

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.

STATE OF NORTH CAROLINA,)
)
 vs.)
)
 _____,)
 Defendant.)

**ORDER FOR IMMEDIATE
RELEASE OF DEFENDANT**

THIS MATTER coming on for hearing before the Court upon motion of the Defendant, by and through counsel, for an order releasing the Defendant to await a probation violation hearing due to a failure to provide a preliminary hearing pursuant to N.C.G.S. 15-1345(c), and after reviewing the documents of record and hearing from counsel for the State and the Defendant, the Court finds as follows:

1. The Defendant was arrested on June 20, 2011 for an alleged violation of probation. Bond was set in this matter and the defendant is incarcerated as a sole result of his arrest and bond for this alleged violation of probation.
2. Under N.C.G.S. 15A-1345(c) a probationer so detained must be afforded a preliminary hearing to determine the existence of probable cause to believe their probationary conditions have been violated. The section also directs that a probationer who has not received such a preliminary hearing must be released to await the full probation revocation hearing (subject to exceptions not applicable to the facts of this case).
3. The Defendant has not been afforded a preliminary hearing and at least 7 working days from the date of his arrest have gone by as of the date of this motion being addressed by the Court. Accordingly, defendant must be immediately release from custody to await his probation violation hearing.

Wherefore, it is ordered, adjudged, and decreed that the Defendant shall be immediately released from the _____ County to await the hearing of his probation violation.

This the ____ day of _____, 2011.

Judge Presiding