

STATE OF NORTH CAROLINA

File No.

13CRS1229

51

BRUNSWICK

County

BOLIVIA

Seat Of Court

In The General Court Of Justice

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

☐ District ☒ Superior Court Division

STATE VERSUS

JUDGMENT SUSPENDING SENTENCE - MISDEMEANOR PUNISHMENT: ☒ COMMUNITY ☐ INTERMEDIATE

(STRUCTURED SENTENCING)
(For Offenses Committed Before Dec. 1, 2009)

Name Of Defendant

ELAINE S. KELLEY

Race

W

Sex

F

Date Of Birth

5/1/1952

Attorney For State

JAMES COMAN

☐ Def. Found Not Indigent ☐ Def. Waived Attorney

Attorney For Defendant

H.G. BEAVER

☐ Appointed

☒ Retained

Crt Rptr Initials

MICAL

The defendant ☒ pled guilty to (☐ 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.
13CRS1229	51	MISPRISION OF A FELONY	5/1/2005	COMMON LAW	1	1

*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 0. 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).
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.
- ☐ 2. The Court imposes mandatory punishment. 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
a. imposes the special conditions of probation set forth on the attached AOC-CR-603A, Page Two, Side Two, and
b. 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-603A, 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. (offenses on or after December 1, 2008, only). The Court finds that the above designated offense(s) involved criminal street gang activity. G.S. 14-50.25.
- ☐ 7. The Court finds that the defendant refused to consent to conditional discharge under G.S. 90-96(a).

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)

☐ N.C. DAC. ☒ Sheriff of BRUNSWICK County. ☐ Other:

☐ Misdemeanant Confinement Program (sentences 91-180 days for which a facility is not otherwise specified above).

☐ This sentence shall run at the expiration of 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 charge(s), to be applied toward the sentence imposed above. ☐ Imprisonment required for special probation set forth on AOC-CR-603A, 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 12 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
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☐ 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: PAY BY 5PM THIS DATE

Costs	Fine	Restitution*	Attorney's Fees	Comm Serv Fee	EHA Fee	SBM Fee	Appt Fee/Misc	Total Amount Due
\$ 334.50	\$	\$ 14,190.39	\$	\$	\$	\$	\$	\$ 14,524.89

*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)

A TRUE COPY
CLERK OF SUPERIOR COURT
BRUNSWICK COUNTY
Assistant Deputy Clerk Superior Court

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) 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 Section of Prisons.

- ☐ 9. 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-603A, Page Two, Side Two.

SPECIAL CONDITIONS OF PROBATION - G.S. 15A-1343(b1), 143B-704(c)

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

- ☐ 10. 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.
- ☐ 11. 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 ☐ child pornography ☐
- ☐ 12. 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.
- ☐ 13. 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.
- ☐ 14. Successfully pass the General Education Development Test (G.E.D.) during the first _____ months of the period of probation.
- ☐ 15. Complete _____ 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-708. ☐ pursuant to the schedule set out under monetary conditions above. ☐ within _____ days of this Judgment and before beginning service.
- ☐ 16. 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.
- ☐ 17. 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 _____
- ☒ 18. Other: _____

LAW LICENSE SHALL BE SUSPENDED FOR 6 MONTHS

- ☐ 19. Comply with the Special Conditions Of probation which are set forth on AOC-CR-603A, 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
5/9/2013	MARY ANN TALLY	<i>Mary Ann Tally</i>

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.

- | | |
|---|---|
| <input type="checkbox"/> 1. Appellate Entries (AOC-CR-350) | <input type="checkbox"/> 5. Judicial Findings And Order For Sex Offenders - Suspended Sentence (AOC-CR-615, Side Two) |
| <input type="checkbox"/> 2. Judgment Suspending Sentence (AOC-CR-603A, Page Two) (additional conditions of probation) | <input type="checkbox"/> 6. Additional File No.(s) And Offense(s) (AOC-CR-626) |
| <input type="checkbox"/> 3. Restitution Worksheet, Notice And Order [Initial Sentencing] (AOC-CR-611) | <input type="checkbox"/> 7. Other: _____ |
| <input type="checkbox"/> 4. Judicial Findings As To Required DNA Sample (AOC-CR-319) | |

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

Material opposite unmarked squares is to be disregarded as surplusage.