

STATE OF NORTH CAROLINA
COUNTY OF Madison

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO(s): 23CRS389076

STATE OF NORTH CAROLINA)
)
VS.)
Donald Allen Hensley,)

Defendant

THIS MATTER being scheduled for the August 29, 2024 Superior Court Administrative Calendar for the above referenced County, or otherwise entered by consent out of term and session; and the State of North Carolina and the Defendant, by and through counsel of record, represent to the court that the parties waive a formal administrative hearing and consent to the following scheduling order and findings regarding the status of discovery and plea negotiations; the parties further consent that this Order may be signed by the Court out of term, out of session and out of county.

The parties, by and through counsel stipulate and consent to the following Findings of Fact:

1. That the defendant:
☒ (X) was indicted on 04/11/2024. (A date must be provided)
☐ () has not been indicted.
2. That this is the 1st (fill in #) time that this matter has appeared on a Superior Court Administrative Calendar. [NOTE: Matters that have appeared on a Trial Calendar, shall be set on trial dates and shall not be given another administrative setting absent a showing of good cause.]
3. That counsel for the defendant has advised the defendant of the contents of this order and enters this order with the consent of the defendant.
4. That the State and the Defendant by and through counsel stipulate and advise the Court (appropriate block must be marked)
☒ (X) that all currently known discovery has been completed in its entirety.
☐ () that discovery has been completed with the exception of the results of any chemical analysis.
☐ () that discovery has not been completed as of this date. (list outstanding) _____

[NOTE: Mark this block if there is any outstanding discovery other than the results of any chemical analysis.]

5. That the State: (appropriate block must be marked)
☒ (X) has not extended a plea offer as of this date.
☐ () has extended a plea offer to the defendant with an expiration date of _____, 20____. (A date must be provided)
☐ () has elected to not make a plea offer in this matter.

() the defendant in open court with his attorney present freely, voluntarily and knowingly rejected the plea offer of the State.

Or

() the Defendant has by separate document waived arraignment and entered plea(s) of NOT GUILTY and the Defendant desires a jury trial

[NOTE: Pursuant to Article 51 of Chapter 15A, absent a written request for arraignment, the only county in the 24th Judicial District requiring the calendaring of arraignment is Watauga County. It must be specifically noted that the provisions of N.C.G.S. 15A-943 do not apply to Avery, Mitchell, Yancey and Madison Counties.]

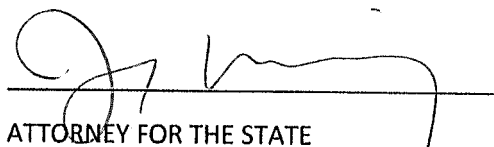
Based upon the foregoing Findings of Fact, the parties stipulate and agree and the Court Concludes as a Matter of Law that the court has jurisdiction over the parties and the subject matter and that this order is entered by and with the consent of the parties and shall be enforceable by the court.

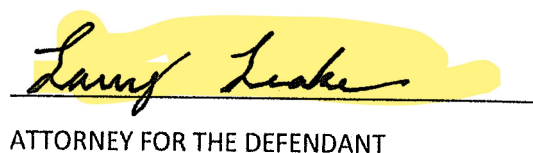
NOW THEREFORE BY AND WITH THE CONSENT OF THE STATE AND THE DEFENDANT, IT IS ORDERED, ADJUDGED AND DECREED:

- SEPTEMBER 23rd
~~October 10~~
1. That the State shall complete discovery on or before October 10, 2024 absent a showing of good cause. (If paragraph is applicable a date must be provided.)
 2. (^X) That if the State intends to extend a plea offer, the State shall extend a plea offer in this matter on or before ~~October 10~~ SEPTEMBER 23rd, 2024. (If paragraph is applicable a date must be provided.)
 3. () That the defendant in open court with his attorney present freely, voluntarily and knowingly rejected the plea offer.
 4. () That the Defendant has by separate document waived arraignment and entered plea(s) of NOT GUILTY and the Defendant desires a jury trial
 5. That this matter be set for the October 10, 2024 (A date must be provided and the appropriate block(s) must be marked)
(^X) Administrative Calendar
() That this will be the last Administrative setting for this matter.
() Trial Calendar and shall be continued from trial term to trial term until the matter is tried.
[NOTE: Once placed on a trial calendar the matter shall not be placed on another administrative calendar except upon a showing of good cause.]

