

Clerk

GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT

*****THIS IS A NEW GRAND JURY*****
*****IT WILL START AT 11:00 A.M.*****

WAKE COUNTY DISTRICT ATTORNEY'S OFFICE

11:00	RICK BROWN	<u>Vernon Ellis Roberts</u> HF	15/007239*	DJS TB
	RICK BROWN	<u>Michael Donell Smith</u> HF	15/007738* 7238	DJS TB
	RICK BROWN	<u>Frederick Lamont Williams</u> HF HF	15/007240* 15/007241*	DJS TB DJS TB
	R. BROWN	<u>Kenneth King</u> I. HF I. HMA	15/006708* 15/006709*	DAS TB DAS TB
	RICK BROWN	<u>Dontaour Demond Devine</u> HF	15/004408	KPC TB
	RICK BROWN	<u>Lee Robert Williams</u> HF	15/004407	KPC TB
	RICK BROWN	<u>Brandon Jerodd Powell</u> HF	15/5841*	CJJ TB
	R. BROWN	<u>Leon T. Hayward</u> HF	15/006702*	MEJ TB
	R. BROWN	<u>Jamika Odell Jackson</u> HF	15/7427*	PHC TB

WAKE COUNTY SHERIFF'S OFFICE

11:05	R. BAITY	<u>Edward Allen Muthart</u> NCSORA Violation	15/220152	MAS TB
	R. BAITY	<u>Keith Lamont Melton</u> NCSORA Violation	15/215285	BOZ TB

Please contact Donna Kulpa with the District Attorney's Office at 919-792-5056 with any questions or scheduling conflicts on or before the Thursday prior to this Grand Jury date.

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX A-1 of 8

GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT

11:10	A. BLEDSOE	<u>Brandon Roy Ross</u> AWDWISI	15/225975*	AFT TB
11:15	W. DICKERSON	<u>Frederick Lamont Williams</u> Assault Phy Inj LEO	15/221812*	DJS TB
11:20	T. JARVIS	<u>William S. Washington</u> Poss. Counterfiet Inst.	15/006456	DAS cont
11:25	A. LOCKLEAR (3:10 school)	<u>Dameion Athaniel Ryals</u> Poss Stolen Firearm PFF	15/223558* 15/7428*	PHC cont PHC
	" " "	<u>Marcus Derrel Whitfield</u> Poss. Stolen Firearm PFF	15/223557 15/3937	PHC cont PHC
11:35	S.J. O'BYRNE	<u>Anaudia Niya Johnson</u> I. ID Theft II. ID Theft III. Poss. 5+ Counterfeit Inst.	15/221093* " "	KWP TB KWP KWP
	" " "	<u>Crystal Nicole Scott</u> Superseding Indictment I. ID Theft II. ID Theft III. Poss. 5+ Counterfeit Inst.	15/221092* " "	KWP TB KWP KWP
11:40	T. VATTER	<u>Guy Biggie</u> OPFP	15/221842*	AFT TB
	T. VATTER	<u>Barry Batts</u> OPFP	15/213496*	AFT TB
11:45	J.P. WRIGHT	<u>Roger White Jr.</u> I. PFF	15/000411*	AMD TB

APEX POLICE DEPARTMENT

11:50	J. BEST	<u>Matthew Wayne Campbell</u> I. OPFP II. Misd-Aid & Abet Larceny	15/219794* "	PHC TB PHC
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**GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT**

CARY POLICE DEPARTMENT

12:00	S. BLACKELY	<u>Leon T. Hayward</u>		
		I. BE MV	15/222300	MEJ
		I. BE MV	15/222301	MEJ
		I. BE MV	15/222302	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222303	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222304	MEJ
		I. BE MV	15/222305	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222306	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222308	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222309	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222310	MEJ
		I. BE MV	15/222311	MEJ
		I. BE MV	15/222312	MEJ
		I. BE MV	15/222313	MEJ
		I. BE MV	15/222314	MEJ
		I. LARCENY OF MV	15/222307	MEJ
		II. PSG	" "	
		I. BE MV	15/222901	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222902	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222903	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222904	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222905	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222906	MEJ
		II. BE MV	" "	
		I. BE MV	15/222907	MEJ
		II. BE MV	" "	
		III. MISD. LARCENY	" "	
		I. BE MV	15/222908	MEJ
		II. MISD. LARCENY	" "	
		I. BE MV	15/222909	MEJ
		I. BE MV	15/222910	MEJ

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**GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT**

II. LARCENY OF FA	" "	
I. BE MV	15/222911	MEJ
II. LARCENY	" "	
III. BE MV	" "	
I. BE MV	15/222912	MEJ
II. MISD. LARCENY	" "	
I. BE MV	15/222913	MEJ
II. BE MV	" "	
III. BE MV	" "	
IV. MISD. LARCENY	" "	
I. BE MV	15/222914	MEJ
II. MISD. LARCENY	" "	
I. BE MV	15/222915	MEJ
II. MISD. LARCENY	" "	
I. BE MV	15/222916	MEJ
II. MISD. LARCENY	" "	
I. BE MV	15/222917	MEJ
II. BE MV	" "	
III. BE MV	" "	
I. BE MV	15/222918	MEJ
II. BE MV	" "	

