

NORTH CAROLINA

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

CABARRUS COUNTY

2024 MAY -8 P 2:32

IN RE:

CABARRUS CO., ADMINISTRATIVE ORDER 24-04

STRIKING ORDERS FOR ARREST
FOR FAILURES TO APPEAR BY

24-R-298

IT IS ORDERED that:

Superior Court Orders for Arrest for Failures to Appear shall only be stricken by the judge who issued the order or the Senior Resident Superior Court Judge. If the issuing judge is not commissioned and available in the district, then the proposed strike order shall only be considered by the Senior Resident Superior Court Judge. The proposed Motion to Strike shall first be filed with the Clerk. The Clerk shall pull the file and forward the motion and proposed order and the file to the superior court's judicial staff for the judge's consideration.

The attached form (Exhibit A) shall be used in seeking a strike order. The form should be signed by both the assistant district attorney and the defense counsel if the defendant is represented. The signing of a proposed Motion to Strike by counsel constitutes a general appearance. If the matter is for plea, the best practice is to provide the assistant district attorney with a transcript of plea when requesting a consent strike order. The next setting should be listed on the strike order. If the case has been dismissed with leave, then counsel for the defense should obtain a *copy* of the dismissal with leave and request that the prosecutor reinstate the charge and attach the same to the motion prior to filing the motion with the Clerk. The motion should be complete in all detail.

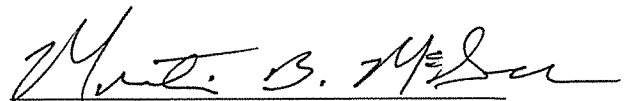
If the case has been dismissed with leave, the Clerk shall not recall the OFA until the District Attorney signs the documentation necessary to reactivate the case.

The District Attorney can submit a Motion to Strike without the Defendant's signature if the Defendant was incarcerated at the time the Order for Arrest was issued or the OFA was mistakenly issued.

If the case is on the docket to be immediately resolved, then the presiding judge may be presented with a strike order so all the cases may be resolved at that time.

The Clerk and judicial staff should be alerted if the motion and proposed order should be immediately presented to the Court.

This the 8th day of May 2024.



Martin B. McGee
Senior Resident Superior Court Judge
Judicial District 25 - Cabarrus County

<p>STATE OF NORTH CAROLINA _____ CABARRUS County</p>	<p style="text-align: right; font-size: small;">File No. _____</p> <p style="text-align: center;">In The General Court Of Justice Superior Court Division</p>		
<p style="text-align: center;">STATE VERSUS</p> <p><i>Name of Defendant</i> _____</p> <p><i>Address of Defendant</i> _____</p> <p>_____</p> <p>_____</p>	<p>MOTION AND ORDER TO STRIKE CALLED & FAILED, RECALL ORDER FOR ARREST</p>		
<p>MOTION</p>			
<p><i>Offense</i> _____</p>			
<p>NOW COMES _____, <input type="checkbox"/> Defendant <input type="checkbox"/> Attorney for the above-named Defendant, <input type="checkbox"/> Prosecutor, and respectfully moves the Court to strike the Called and Failed for the Defendant's failure to appear before said Superior Court Judge on _____ in the above case. In support of the Motion, the Defendant failed to appear for the following good cause:</p> <p>_____</p> <p>Judge who issued OFA? _____</p> <p>Has there been a previous OFA stricken? _____</p> <p>Has the case been dismissed with leave? _____</p> <p><i>By signing this form, Attorney certifies they are making a general appearance in the case.</i></p>			
<i>Date</i>	<i>Name of Defendant or Defendant's Attorney</i>	<i>Signature of Defendant or Defendant's Attorney</i>	<i>Contact Number</i>
<p>STATE'S POSITION</p>			
<p>State: <input type="checkbox"/> Consents <input type="checkbox"/> Does Not Consent <input type="checkbox"/> Takes No Position</p>		<i>Date</i>	<i>Name of Prosecutor</i>
		<i>Signature of Prosecutor</i>	
<p>ORDER</p>			
<p>THE COURT, FINDING that the Defendant has shown good cause, IT IS THEREFORE ORDERED that the Called and Failed be stricken, any resulting Order for Arrest recalled, and any resulting Order of Forfeiture be stricken, and that this case be rescheduled to Superior Court on _____</p> <p><input type="checkbox"/> Motion Denied. <input type="checkbox"/> Other: _____ <input type="checkbox"/> FTA Sent in Error</p>			
<i>Date</i>	<i>Name of Presiding Judge</i>	<i>Signature of Presiding Judge</i>	