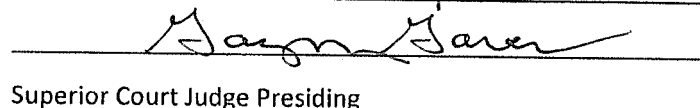
DATE: 8/29/24

DATE: 08/29/2024


ATTORNEY FOR THE STATE


ATTORNEY FOR THE DEFENDANT

Accepted and entered by consent this the 29 day of August, 2024.


Superior Court Judge Presiding

STATE OF NORTH CAROLINA
COUNTY OF Madison

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO(s): 23 CAS 389076

STATE OF NORTH CAROLINA

) CONSENT SCHEDULING ORDER

) AND FINDINGS RE: DISCOVERY

VS.

) AND PLEA OFFER

Donald Hensley
Defendant

THIS MATTER being scheduled for the June 27, 2024 Superior Court Administrative Calendar for the above referenced County, or otherwise entered by consent out of term and session; and the State of North Carolina and the Defendant, by and through counsel of record, represent to the court that the parties waive a formal administrative hearing and consent to the following scheduling order and findings regarding the status of discovery and plea negotiations; the parties further consent that this Order may be signed by the Court out of term, out of session and out of county.

The parties, by and through counsel stipulate and consent to the following Findings of Fact:

1. That the defendant:
(X) was indicted on 4.15.24. (A date must be provided)
() has not been indicted.
2. That this is the 1st (fill in #) time that this matter has appeared on a Superior Court Administrative Calendar. [NOTE: Matters that have appeared on a Trial Calendar, shall be set on trial dates and shall not be given another administrative setting absent a showing of good cause.]
3. That counsel for the defendant has advised the defendant of the contents of this order and enters this order with the consent of the defendant.
4. That the State and the Defendant by and through counsel stipulate and advise the Court (appropriate block must be marked)
(X) that all currently known discovery has been completed in its entirety.
() that discovery has been completed with the exception of the results of any chemical analysis.
() that discovery has not been completed as of this date. (list outstanding) _____

[NOTE: Mark this block if there is any outstanding discovery other than the results of any chemical analysis.]

5. That the State: (appropriate block must be marked)
(X) has not extended a plea offer as of this date.
() has extended a plea offer to the defendant with an expiration date of _____, 20____. (A date must be provided)
() has elected to not make a plea offer in this matter.

() the defendant in open court with his attorney present freely, voluntarily and knowingly rejected the plea offer of the State.

Or

() the Defendant has by separate document waived arraignment and entered plea(s) of NOT GUILTY and the Defendant desires a jury trial

[NOTE: Pursuant to Article 51 of Chapter 15A, absent a written request for arraignment, the only county in the 24th Judicial District requiring the calendaring of arraignment is Watauga County. It must be specifically noted that the provisions of N.C.G.S. 15A-943 do not apply to Avery, Mitchell, Yancey and Madison Counties.]

Based upon the foregoing Findings of Fact, the parties stipulate and agree and the Court Concludes as a Matter of Law that the court has jurisdiction over the parties and the subject matter and that this order is entered by and with the consent of the parties and shall be enforceable by the court.