12:05	M. T. CULLEN	<u>Shawn P. Morris</u> PFF I. PWISD Mj. II. Maintain a Dwelling	15/220466* 15/220467* "	SWN SWN SWN	TB
12:10	J.R. DOUGLASS	<u>Melissa E. Perry</u> I. DWI II. Hab DWI III. Misd Resist	15/223577*	TCW	TB
12:15	J. MAIA	<u>Daquan K. Hill</u> I. RWDW II. Conp III. AWDWISI	15/222316 " "	DAS	TB
12:20	S. SCHULZ	<u>Daquan K. Hill</u> I. Poss. of Heroin	15/222403	DAS	TB
12:25	K. WEST	<u>Taylor Joseph Seftner</u> I. 1 st Degree SEM I. 2 nd Degree SEM II. 2 nd Degree SEM III. 2 nd Degree SEM	15/226551 15/226552 " "	BOZ BOZ BOZ BOZ	TB

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**GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT**

I. 2 nd Degree SEM	15/226553	BOZ
II. 2 nd Degree SEM	"	BOZ
III. 2 nd Degree SEM	"	BOZ
I. 2 nd Degree SEM	15/226554	BOZ
II. 2 nd Degree SEM	"	BOZ
III. 2 nd Degree SEM	"	BOZ
I. 2 nd Degree SEM	15/226555	BOZ
II. 2 nd Degree SEM	"	BOZ
III. 2 nd Degree SEM	"	BOZ

CRABTREE SPECIAL POLICE DEPARTMENT

12:30	Z. FINCH	<u>Martha R. Clark</u> I. Larceny	15/216025	MEJ
12:35	T. GRAY	<u>Fredrick Lamont Williams</u> Habitual Larceny	15/220022*	DJS

FUQUAY-VARINA POLICE DEPARTMENT

12:40	J. S. WENHART	<u>Helena T. Ricks</u> I. AWDWISI	15/221893	DAS
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GARNER POLICE DEPARTMENT

12:45	C. PAPPAS	<u>Christopher Scott Hicks</u> SI: 2 nd Degree Rape	14/203494	BOZ
12:55	R.A. WOLFE (VACATION)	<u>Pedro Ortiz</u> I. Flee/Eldue Arrest W/ MV II. AOF	15/215906* 15/215907*	AMD AMD

LUNCH 1:00 – 2:00

MORRISVILLE POLICE DEPARTMENT

2:00	A. MULLIS	<u>David Henry Crippen</u> I. ILWC II. Sexual Battery	15/225526 "	BOZ BOZ
	A. MULLIS	<u>Serdar Annagurbanor</u> I.-III. ILWC I.-III. ILWC	15/226937 15/226938	MAS MAS
2:05	B.E. PINEL	<u>Jayson Graham Roberts</u> I. BEMV / II. Misd. Larceny	15/216102	CJJ

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**GRAND JURY
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TENTH PROSECUTORIAL DISTRICT**

NC STATE BUREAU OF INVESTIGATION

2:10	J.L. MATHERLY	<u>Eric Wade</u>		
		I. RWDW	15/215081	DAS
		II. CONSP.	" "	"
		I. RWDW	15/215082	DAS
		II. RWDW	" "	DAS
		III. CONSP.	" "	"
		I. RWDW	15/215083	DAS
		II. CONSP.	" "	"
	J.L. MATHERLY	<u>James T. Wade</u>		
		I. RWDW	15/215090	DAS
		II. CONSP.	" "	"
		I. RWDW	15/215091	DAS
		II. RWDW	" "	DAS
		III. CONSP.	" "	"
		I. RWDW	15/215092	DAS
		II. CONSP.	" "	"

NC STATE HIGHWAY PATROL

2:15	S. MOY	<u>Mario C. Perez</u>		
		I. Fel. H&R	15/216015	MEJ
		I. DWI	15/216011	MEJ
		Reckless Driving	15/216012	MEJ
2:20	J.L. PLATTENBERGER	<u>Alexis K. Lewis</u>		
		I. AWDW Gov Official	15/224334*	TCW
		I. Flee to Elude	15/224336*	TCW
		I. DWLR	15/224337*	TCW
		II. Wrong Way on Dual Lane		
		I. Fail to Heed Siren	15/224338*	TCW
		II. Aggressive Driving		
	" "	I. Resist Public Officer	15/224340*	TCW
		II. Hit/Run Property Damage		
		I. Hit/Run Property Damage	15/224341*	TCW

STATE CAPITOL POLICE

2:25	J. M. BOYLE	<u>Steven E. Lewis</u>		
		I. Assault Inflicting physical	15/222536	DAS
		Injury to a person employed at a		Cont
		State detention facility		

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**GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT
WAKE FOREST POLICE DEPARTMENT**

