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| **STATE OF NORTH CAROLINA**  **NAME COUNTY**  STATE OF NORTH CAROLINA,  v.  CLIENT’S NAME,  Defendant. | **IN THE GENERAL COURT**  **OF JUSTICE**  **DISTRICT COURT DIVISION**  **FILE NO. XX CR XXXX**  **DEFENDANT’S**  **MOTION FOR REVIEW** |

**NOW COMES THE DEFENDANT**, by and through undersigned counsel, pursuant to N.C. Gen. Stat. § 15A-534, respectfully, requesting this court to review the conditions of the Defendant’s confinement. In support of this motion, the Defendant shows the Court the following:

1. Defendant is a citizen and resident of NAME County.

1. Defendant has been [describe mental health condition].
2. On or around DATE, Defendant was charged with NAME THE CHARGE pursuant to STATUTE NUMBER FOR CHARGE.
3. On DATE, this Court ordered an evaluation of Defendant’s capacity to proceed to trial pursuant to N.C. Gen. Stat. § 15A-1002.
4. On DATE, Defendant was evaluated for his/her/their capacity to stand trial by INSERT EVALUATOR/EVALUATING FACILITY.
5. On DATE, the report on Defendant’s capacity to stand trial was returned to the court.
6. On DATE, this Court found Defendant incapable to proceed (ITP) to trial. This Court ordered Defendant to NAME Hospital to receive [restoration services or to be evaluated for involuntary commitment]. [look at the judge’s order to see what was ordered]
7. As of today, Defendant remains in custody at the NAME County Jail, on information and belief, due to the lack of available beds at NAME Hospital.
8. Defendant has served a total of XX days in NAME County Jail as of DATE. Defendant continues to await placement at NAME Hospital.
9. According to North Carolina’s Department of Health and Human Services website, from January to March 2024, 31% of patients in the State Psychiatric Hospitals who occupied beds were ready for discharge. It is reasonable to conclude that Defendant would have been admitted to NAME Hospital if not for beds being occupied by patients who have been cleared for discharge. [you can find this information by (1) click this link [LME/MCO Dashboard](https://www.ncdhhs.gov/divisions/mental-health-developmental-disabilities-and-substance-use-services/reports), (2) under LME/MCO Dashboard section, scroll down to the most recent dashboard that was posted, (3) look at chart number 3 labeled “Consumers in State Psych Hospitals Ready for Discharge.”]
10. Defendant’s prolonged detention raises constitutional questions, as the prolonged detention of ITP defendants in jail while awaiting capacity restoration services violates the due process guarantee of the Fourteenth Amendment. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

**WHEREFORE**, Defendant respectfully requests that the Court enter the following relief,

1. Order the appearance of a representative of NAME Hospital to appear to show good cause as to why Defendant has not been admitted for services and to report how many of their patients have been cleared for discharge.
2. Modify the DATE Order to allow Defendant to be admitted to any mental health facility that can provide the services that were ordered.
3. Modify Defendant’s conditions of release to allow him/her to wait for admission to NAME Hospital at [his home or with his guardian or community placement]. [insert whatever location would be best for your client]
4. Any other relief the court deems just and proper.

This is the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2024.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

YOUR NAME

Attorney for Defendant