NOW THEREFORE BY AND WITH THE CONSENT OF THE STATE AND THE DEFENDANT, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the State shall complete discovery on or before _____, 20__ absent a showing of good cause. (If paragraph is applicable a date must be provided.)
2. (X) That if the State intends to extend a plea offer, the State shall extend a plea offer in this matter on or before August 22, 2024. (If paragraph is applicable a date must be provided.)
3. () That the defendant in open court with his attorney present freely, voluntarily and knowingly rejected the plea offer.
4. () That the Defendant has by separate document waived arraignment and entered plea(s) of NOT GUILTY and the Defendant desires a jury trial
5. That this matter be set for the August 29, 2024 (A date must be provided and the appropriate block(s) must be marked)
(X) Administrative Calendar
(X) That this will be the last Administrative setting for this matter.
() Trial Calendar and shall be continued from trial term to trial term until the matter is tried.
[NOTE: Once placed on a trial calendar the matter shall not be placed on another administrative calendar except upon a showing of good cause.]

DATE: June 27, 2024

DATE: June 27, 2024

ATTORNEY FOR THE STATE

ATTORNEY FOR THE DEFENDANT

Accepted and entered by consent this the 27th day of June 2024, 20__.

Superior Court Judge Presiding

STATE OF NORTH CAROLINA

File No.

23 CRS 389076

MADISON County

In The General Court Of Justice
Superior Court Division

STATE VERSUS

Name And Address Of Defendant

HENSLEY, DONALD, ALLEN
1850 CUTSHALL TOWN R

MARSHALL NC 28753

NOTICE OF RETURN OF BILL OF INDICTMENT

G.S. 15A-630, 15A-941(d)

To The Defendant Named Above:

Take notice that the grand jury of the county named above has returned the attached True Bill(s) of Indictment charging you with the offense(s) specified.

You are informed that there are important time limitations on your right to discovery of the evidence against you. (See G.S. 15A-902, which is printed on the reverse.)

This Notice is issued upon the order of the presiding judge.

You will be arraigned on the charges contained in this Indictment only if you file a written request for arraignment with the Clerk of Superior Court not later than twenty-one (21) days after the Indictment is served on you. If you do not file a written request for arraignment within that time, the court will enter a not guilty plea on your behalf.

You must appear in Superior Court at the date, time and place shown below to answer the charges in this Indictment.

NOTE: If an earlier court date is set in a release order, you must appear at that time also.

Date Of Hearing 06/27/24	Time Of Hearing 09:30	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Place Of Hearing Madison
NOTE: Attach True Bill(s) of Indictment and a copy of the Order of Arrest, if appropriate.			Date Issued 20240416
			Signature Shari Cody
			<input type="checkbox"/> Deputy CSC <input checked="" type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

CERTIFICATE OF NOTICE

I certify that I issued a copy of this Notice to the defendant named above at the address shown by:

- ☐ 1. Mailing it through the U.S. Postal Service.
- ☐ 2. Attaching it to an Order for Arrest to be served on the defendant.

NOTE TO COURT: An Order for Arrest shall **not** be issued for an indicted juvenile whose case began in juvenile court and for which the district court has not yet entered an order for transfer to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5(a)(1).

An Order for Arrest may be issued for a juvenile indicted and subject to adult criminal court jurisdiction:

- pursuant to G.S. 7B-1501(7)b. (indicted for Chapter 20 motor vehicle offense).
- pursuant to G.S. 7B-1604(b) (i.e., the 'once an adult, always an adult' rule), based on a prior criminal conviction as an adult for
 - (i) any felony or
 - (ii) any non-motor vehicle misdemeanor or
 - (iii) any misdemeanor or infraction involving impaired driving as defined in G.S. 20-4.01(24a).

- ☒ 3. Other: (specify)

Email - Larry Leake

Date 04/16/24	Signature Shari Cody	<input type="checkbox"/> Deputy CSC <input checked="" type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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Original-File Copy-Defendant
(Over)

STATE OF NORTH CAROLINA

MADISON

County

File No.

23CRS389076

In The General Court Of Justice
Superior Court Division**STATE VERSUS**

Name And Address Of Defendant

DONALD ALLEN HENSLEY

1850 CUTSHALL TOWN

RD

MARSHALL

NC

28753

INDICTMENT☐ This is a superseding indictment.

Offense(s)	Date Of Offense OR Date Range Of Offense	G.S. No.	CL.
I. INDECENT LIBERTIES WITH CHILD	10/01/2022 to 05/31/2023	14-202.1	F
II.			