2:30	B.G. CRIBB	<u>Kristal Renee Hill</u> Fel. Larceny	15/222185*	PHC TB
2:35	T. EVERETT	<u>Ronald A. Henry</u> Possession of Firearm by Felon 1-Communicating Threats 2-Assault by Pointing Gun 3-Simple Assault	15/218355* 15/218356*	DJS TB DJS
2:40	P. MISKO	<u>Eric L. Wade</u> I. RWDW II. Second Degree Kidnapping III. Second Degree Kidnapping	15/215128 " " " "	DAS TB
	P. MISKO	<u>James T. Wade</u> I. RWDW II. Second Degree Kidnapping III. Second Degree Kidnapping	15/215129 " " " "	DAS TB
2:45	T.C. WEBB	<u>Rashaun Federick Marvin Fahie</u> I. PWISD Marijuana II. Maintain Dwelling CS III. Possession of Marijuana	15/207910*	KPC can
	T.C. WEBB	<u>Sierra Elise McGuire</u> I. Possession of Heroin II. Maintain Vehicle for CS PDP	15/213566* 15/213567*	KPC } TB KPC
	T.C. WEBB	<u>Terry Terrale Moore</u> I. PWISD Marijuana II. Possession of Marijuana I. Maintain Vehicle for CS II. PDP for Marijuana	15/216616 15/216617	KPC } TB KPC

WENDELL POLICE DEPARTMENT

2:50	J.D. LOY	<u>Carla Wiggins</u> I. OPFP II. Forgery III. Uttering	15/223292*	TCW TB
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**GRAND JURY
JANUARY 5, 2016
TENTH PROSECUTORIAL DISTRICT**

ZEBULON POLICE DEPT.

2:55	C. ZIENCIK	<u>Joseph Eddie Mitchell</u> AWDWIKISI	15/223372*	PHC TB
	"" ""	<u>Marcus Jamar Toney</u> AWDWIKISI	15/223402*	PHC TB
3:00	M. DIMILIA (RPD)	<u>Melissa Christine Turner</u> Identity Theft	15/221275	AFT TB
	M. DIMILIA	<u>Donald Richard Turner</u> Identity Theft	15/221274	AFT TB
3:05	A. DISMUKES (CPD)	<u>Brandon Lee</u> Murder Murder	15/227741 15/227742	HJC TB HJC
3:10	R.C. BARGFREDE (RPD)	<u>Lakorya Monia Harrison</u> 1-Financial Trans. Card Fraud 2-Financial Trans. Card Fraud	15/217675*	AFT TB

Please contact Donna Kulpa with the District Attorney's Office at 919-792-5056 with any questions or scheduling conflicts on or before the Thursday prior to this Grand Jury date.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE # 15 CRS 227741

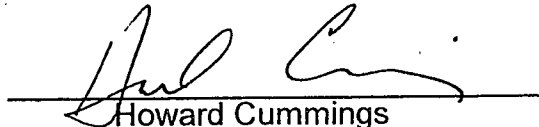
STATE OF NORTH CAROLINA

v.

INDICTMENT- FIRST DEGREE MURDER

BRANDON JAMES LEE

The jurors for the State upon their oath present that on or about the 14TH day of December, 2015, in the county named above the defendant named above unlawfully, willfully and feloniously did of malice aforethought kill and murder Christa L. Lee. This act was done in violation of G.S. 14-17.


Howard Cummings
Prosecutor

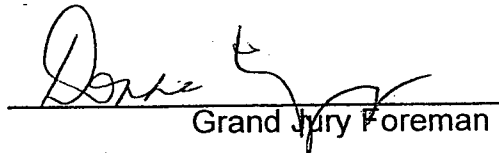
X A. Dismukes, Cary PD
Witness

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and, after hearing testimony, this bill was found to be:

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

 NOT A TRUE BILL.

 JAN 05 2016
Date


Grand Jury Foreman

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX B-1 of 2

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE # 15 CRS 227742

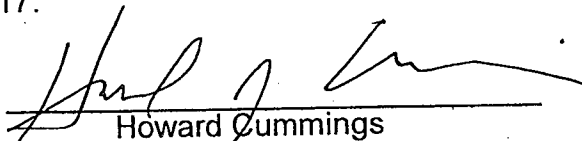
STATE OF NORTH CAROLINA

v.

INDICTMENT- FIRST DEGREE MURDER

BRANDON JAMES LEE

The jurors for the State upon their oath present that on or about the 19TH day of December, 2015, in the county named above the defendant named above unlawfully, willfully and feloniously did of malice aforethought kill and murder Krystal J. Hylton. This act was done in violation of G.S. 14-17.


Howard Cummings
Prosecutor

☒ A. Dismukes, Cary PD
Witness

The witnesses marked "X" were sworn by the undersigned Foreman 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 Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

____ NOT A TRUE BILL.

JAN 05 2016
JAN 05 2016

Date


Grand Jury Foreman

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX B-2 of 2

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-2344

In re: BRANDON LEE,

Petitioner.

On Petition for Writ of Mandamus.

Submitted: January 18, 2018

Decided: January 22, 2018

Before GREGORY, Chief Judge, and SHEDD and HARRIS, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Brandon Lee, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX C - 1 of 2

PER CURIAM:

Brandon Lee petitions for a writ of mandamus seeking an order directing the Supreme Court of North Carolina to rule on his state mandamus petition. We conclude that Lee is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402 (1976); *United States v. Moussaoui*, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. *In re First Fed. Sav. & Loan Ass'n*, 860 F.2d 135, 138 (4th Cir. 1988). This court does not have jurisdiction to grant mandamus relief against state officials. *Gurley v. Superior Court of Mecklenburg Cty.*, 411 F.2d 586, 587 (4th Cir. 1969).

