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STATE OF NORTH CAROLINA
COUNTY OF GASTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NUMBER: 22CRS55786

STATE OF NORTH CAROLINA,)
)
VS.)
)
DILLON LEDFORD,)
Defendant)
_____)

MOTION TO DISMISS

NOW COMES THE Defendant, by and through his undersigned counsel, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, and Article I § 21 of the North Carolina Constitution, and moves the Court to dismiss the above captioned case for violation of the Defendant's rights to due process and equal protection. In support of said motion, the Defendant shows the following:

PROCEDURAL HISTORY

1. The Defendant is charged in the above-referenced matter with False Report of Mass Violence on Educational Property, a class H felony. The date of the alleged offense is June 16, 2022.
2. The Defendant was arrested on June 23, 2022, and has been in continuous custody since that date, for a total of 301 days.
3. Defendant's attorney filed a Motion and Order Appointing Local Certified Forensic Evaluator (hereinafter "Local Forensic Motion") for the purpose of questioning the Defendant's capacity to proceed on July 5, 2022.
4. The Local Forensic Motion provided the following basis for requesting the evaluation:

The Defendant feels like he is being terrorized. That someone has placed a chip inside of him. States he contacted the FBI, Secret Service about this. Defendant is very paranoid. States radioactive frequencies keep sending him messages warning him of various threats to the country.

5. JaMarr Funderburg, MSW, LCSW, LCAS, evaluated the Defendant at the Gaston County Jail on July 14, 2022.

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6. The resulting evaluation, dated July 14, 2022, found the Defendant had *no capacity* to proceed to trial, and included the following language: “The Defendant appears to be experiencing psychosis, such as paranoia and delusions, associated with schizophrenia.”
7. The Defendant was indicted on the charge of False Report of Mass Violence on Educational Property on July 5, 2022.
8. The Defendant’s attorney received a plea offer from the Gaston County District Attorney’s Office on August 9, 2022. The offer extended to the Defendant was to plead as indicted and receive a probationary sentence.
9. Assistant District Attorney Stephanie Hamlin filed a Motion and Order Committing Defendant to Central Regional Hospital – Butner Campus for Examination on Capacity to Proceed (hereinafter “Central Regional Evaluation”) on August 23, 2022.
10. Both parties subsequently realized the Central Regional Evaluation needed to be amended as it was missing a signature from the Assistant District Attorney. An amended Motion and Order Committing Defendant to Central Regional Hospital – Butner Campus for Examination on Capacity to Proceed (hereinafter “Amended Central Regional Evaluation”) was filed on September 8, 2022.
11. Pamela K. Bird, PsyD, ABPP, evaluated the Defendant on January 24, 2023, via tele-evaluation at Central Regional Hospital while the Defendant was in custody at the Gaston County Jail.
12. The resulting evaluation, dated January 18, 2023, found the Defendant had *no capacity* to proceed. The evaluator notes the Defendant “presented with rapid, pressured speech and a disorganized, tangential thought process. He was not able to tolerate even basic questions about himself without terminating the interview. Thus, he demonstrated that he lacked the ability to even engage in a reality-based conversation.”
13. The Honorable Justin Davis found the Defendant incapable to proceed and ordered the Defendant committed to Broughton Hospital for possible restoration of capacity on February 8, 2023.
14. Per a conversation with medical staff at the Gaston County Jail on April 19, 2023, Defendant is currently refusing to take the prescribed anti-psychotic medication offered at the facility.
15. The Defendant’s attorney spoke with a representative of Broughton Hospital on April 19, 2023, and was informed the Defendant’s anticipated commitment date was still “several months out.”

LEGAL ARGUMENT

16. The United States Supreme Court held that defendants found incapable to proceed may not be held indefinitely. The State may hold a defendant no longer than a “reasonable period of time” to determine whether he or she will gain capacity to stand trial. *Jackson v. Indiana*, 406 U.S. 715 (1972).
17. While the North Carolina General Statutes provide mandatory grounds for dismissal by the court, *see N.C. Gen. Stat. § 15A-1008*, these statutory provisions do not bar the Court from dismissing the Defendant’s charges on federal or state constitutional grounds in its discretion.
18. The Defendant is a prior record level IV for felony sentencing purposes. The Defendant has already served the nine-month minimum he would have served had he been given an active sentence at the bottom of the presumptive range.
19. As of today’s date, there is no anticipated timeframe regarding the Defendant’s commitment to Broughton Hospital for restoration.
20. The State has held the Defendant beyond a “reasonable period of time.” *Jackson v. Indiana*, 406 U.S. 715 (1972).

WHEREFORE, the Defendant respectfully prays to the Court as follows:

That the Court find the Defendant’s Due Process and Equal Protection Rights under the Fifth and Fourteenth Amendments to the United States Constitution and/or under Article I § 21 of the North Carolina Constitution have been violated order the Defendant’s charge dismissed.

Respectfully submitted this the 20th day of April, 2023.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion in Dismiss was served on Stephanie Hamlin, Assistant District Attorney for the 38th Prosecutorial District by personal delivery.

This the 20th day of April, 2023.



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