I. The jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

commit and attempt to commit a lewd a lascivious act upon the body of [REDACTED], who was under the age of 16 at the time. At the time, the Defendant was over 16 years of age and at least five years older than that child.

II. And the jurors for the State upon their oath present that on or about the date(s) of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously did

Signature Of Prosecutor

WITNESSES☒ J. Elkins, MCSO☐☐☐☐☐☐☐

The Witnesses marked "X" were sworn by the undersigned Foreperson of the Grand Jury and, after hearing testimony, this Bill was found to be:

☒ A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreperson of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

☐ NOT A TRUE BILL.

Date

4-15-24

Signature Of Grand Jury Foreperson

Phyllis A. Holt

STATE OF NORTH CAROLINA

COUNTY OF MADISON

FILED

2023 SEP -5 A 9:05

MADISON CO., C.S.C.

STATE OF NORTH CAROLINA,

BY _____

v.

DONALD ALLEN HENSLEY,
Defendant.

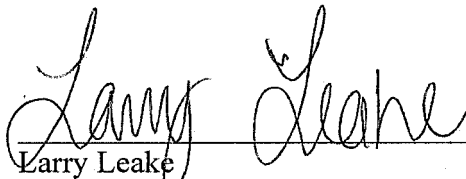
IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 23 CR 389076

NOTICE OF APPEARANCE

NOW COMES the undersigned counsel and hereby gives notice of her general appearance on behalf of the Defendant, ~~Donald Allen Hensley~~, in the above-referenced matters.
Donald Allen Hensley

This the 5th day of September, 2023.

LEAKE & STOKES, PLLC

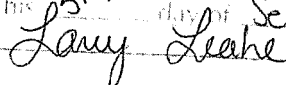


Larry Leake
Attorney for the Defendant
One Oak Plaza, Suite 207
Asheville, NC 28801
(828) 253-3661

CERTIFICATE OF SERVICE

This is to certify that I have this day served _____ counsel for the opposing party(ies) in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same ~~via hand delivery~~ properly addressed envelope with adequate postage thereon.

This 5th day of September, 2023



STATE OF NORTH CAROLINA

MADISON County

File No.

23CR389016

In The General Court Of Justice

☐ District ☐ Superior Court Division

STATE VERSUS

Name Of Defendant

Donald Hensley

Additional File No.(s) And/Or Offense(s)

WAIVER OF COUNSEL

G.S. 7A-457; 15A-1242

ACKNOWLEDGMENT OF RIGHTS AND WAIVER

As the undersigned party in this action, I freely and voluntarily declare that I have been fully informed of the charges against me, the nature of and the statutory punishment for each such charge, and the nature of the proceedings against me; that I have been advised of my right to have counsel assigned to assist me and my right to have the assistance of counsel in defending against these charges or in handling these proceedings, and that I fully understand and appreciate the consequences of my decision to waive the right to assigned counsel and the right to assistance of counsel.

I freely, voluntarily and knowingly declare that: (check only one)

☒ 1. I waive my right to assigned counsel and that I, hereby, expressly waive that right.

☐ 2. I waive my right to all assistance of counsel which includes my right to assigned counsel and my right to the assistance of counsel. In all respects, I desire to appear in my own behalf, which I understand I have the right to do.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

9-5-23

Date

09/05/23

Signature

[Signature]

Signature Of Defendant

[Signature]

☐ Judge

☐ Clerk Of Superior Court

☐ Asst. CSC

☒ Deputy CSC

☐ Magistrate

CERTIFICATE OF JUDICIAL OFFICIAL

I certify that the above named defendant has been fully informed of the charges against him/her, the nature of and the statutory punishment for each charge, and the nature of the proceeding against the defendant and his/her right to have counsel assigned by the court and his/her right to have the assistance of counsel to represent him/her in this action; that the defendant comprehends the nature of the charges and proceedings and the range of punishments; that he/she understands and appreciates the consequences of his/her decision and that the defendant has voluntarily, knowingly and intelligently elected in open court to be tried in this action:

(check only one)

☐ 1. without the assignment of counsel.

