

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

IN THE GENERAL COURT OF JUSTICE  
\_\_\_\_\_ COURT DIVISION

FILE NO.

STATE OF NORTH CAROLINA

V.

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**EX PARTE MOTION FOR FUNDS FOR EXPERT WITNESS**  
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Now comes [DEFENDANT], by and through undersigned counsel, pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution; Art. I, §§ 18, 19, 23 and 27 of the Constitution of North Carolina; *Ake v. Oklahoma*, 470 U.S. 68, 84 L.Ed.2d 53 (1985), *State v. Ballard*, 333 N.C. 515, 428 S.E.2d 178 (1993), *State v. Bates*, 333 N.C. 523, 428 S.E.2d 693 (1993), N.C. Gen. Stat. § 7A-454, *et. seq.*, and other applicable law, and moves this court *ex parte* for funds to employ an expert witness. As grounds for this motion, defendant shows the following:

Defendant is currently charged with \_\_\_\_\_. He is currently incarcerated in \_\_\_\_\_. He is represented by the undersigned assistant public defender, pursuant to order dated \_\_\_\_\_.

On the date of the alleged offense, (the Defendant was under the influence of \_\_\_\_; being treated for [mental illness, etc]/Defendant has been diagnosed with\_\_\_\_\_/Defendant suffers from [PTSD/battered wife syndrome/mental retardation]/Defendant has a history of [blackouts/seizures/etc.]/A review of the discovery indicates that the state will be relying on scientific evidence of \_\_\_\_\_)

Undersigned counsel is not proficient in the field of \_\_\_\_\_. An expert in the field of \_\_\_\_\_ is necessary for the effective research and

analysis of the data being relied upon by the state/review and analysis of current scientific literature in the area of \_\_\_\_\_. Further, expert assistance is needed for the effective preparation and presentation of evidence of any issues arising as a result of a review of the scientific literature/discovery/Defendant's mental health records/etc.. Failure to provide expert assistance in this area will deny the defendant of his state and federal constitutional rights to due process, to present a defense, the effective assistance of counsel, confrontation, equal protection and a fundamentally fair proceeding.

Further details of the need for the services of a \_\_\_\_\_ expert sufficient to establish a particularized showing of need may be provided in an *ex parte* hearing if so required by the court. *State v. Bates*, 333 N.C. 523, 428 S.E.2d 693 (1993) (where an in-court hearing on a motion for funds risks exposing defense strategy or encroaches upon the defendant's rights against self-incrimination and to effective assistance of counsel, defendant is entitled to seek funds *ex parte*).

N.C.G.S. §§7A-450(b) and §7A-454 provide that indigent defendants are entitled to expert assistance at state expense once a threshold showing of specific necessity has been made.

Counsel for defense has consulted with Dr. \_\_\_\_\_. Dr. \_\_\_\_\_ is [a neuropsychologist/toxicologist/etc.] (attach curriculum vitae). She has made a preliminary assessment that [condition] has a direct bearing on (the defendant's mental state/defendant's theory of defense/etc.)/that [data/research] is needed to assess the reliability of the state's analysis/etc. The [defendant's mental condition at the time of the alleged offense/reliability of the state's data/etc.] is a central issue to be determined by the jury in this case.

WHEREFORE, defendant respectfully moves this court to ORDER that Dr. \_\_\_\_\_ be compensated by the State at his normal hourly rate of \$\$\$ an hour for up to 20 hours for the purpose of assisting counsel in the preparation and presentation of defendant's case;

Further, that counsel may make application to this court for additional funds if needed;

Further, that this court ORDER that this motion and the court's order be filed under seal.

Respectfully submitted the \_\_\_\_ day of \_\_\_\_\_ 2000.

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Counsel for defendant

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

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STATE OF NORTH CAROLINA

V.

\*\*\*\*\*

**ORDER FOR FUNDS FOR EXPERT WITNESS**

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This matter having come before this court upon the *ex parte* motion of Defendant, and for good cause shown, it is hereby ORDERED that:

Dr. \_\_\_\_\_ be compensated by the State at his normal hourly rate of \$\$\$\$\$ an hour for up to 20 hours for the purpose of assisting counsel in the preparation and presentation of defendant's case;

Further, that counsel may make application to this court for additional funds if needed;

Further, that this court ORDER that this motion and the court's order be filed under seal.

This \_\_\_\_ day of \_\_\_\_\_ 2000.

\_\_\_\_\_  
The Honorable  
Judge Presiding