

32922

STATE OF NORTH CAROLINA

Mecklenburg County Charlotte

File No.

06 CR 216234

Seat Of Court

In The General Court Of Justice

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

☒ District ☐ Superior Court Division

STATE VERSUS

Name Of Defendant

Jacob E. Setzer

Race

W

Sex

M

DOB

9-7-71

JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR(S)

☐ IMPOSING AN INTERMEDIATE PUNISHMENT☒ IMPOSING A COMMUNITY PUNISHMENT (STRUCTURED SENTENCING)

G.S. 15A-1341, -1342, -1343, -1343.2, -1346

Attorney For State

Mary D Winstead

Def. Found

Not Indigent

Def. Waived

Attorney

Attorney For Defendant

George Laughren

☐ Appointed ☒ RetainedThe defendant ☒ pled guilty to: ☐ was found guilty/responsible 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.
06 CR 216234		Misdemeanor Larceny	12-18-05	14-072

The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be 0 Level: ☒ I (0) ☐ II (1-4) ☐ III (5+)

- ☒ 1. The Court imposes the punishment term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- ☐ 2. The Court finds: ☐ (a) enhanced punishment from a Class 2 or Class 3 misdemeanor to a Class A1 or Class 1 misdemeanor. ☐ G.S. 90-95(e)(4) (drugs). ☐ G.S. 14-3(c) (hate crime).
- ☐ (b) enhanced punishment from required suspended sentence to Class 2 misdemeanor. G.S. 90-95(e)(7).
- If in District Court, the Court found this issue beyond a reasonable doubt or the defendant pled guilty or no contest to this issue. If in Superior Court, this finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
- ☐ 3. The Court imposes mandatory punishment. G.S. 14-33(d) (assault in the presence of a minor).
- ☐ 4. The Court finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.

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 45 days in the custody of the: ☐ N.C. D.O.C. ☒ Sheriff of Mecklenburg County.☐ This sentence shall run at the expiration of sentence imposed in file numberThe defendant shall be given credit for days spent in confinement prior to the date of this Judgment as a result of this charge(s), to be applied toward the sentence imposed above. ☐ imprisonment required for special probation below.

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. The Court finds that it is NOT appropriate to delegate to the Division of Community Corrections in the Department of Correction the authority to impose any of the requirements in G.S. 15A-1343.2(e) if the offender is sentenced to a community punishment, or G.S. 15A-1343.2(f) if the offender is sentenced to an intermediate punishment.
- ☐ 3. The above period of probation shall begin when the defendant is released from incarceration in the case referred to below.
- ☐ 4. The above period of probation shall begin at the expiration of the sentence in the case referred to below.

File Number	Offense	County	Court	Date
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☐ 5. The defendant shall comply with the conditions set forth in file number☐ 6. 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, ☐ determined by the probation officer. ☐ set out by the court as follows:

Court Costs	Miscellaneous	Fine	Restitution*	Attorney's Fee	Comm. Service Fee	Total Amount Due
\$ Remit	\$	\$ 200	\$	\$	\$	\$

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

- ☐ All payments received by the Clerk shall be distributed pro rata among the persons entitled to restitution in this priority: first among all G.S. 7A-304(d) priorities ☐ and before payment of community service and probation supervision fees.
- ☐ Upon payment of the "Total Amount Due," the probation officer may transfer the defendant to supervised probation.

AOC-CR-604, Rev. 3/05

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

A TRUE COPY
CLERK OF SUPERIOR COURT
MECKLENBURG COUNTY
BY Rosal Benton

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 act 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. (5) Remain within the jurisdiction of the Court unless granted written permission to leave by the Court or the probation officer. (6) 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. (7) Notify the probation officer if the defendant fails to obtain or retain satisfactory employment. (8) At a time to be designated by the probation officer, visit with the probation officer a facility maintained by the Division of Prisons. (9) Obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned. (10) Report to a probation officer in the State of North Carolina within seventy-two (72) hours of the defendant's discharge from the active term of imprisonment.

- ☐ 11. The court finds that the defendant is responsible for acts of domestic violence and ☐ there is an abuser treatment program, approved by the Domestic Violence Commission, reasonably available to the defendant, and the defendant shall attend and complete that program. ☐ there is not an approved abuser treatment program reasonably available. ☐ it would not be in the best interests of justice to order the defendant to complete an abuser treatment program because _____

NOTE: See Page Two, Side Two for Additional Conditions For Persons Convicted Of Domestic Violence.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-262(c)

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

- ☐ 12. 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.
- ☐ 13. 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 the following purposes which are reasonably related to the defendant's probation supervision: ☐ stolen goods ☐ controlled substances ☐ contraband ☐ _____
- ☐ 14. 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 illegal drugs or controlled substances; and not knowingly be present at or frequent any place where illegal drugs or controlled substances are sold, kept or used.
- ☐ 15. Supply a breath, urine and/or blood specimen for analysis of the possible presence of a prohibited drug or alcohol, when instructed by the defendant's probation officer.
- ☐ 16. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- ☐ 17. Complete 72 hours of community or reparation service during the first _____ days of the period of probation, as directed by the community service coordinator and pay the fee prescribed by G.S. 143B-262.4(b). ☐ pursuant to the schedule set out under monetary conditions above. ☐ within _____ days of this Judgment and before beginning service.
- ☐ 18. 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.
- ☐ 19. 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 _____

- ☒ 20. Other:
 - Not to go about howes deores.
 - Voluntarily surrender his NC driver license; Bar card to the NC State Bar for a period of 6 months from date of conviction.

- ☐ 21. Comply with the Special Conditions Of Probation - Intermediate Punishments - Contempt which are set forth on AOC-CR-603, Page Two.
- ☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

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 in form AOC-CR-350.

SIGNATURE OF JUDGE

Date 4-7-06

Name Of Presiding Judge (Type Or Print) Philip R. Howerton

Signature Of Presiding Judge [Signature]

CERTIFICATION

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

- ☐ 1. Appellate Entries (AOC-CR-350) ☐ 4. Extraordinary Mitigation Findings (AOC-CR-606)
- ☐ 2. Judgment Suspending Sentence, Page Two (Special Conditions Of Probation - Intermediate Punishments - Contempt) (AOC-CR-603, Page Two) ☐ 5. Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- ☐ 3. Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605) ☐ 6. Judicial Findings As To Required DNA Sample (AOC-CR-319)

Date Of Certification 4-7-06

Signature [Signature]

SEAL

Date Certified Copies Delivered To Sheriff _____

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court