☐ 2. without the assistance of counsel, which includes the right to assigned counsel and the right to assistance of counsel.

NOTE: For a waiver of assigned counsel only, both blocks numbered "1" must be checked. For a waiver of all assistance of counsel, both blocks numbered "2" must be checked.

Date

Name Of Judicial Official (type or print)

Signature Of Judicial Official

NOTE: A magistrate may accept waivers of counsel if designated to do so by the Chief District Court Judge. See G.S. 7A-146(11) and G.S. 7A-292(15).

STATE OF NORTH CAROLINA		File No. 23CR389076-560	
MADISON County		In The General Court Of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division	
STATE VERSUS		CONDITIONS OF RELEASE AND RELEASE ORDER	
Name And Address Of Defendant DONALD ALLEN HENSLEY 1850 CUTSHALL TOWN RD MARSHALL NC 28753-7711			
		G.S. Chapter 15A, Art. 25, 26	
		Process No. #RO-23-583538	Amount Of Bond \$ 25,000.00

File Numbers And Offenses
 23CR389076-560 WFA; F - INDECENT LIBERTIES WITH CHILD;

☐ See Attachment.

Location Of Court 000b-Madison County Courthouse	<input checked="" type="checkbox"/> District <input type="checkbox"/> Superior	Date 09/05/2023	Time 9:00 AM
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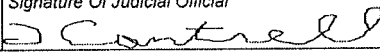
To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of willful failure to appear. You also may be arrested without a warrant if you violate any condition of release in this Order or in any document incorporated by reference.

The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel and friends.

☒ Your release is authorized upon execution of your: ☐ WRITTEN PROMISE to appear ☐ UNSECURED BOND in the amount shown above
☐ CUSTODY RELEASE ☒ SECURED BOND in the amount shown above (NOTE: Give a copy of this order to any surety who posts bond.)
☐ HOUSE ARREST with ELECTRONIC MONITORING administered by (agency) _____ and the SECURED BOND above. You may leave your residence for the purpose(s) of ☐ employment ☐ counseling ☐ course of study ☐ vocational training
 VIOLATE NO LAWS. HAVE NO CONTACT WHATSOEVER WITH THE ALLEGED VICTIM OR THE IMMEDIATE FAMILY OF THE ALLEGED VICTIM.


- ☐ Your release is not authorized.
- ☒ The defendant is required to provide (check all that apply) ☒ fingerprints under G.S. 15A-502. ☒ a DNA sample under G.S. 15A-266.3A. Prior to release, the defendant shall provide his/her (check all that apply) ☒ fingerprints. ☒ DNA sample.
- ☐ The defendant has been ☐ (i) charged with a felony while on probation (complete AOC-CR-272, Side One). ☐ (ii) arrested for violation of probation with a pending felony charge or prior conviction requiring registration under G.S. 14, Article 27A (complete AOC-CR-272, Side Two).
- ☐ This Order is entered upon defendant's warrantless arrest for violation of conditions of release entered previously for the above-captioned case in the Order dated _____.
- ☐ The defendant is charged with an offense subject to G.S. 15A-534.1, and no judge has acted under that statute within 48 hours of defendant's arrest.
- ☐ The defendant was arrested or surrendered after failing to appear as required under a prior release order.
- ☐ This was the defendant's second or subsequent failure to appear in this case.
- ☐ Your release is subject to the conditions as shown on the attached ☐ AOC-CR-242. ☐ AOC-CR-270. ☐ AOC-CR-630. ☐ AOC-CR-631. ☐ AOC-CR-660. ☐ Other: _____

Additional Information

Date 08/18/2023	Name Of Judicial Official Timothy Cantrell	Signature Of Judicial Official 	<input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> DC Judge <input type="checkbox"/> SC Judge
ORDER OF COMMITMENT			

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to: ☐ produce him/her in Court as provided above.
☒ hold him/her ☐ as provided on the attached AOC-CR-272. ☒ for the following purpose: UNTIL PROPER BOND POSTED.