The relief sought by Lee is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX C - 2 of 2

Supreme Court of North Carolina

STATE OF NORTH CAROLINA

v

BRANDON LEE

From Wake
(15CR227741-42)

ORDER

Upon consideration of the petition filed by Defendant on the 23rd of October 2017 in this matter for a writ of mandamus, the following order was entered and is hereby certified to the Superior Court, Wake County:

"Dismissed by order of the Court in conference, this the 1st of March 2018."

s/ Morgan, J.
For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 8th day of March 2018.



Amy L. Funderburk
Clerk, Supreme Court of North Carolina

M. C. Hackney
M. C. Hackney
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

Mr. Brandon Lee, For Lee, Brandon
Mr. Daniel P. O'Brien, Special Deputy Attorney General, For State of N.C. - (By Email)
Ms. N. Lorrin Freeman, District Attorney
Hon. Jennifer Knox, Clerk
West Publishing - (By Email)
Lexis-Nexis - (By Email)

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX D

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

March 5, 2018

Mr. Brandon Lee
Prisoner ID Wake County Detention Center
P.O. Box 2479
Raleigh, NC 27602

Re: In Re Brandon Lee, Petitioner
No. 17-7976

Dear Mr. Lee:

The petition for a writ of mandamus in the above entitled case was filed on February 16, 2018 and placed on the docket March 5, 2018 as No. 17-7976.

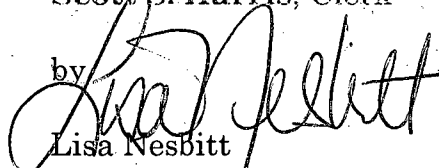
A form is enclosed for notifying opposing counsel that the case was docketed.

In accordance with Rule 29.4(a) of the Rules of the Supreme Court, please serve one copy of your petition upon the Solicitor General of the United States, Department of Justice, Washington, D.C., 20530 and forward proof of said service to this office immediately.

Sincerely,

Scott S. Harris, Clerk

by


Lisa Nesbitt
Case Analyst

Enclosures

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX E-1 of 2

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

May 14, 2018

Mr. Brandon Lee
Prisoner ID Wake County Detention Center
P.O. Box 2479
Raleigh, NC 27602

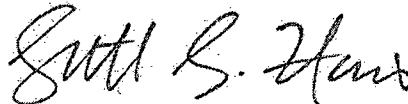
Re: In Re Brandon Lee
No. 17-7976

Dear Mr. Lee:

The Court today entered the following order in the above-entitled case:

The petition for a writ of mandamus is denied.

Sincerely,



Scott S. Harris, Clerk

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX E - 2 of 2

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

July 18, 2018

Mr. Brandon Lee
Prisoner ID Wake County Detention Center
P.O. Box 2479
Raleigh, NC 27602

Re: In Re Brandon Lee, Petitioner
No. 18-5265

Dear Mr. Lee:

The petition for a writ of mandamus in the above entitled case was filed on May 29, 2018 and placed on the docket July 18, 2018 as No. 18-5265.

A form is enclosed for notifying opposing counsel that the case was docketed.

Sincerely,

Scott S. Harris, Clerk

by

Lisa Nesbitt
Case Analyst

Enclosures

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX F-1 OF 2

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 1, 2018

Mr. Brandon Lee
Prisoner ID Wake County Detention Center
P.O. Box 2479
Raleigh, NC 27602

Re: In Re Brandon Lee
No. 18-5265

Dear Mr. Lee:

The Court today entered the following order in the above-entitled case:

The petition for a writ of mandamus is denied.

Sincerely,



Scott S. Harris, Clerk

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX F-2 of 2

ON PETITION FOR A WRIT OF HABEAS CORPUS APPENDIX G-1 of 10

Article 31.

The Grand Jury and Its Proceedings.

§ 15A-621. "Grand jury" defined.

A grand jury is a body consisting of not less than 12 nor more than 18 persons, impaneled by a superior court and constituting a part of such court. (1973, c. 1286, s. 1.)

§ 15A-622. Formation and organization of grand juries; other preliminary matters.

(a) The mode of selecting grand jurors and of drawing and impaneling grand jurors is governed by this Article and Chapter 9 of the General Statutes, Jurors. Challenges to the panel from which grand jurors were drawn are governed by the procedure in G.S. 15A-1211.

(b) To impanel a new grand jury, the presiding judge must direct that the names of all persons returned as jurors be separately placed in a container. The clerk must draw out the names of 18 persons to serve as grand jurors. Of these 18, the first nine drawn serve until the first session of court at which criminal cases are heard held in the county after the following January 1, and thereafter until their replacements are selected and sworn. The next nine serve until the first session of court at which criminal cases are heard held in the county after the following July 1, and thereafter until their replacements are selected and sworn. If this formula results in any term likely to be shorter than two months or longer than 15 months, the presiding judge impaneling the grand jury may modify the terms. Thereafter, beginning with the first session of superior court at which criminal cases are heard held in the county following January 1 and July 1 of each year, nine new grand jurors must be selected in the manner provided above to replace the jurors whose terms have expired. All new grand jurors so selected serve until the first session of court at which criminal cases are heard held after January 1 or July 1 which most nearly results in a 12-month term, and thereafter until their replacements are selected and sworn. If a vacancy occurs in the membership of the grand jury, the superior court judge next convening the jury or next holding a session of court at which criminal cases are heard in the county may order that a new juror be drawn in the manner provided above to fill the vacancy.

