these causes. Counsel shall be permitted to release such records to assist in any expert evaluation of the youth including evaluation of capacity.
 7. That the attorney shall not disseminate any information learned from these records to any person except as specified in this Order, or as allowed by this Court in the present juvenile case.
 8. That after the conclusion of the trial and appeals in this matter, the attorney shall retain

the information as confidential

9. That the Department of Public Safety and Division of Juvenile Justice and Delinquency Prevention (DJJDP) is authorized to release all such records via mail to counsel at _____ or via e-mail at _____.

This the ____ day of _____, 20____.

District Court Judge Presiding