☐ [for charges covered by G.S. 15A-534.1 (domestic violence) or 15A-534.7 (threat of mass violence)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) _____, produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility MADISON COUNTY DETENTION	Date 08/18/2023	Name Of Judicial Official Timothy Cantrell	Signature Of Judicial Official 
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THE STATE OF NORTH CAROLINA VS.

Name And Address Of Defendant
DONALD ALLEN HENSLEY
1850 CUTSHALL TOWN RD

STATE OF NORTH CAROLINA

MADISON County

In The General Court Of Justice
District Court Division

MARSHALL NC 28753-7711

Race	Sex	Date Of Birth	Age
W	M	04/10/1961	62

Name Of Defendant's Employer

Date Of Offense
10/01/2022

☐ Misdemeanor Offense Which Requires Fingerprinting Per Fingerprint Plan

Date Of Arrest & Check Digit No. (as shown on fingerprint card)

Complainant Name (and address, if Complainant is an officer)
SPECIAL AGENT FROMAN

STATE BUREAU OF INVESTIGATION ADMIN SERVICES DIVISION

3320 GARNER RD

RALEIGH NC 27610

WAKE

Witness Information
348 Medical Park Drive
DET. J. ELKINS
MARSHALL NC 28753
MADISON 8286492721

TO ANY OFFICER WITH AUTHORITY AND JURISDICTION TO EXECUTE A WARRANT FOR ARREST FOR THE OFFENSE(S) CHARGED IN THIS WARRANT:
I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the county named above the defendant named above
unlawfully, willfully, and feloniously did commit the offense(s) set forth above and on the attached AOC-CR-100 Continuation(s), which is (are) incorporated by reference.
This act(s) was in violation of the law referred to in this Warrant For Arrest. This Warrant For Arrest is issued upon information furnished under oath by the complainant
listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

Date Issued 08/18/2023

Name Of Issuing Official Timothy Cantrell

Signature

Court Date

Court Time

☒ Magistrate ☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court ☐ District Court Judge ☐ Superior Court Judge

WAIVER OF PROBABLE CAUSE HEARING

The undersigned defendant, with the consent of his/her attorney, waives the right to a probable cause hearing.

Date Waived

Signature Of Defendant

Name Of Attorney

Signature Of Attorney

STATE VERSUS

MADISON

County

File No.

23CR389076-560

Name Of Defendant

DONALD ALLEN HENSLEY

Date Of Issuance Of Warrant For Arrest

08/18/2023

If the Warrant For Arrest is not served within one hundred and eighty (180) days, it must be returned to the Clerk of Court in the county in which it was issued with the reason for the failure of service noted thereon.

RETURN OF SERVICE

I certify that the Warrant For Arrest issued in this case on the date noted above for the defendant named above, was received and served as follows:

Date Received

08/18/2023

Date Served

08/18/2023

Time Served

06:00 PM

Date Returned

08/18/2023

☒ By arresting the defendant and bringing the defendant before:

Name Of Judicial Official

Mag. T. Cantrell

☐ The Warrant WAS NOT served for the following reason:

Signature Of Officer Making Return

Chad Cunn

Name Of Officer (type or print)

Curtis Chandler

Department Or Agency Of Officer

Madison County Sheriff's Office

Date

Name Of Clerk (type or print)

REDELIVERY/REISSUANCE

☐

Deputy CSC

☐

Assistant CSC

☐

Clerk Of Superior Court

I certify that the Warrant For Arrest issued in this case on the date noted above for the defendant named above, was received and served as follows:

Date Received

Date Served

Time Served

Date Returned

☐ By arresting the defendant and bringing the defendant before:

Name Of Judicial Official

☐ The Warrant WAS NOT served for the following reason:

Signature Of Officer Making Return

Name Of Officer (type or print)

Department Or Agency Of Officer