The senior resident superior court judge of the district may impanel a second grand jury in any county of the district to serve concurrently with the first. The second grand jury shall be impaneled as provided in the first paragraph of this subsection. The court shall continue to have two grand juries until the senior resident superior court judge orders the second grand jury to terminate.

In any county the senior resident superior court judge, if he finds that grand jury service is placing a disproportionate burden on grand jurors and their employers, may fix the term of service of a grand juror at six months rather than 12 months. In doing so, he shall prescribe procedures, consistent with this section, for replacement of half of the jurors of the grand jury or grand juries approximately every three months.

(c) Neither the grand jury panel nor any individual grand juror may be challenged, but a superior court judge may:

- (1) At any time before new grand jurors are sworn, discharge them, or discharge the grand jury, and cause new grand jurors or a new grand jury to be drawn if he finds that jurors have not been selected in accordance with law or that the grand jury is illegally constituted; or
- (2) At any time after a grand juror is drawn, refuse to swear him, or discharge him after he has been sworn, upon a finding that he is disqualified from service,

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incapable of performing his duties, or guilty of misconduct in the performance of his duties so as to impair the proper functioning of the grand jury.

(d) The presiding judge may excuse a grand juror from service of the balance of his term, upon his own motion or upon the juror's request for good cause shown. The foreman may excuse individual jurors from attending particular sessions of the grand jury, except that he may not excuse more than two jurors for any one session.

(e) After the impaneling of a new grand jury, or the impaneling of nine new jurors under the terms of this section, the presiding judge must appoint one of the grand jurors as foreman and may appoint another to act as foreman during any absence or disability of the foreman. Unless removed for cause by a superior court judge, the foreman serves until his successor is appointed and sworn.

(f) The foreman and other new grand jurors must take the oath prescribed in G.S. 11-11. After new grand jurors have been sworn, the presiding judge may give the grand jurors written or oral instructions relating to the performance of their duties. At subsequent sessions of court, the presiding judge is not required to give any additional instructions to the grand jurors.

(g) At any time when a grand jury is in recess, a superior court judge may, upon application of the prosecutor or upon his own motion, order the grand jury reconvened for the purpose of dealing with a matter requiring grand jury action.

(h) A written petition for convening of grand jury under this section may be filed by the district attorney, the district attorney's designated assistant, or a special prosecutor requested pursuant to G.S. 114-11.6, with the approval of a committee of at least three members of the North Carolina Conference of District Attorneys, and with the concurrence of the Attorney General, with the Clerk of the North Carolina Supreme Court. The Chief Justice shall appoint a panel of three judges to determine whether to order the grand jury convened. A grand jury under this section may be convened if the three-judge panel determines that:

- (1) The petition alleges the commission of or a conspiracy to commit a violation of G.S. 90-95(h) or G.S. 90-95.1, any part of which violation or conspiracy occurred in the county where the grand jury sits, and that persons named in the petition have knowledge related to the identity of the perpetrators of those crimes but will not divulge that knowledge voluntarily or that such persons request that they be allowed to testify before the grand jury; and
- (2) The affidavit sets forth facts that establish probable cause to believe that the crimes specified in the petition have been committed and reasonable grounds to suspect that the persons named in the petition have knowledge related to the identity of the perpetrators of those crimes.

The affidavit shall be based upon personal knowledge or, if the source of the information and basis for the belief are stated, upon information and belief. The panel's order convening the grand jury as an investigative grand jury shall direct the grand jury to investigate the crimes and persons named in the petition, and shall be filed with the Clerk of the North Carolina Supreme Court. A grand jury so convened retains all powers, duties, and responsibilities of a grand jury under this Article. The contents of the petition and the affidavit shall not be disclosed. Upon receiving a petition under this subsection, the Chief Justice shall appoint a panel to determine whether the grand jury should be convened as an investigative grand jury.

A grand jury authorized by this subsection may be convened from an existing grand jury or grand juries authorized by subsection (b) of this section or may be convened as an additional grand jury to an existing grand jury or grand juries. Notwithstanding subsection (b) of this

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section, grand jurors impaneled pursuant to this subsection shall serve for a period of 12 months, and, if an additional grand jury is convened, 18 persons shall be selected to constitute that grand jury. At any time for cause shown, the presiding superior court judge may excuse a juror temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

(i) An investigative grand jury may be convened pursuant to subsection (h) of this section if the petition alleges the commission of, attempt to commit or solicitation to commit, or a conspiracy to commit a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude).

