

STATE OF NORTH CAROLINA  
\_\_\_\_\_ COUNTY

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

STATE OF NORTH CAROLINA

v.

**MOTION TO DISMISS** Pursuant to *State*  
*v. McKenzie*, COA12-436 (2013)

\_\_\_\_\_,  
Defendant

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**NOW COMES** the Defendant, by and through his attorney, and for his Motion to

Dismiss does state:

1. Defendant was arrested for DWI on the \_\_\_\_\_ date of 20\_\_\_\_. Pursuant to that arrest, Officer \_\_\_\_\_ executed an Affidavit and Revocation Report.
2. As a result of the Affidavit and Revocation Report the DMV revoked Defendant's commercial driver's license (CDL) on or about the \_\_\_\_\_ date of 20\_\_\_\_, as mandated by N.C.G.S. § 20-17.4.
3. The revocation of a CDL under N.C.G.S. § 20-17.4 is a criminal punishment. *State v. McKenzie*, COA12-436 (2013).
4. Because Defendant has already been subjected to a revocation of his CDL, a criminal punishment, any subsequent prosecution for DWI is in violation of his protections against double jeopardy. *State v. McKenzie*, COA12-436 (2013).
5. The Court must dismiss the criminal charges in the above matter pursuant to the U.S. Constitution, the North Carolina Constitution and *State v. McKenzie*, COA12-436 (2013).

Wherefore, Defendant prays the Court enter an Order dismissing the criminal charges in this matter.

This the \_\_\_\_\_ day of 20\_\_\_\_\_.

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Marcus E. Hill, Attorney for Defendant.  
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