(j) Any grand juror who serves the full term of service under subsection (b) or subsection (h) of this section shall not be required to serve again as a grand juror or as a juror for a period of six years. (1779, c. 157, s. 11, P.R.; R.C., c. 31, s. 33; 1879, c. 12; Code, ss. 404, 1742; Rev., ss. 1969, 1971; C.S., ss. 2333, 2336; 1929, c. 228; 1967, c. 218, s. 1; 1973, c. 1286, s. 1; 1975, c. 166, s. 27; 1977, c. 711, s. 24; 1979, c. 177, s. 1; 1981, c. 440, s. 1; 1985 (Reg. Sess., 1986), c. 843, ss. 2, 6; 1987 (Reg. Sess., 1988), c. 1040, ss. 1, 3; 1989 (Reg. Sess., 1990), c. 1039, s. 4; 1991, c. 686, ss. 1, 3; 1995, c. 362, s. 1; 2013-148, s. 3; 2013-368, s. 21.)

§ 15A-623. Grand jury proceedings and operation in general.

(a) The finding of an indictment, the return of a presentment, and every other affirmative official action or decision of the grand jury requires the concurrence of at least 12 members of the grand jury.

(b) The foreman presides over all hearings and has the power to administer oaths or affirmations to all witnesses.

(c) The foreman must indicate on each bill of indictment or presentment the witness or witnesses sworn and examined before the grand jury. Failure to comply with this provision does not vitiate a bill of indictment or presentment.

(d) During the deliberations and voting of a grand jury, only the grand jurors may be present in the grand jury room. During its other proceedings, the following persons, in addition to a witness being examined, may, as the occasion requires, also be present:

(1) An interpreter, if needed.

(2) A law-enforcement officer holding a witness in custody.

Any person other than a witness who is permitted in the grand jury room must first take an oath before the grand jury that he will keep secret all matters before it within his knowledge.

(e) Grand jury proceedings are secret and, except as expressly provided in this Article, members of the grand jury and all persons present during its sessions shall keep its secrets and refrain from disclosing anything which transpires during any of its sessions.

(f) The presiding judge may direct that a bill of indictment be kept secret until the defendant is arrested or appears before the court. The clerk must seal the bill of indictment and no person including a witness may disclose the finding of the bill of indictment, or the proceedings leading to the finding, except when necessary for the issuance and execution of an order of arrest.

(g) Any grand juror or other person authorized to attend sessions of the grand jury and bound to keep its secrets who discloses, other than to his attorney, matters occurring before the grand jury other than in accordance with the provisions of this section is in contempt of court and subject to proceedings in accordance with law.

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(h) If a grand jury is convened pursuant to G.S. 15A-622(h), notwithstanding subsection (d) of this section, a prosecutor shall be present to examine witnesses, and a court reporter shall be present and record the examination of witnesses. The record shall be transcribed. If the prosecutor determines that it is necessary to compel testimony from the witness, he may grant use immunity to the witness. The grant of use immunity shall be given to the witness in writing by the prosecutor and shall be signed by the prosecutor. The written grant of use immunity shall also be read into the record by the prosecutor and shall include an explanation of use immunity as provided in G.S. 15A-1051. A witness shall have the right to leave the grand jury room to consult with his counsel at reasonable intervals and for a reasonable period of time upon the request of the witness. Notwithstanding subsection (e) of this section, the record of the examination of witnesses shall be made available to the examining prosecutor, and he may disclose contents of the record to other investigative or law-enforcement officers, the witness or his attorney to the extent that the disclosure is appropriate to the proper performance of his official duties. The record of the examination of a witness may be used in a trial to the extent that it is relevant and otherwise admissible. Further disclosure of grand jury proceedings convened pursuant to this act may be made upon written order of a superior court judge if the judge determines disclosure is essential:

- (1) To prosecute a witness who appeared before the grand jury for contempt or perjury; or
- (2) To protect a defendant's constitutional rights or statutory rights to discovery pursuant to G.S. 15A-903.

Upon the convening of the investigative grand jury pursuant to approval by the three-judge panel, the district attorney shall subpoena the witnesses. The subpoena shall be served by the investigative grand jury officer, who shall be appointed by the court. The name of the person subpoenaed and the issuance and service of the subpoena shall not be disclosed, except that a witness so subpoenaed may divulge that information. The presiding superior court judge shall hear any matter concerning the investigative grand jury in camera to the extent necessary to prevent disclosure of its existence. The court reporter for the investigative grand jury shall be present and record and transcribe the in camera proceeding. The transcription of any in camera proceeding and a copy of all subpoenas and other process shall be returned to the Chief Justice or to such member of the three-judge panel as the Chief Justice may designate, to be filed with the Clerk of the North Carolina Supreme Court. The subpoena shall otherwise be subject to the provisions of G.S. 15A-801 and Article 43 of Chapter 15A. When an investigative grand jury has completed its investigation of the crimes alleged in the petition, the investigative functions of the grand jury shall be dissolved and such investigation shall cease. The District Attorney shall file a notice of dissolution of the investigative functions of the grand jury with the Clerk of the North Carolina Supreme Court. (1973, c. 1286, s. 1; 1985 (Reg. Sess., 1986), c. 843, ss. 3, 6; 1987 (Reg. Sess., 1988), c. 1040, ss. 1, 4; 1989 (Reg. Sess., 1990), c. 1039, s. 4; 1991, c. 686, ss. 2, 3.)

§ 15A-624. Grand jury the judge of facts; judge the source of legal advice.

- (a) The grand jury is the exclusive judge of the facts with respect to any matter before it.
- (b) The legal advisor of the grand jury is the presiding or convening judge. (1973, c. 1286, s. 1.)

§ 15A-625. Reserved for future codification purposes.

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§ 15A-626. Who may call witnesses before grand jury; no right to appear without consent of prosecutor or judge.

(a) Except as provided in this section, no person has a right to call a witness or appear as a witness in a grand jury proceeding.

(b) In proceedings upon bills of indictment submitted by the prosecutor to the grand jury, the clerk must call as witnesses the persons whose names are listed on the bills by the prosecutor. If the grand jury desires to hear any witness not named on the bill under consideration, it must through its foreman request the prosecutor to call the witness. The prosecutor in his discretion may call, or refuse to call, the witness.

(c) In considering any matter before it a grand jury may swear and hear the testimony of a member of the grand jury.

(d) Any person not called as a witness who desires to testify before the grand jury concerning a criminal matter which may properly be considered by the grand jury must apply to the district attorney or to a superior court judge. The judge or the district attorney in his discretion may call the witness to appear before the grand jury.

(e) An official who is required or authorized to call a witness before the grand jury does so by issuing a subpoena for the witness or by causing one to be issued. If the official is assured that the witness will appear when requested without issuance of a subpoena, he may call the witness simply by notifying him of the time and place his presence is requested before the grand jury. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-627. Submission of bill of indictment to grand jury by prosecutor.

(a) When a defendant has been bound over for trial in the superior court upon any charge in the original jurisdiction of such court, the prosecutor, unless he dismisses the charge under the terms of Article 50 of this Chapter, Voluntary Dismissal by the State, or proceeds upon a bill of information, must submit a bill of indictment charging the offense to the grand jury for its consideration.

(b) A prosecutor may submit a bill of indictment charging an offense within the original jurisdiction of the superior court. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-628. Functions of grand jury; record to be kept by clerk.

(a) A grand jury:

- (1) Must return a bill submitted to it by the prosecutor as a true bill of indictment if it finds from the evidence probable cause for the charge made.
- (2) Must return a bill submitted to it by the prosecutor as not a true bill of indictment if it fails to find probable cause for the charge made. Upon returning a bill of indictment as not a true bill, the grand jury may request the prosecutor to submit a bill of indictment as to a lesser included or related offense.
- (3) May return the bill to the court with an indication that the grand jury has not been able to act upon it because of the unavailability of witnesses.
- (4) May investigate any offense as to which no bill of indictment has been submitted to it by the prosecutor and issue a presentment accusing a named person or named persons with one or more criminal offenses if it has found probable cause for the charges made. An investigation may be initiated upon

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the concurrence of 12 members of the grand jury itself or upon the request of the presiding or convening judge or the prosecutor.

- (5) Must inspect the jail and may inspect other county offices or agencies and must report the results of its inspections to the court.

(b) In proceeding under subsection (a), the grand jury may consider any offense which may be prosecuted in the courts of the county, or in the courts of the superior court district or set of districts as defined in G.S. 7A-41.1 when there has been a waiver of venue in accordance with Article 3 of this Chapter, Venue.

(c) Bills of indictment submitted by the prosecutor to the grand jury, whether found to be true bills or not, must be returned by the foreman of the grand jury to the presiding judge in open court. Presentments must also be returned by the foreman of the grand jury to the presiding judge in open court.

(d) The clerk must keep a permanent record of all matters returned by the grand jury to the judge under the provisions of this section. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; 1987 (Reg. Sess., 1988), c. 1037, s. 59.)

§ 15A-629. Procedure upon finding of not a true bill; release of defendant, etc.; institution of new charge.

(a) Upon the return of a bill of indictment as not a true bill, the presiding judge must immediately examine the case records to determine if the defendant is in custody or subject to bail or conditions of pretrial release. If so, except as provided in subsection (b), the judge must immediately order release from custody, exoneration of bail, or release from conditions of pretrial release, as the case may be.

(b) Upon the return of a bill of indictment as not a true bill but with a request that the prosecutor submit a bill of indictment to a lesser included or related offense, the judge may defer the action required in subsection (a) for a reasonable period, not to extend past the end of that session of superior court, to allow the institution of the new charge. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-630. Notice to defendant of true bill of indictment.

Upon the return of a bill of indictment as a true bill the presiding judge must immediately cause notice of the indictment to be mailed or otherwise given to the defendant unless he is then represented by counsel of record. The notice must inform the defendant of the time limitations upon his right to discovery under Article 48 of this Chapter, Discovery in the Superior Court, and a copy of the indictment must be attached to the notice. If the judge directs that the indictment be sealed as provided in G.S. 15A-623(f), he may defer the giving of notice under this section for a reasonable length of time. (1973, c. 1286, s. 1; 1975, 2nd Sess., c. 983, s. 143.)

§ 15A-631. Grand jury venue.

In the General Court of Justice, the place for returning a presentment or indictment is a matter of venue and not jurisdiction. A grand jury shall have venue to present or indict in any case where the county in which it is sitting has venue for trial pursuant to the laws relating to trial venue. (1985, c. 553, s. 1.)

§§ 15A-632 through 15A-640. Reserved for future codification purposes.

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§ 15A-606. Demand or waiver of probable-cause hearing.

(a) The judge must schedule a probable-cause hearing unless the defendant waives in writing his right to such hearing. A defendant represented by counsel, or who desires to be represented by counsel, may not before the date of the scheduled hearing waive his right to a probable-cause hearing without the written consent of the defendant and his counsel.

(b) Evidence of a demand or waiver of a probable-cause hearing may not be admitted at trial.

(c) If the defendant waives a probable-cause hearing, the district court judge must bind the defendant over to the superior court for further proceedings in accordance with this Chapter.

(d) If the defendant does not waive a probable-cause hearing, the district court judge must schedule a hearing not later than 15 working days following the initial appearance before the district court judge; if no session of the district court is scheduled in the county within 15 working days, the hearing must be scheduled for the first day of the next session. The hearing may not be scheduled sooner than five working days following such initial appearance without the consent of the defendant and the prosecutor.

(e) If an unrepresented defendant is not indigent and has indicated his desire to be represented by counsel, the district court judge must inform him that he has a choice of appearing without counsel at the probable-cause hearing or of securing the attendance of counsel to represent him at the hearing. The judge must further inform him that the judge presiding at the hearing will not continue the hearing because of the absence of counsel except for extraordinary cause.

(f) Upon a showing of good cause, a scheduled probable-cause hearing may be continued by the district court upon timely motion of the defendant or the State. Except for extraordinary cause, a motion is not timely unless made at least 48 hours prior to the time set for the probable-cause hearing.

(g) If after the first appearance before a district court judge a defendant with consent of counsel desires to waive his right to a probable-cause hearing, he may do so in writing filed with the court signed by defendant and his counsel. Upon waiver the defendant must be bound over to the superior court. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

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Article 30.

Probable-Cause Hearing.

§ 15A-611. Probable-cause hearing procedure.

(a) At the probable-cause hearing:

- (1) A prosecutor must represent the State.
- (2) The defendant may be represented by counsel.
- (3) The defendant may testify as a witness in his own behalf and call and examine other witnesses, and produce other evidence in his behalf.
- (4) Each witness must testify under oath or affirmation and is subject to cross-examination.

(b) The State must by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the defendant committed it, except:

- (1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed by him in connection with the case in issue, when stated by such person in a report made by him, is admissible in evidence.
- (2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in another than the defendant, lack of consent of the owner, possessor, or custodian of property to its taking or to the breaking or entering of premises, chain of custody, authenticity of signatures, and the existence and text of a particular ordinance or regulation of a governmental unit or agency.

The district court judge is not required to exclude evidence on the ground that it was acquired by unlawful means.

(c) If a defendant appears at a probable-cause hearing without counsel, the judge must determine whether counsel has been waived. If he determines that counsel has been waived, he may proceed without counsel. If he determines that counsel has not been waived, except in a situation covered by G.S. 15A-606(e) he must take appropriate action to secure the defendant's right to counsel.

(d) A probable-cause hearing may not be held if an information in superior court is filed upon waiver of indictment before the date set for the hearing. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-612. Disposition of charge on probable-cause hearing.

(a) At the conclusion of a probable-cause hearing the judge must take one of the following actions:

- (1) If he finds that the defendant probably committed the offense charged, or a lesser included offense of such offense within the original jurisdiction of the superior court, he must bind the defendant over to a superior court for further proceedings in accordance with this Chapter. The judge must note his findings in the case records.
- (2) If he finds no probable cause as to the offense charged but probable cause with respect to a lesser included offense within the original jurisdiction of the

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district court, he may set the case for trial in the district court in accordance with the terms of G.S. 15A-613. In the absence of a new pleading, the judge may not set a case for trial in the district court on any offense which is not lesser included.

- (3) If he finds no probable cause pursuant to subdivisions (1) or (2) as to any charge, he must dismiss the proceedings in question.

(b) No finding made by a judge under this section precludes the State from instituting a subsequent prosecution for the same offense. (1973, c. 1286, s. 1; 1975, c. 166, s. 14.)

§ 15A-613. Setting offense for trial in district court.

If an offense set for trial in the district court under the terms of G.S. 15A-604(b)(4) or any provision of G.S. 15A-612 is a lesser included offense of the charge before the court on a pleading, the judge may:

- (1) Accept a plea of guilty or no contest, with the consent of the prosecutor; or
- (2) Proceed to try the offense immediately, with the consent of both the defendant and the prosecutor.

Otherwise, the judge must enter an appropriate order for subsequent calendaring of the case for trial in the district court. The trial so ordered may not be earlier than five working days nor later than 15 working days from the date of the order. The judge must note in the case records the new offense with which the defendant is charged, has been tried, or to which he entered a plea of guilty or no contest. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

§ 15A-614. Review of eligibility for pretrial release.

Upon binding a defendant in custody over to the superior court for trial or upon entering an order for subsequent calendaring of the case of such a defendant for trial in the district court, the judge must again review the eligibility of the defendant for release under Article 26 of this Chapter, Bail. (1973, c. 1286, s. 1.)

[illegible]