

FILED

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

2015 AUG 26 PM 3:10

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 15-CRS-156

RUTHERFORD COUNTY, C.S.C.

STATE OF NORTH CAROLINA, )

Plaintiff,)

vs.)

ADAM CHRISTOPHER BARTLEY,)

Defendant.)

**NOTICE OF WITHDRAWAL OF
MOTION TO REVOKE BOND**

G.S. §15A-534(f)

NOW COMES the State of North Carolina, by and through the undersigned Assistant District Attorney, and gives Notice to the Court pursuant to N.C. Gen. Stat. §15A-534(f) of the withdrawal of the State's Motion to revoke the above-named defendant's bond that was previously filed in this cause. As to this, the State says the following:

1. On August 25, 2015, the District Attorney's Office filed a Motion to revoke the defendants' bond in this action. This Motion was filed by the undersigned Assistant District Attorney and service was obtained on the defendant via First Class Mail as permitted by Chapter 15A of the North Carolina General Statutes.
2. In addition to service via the United States Postal Service and as a professional courtesy, this document was also transmitted to defense counsel via facsimile transmission and a follow-up telephone call was made by the District Attorney's Office to defense counsel, Mr. Robert K. Denton.
3. Prior to the filing of the State's Motion seeking to revoke the defendant's bond, the undersigned Assistant District Attorney attempted to speak with defense counsel about the matter by telephone. The attempt to confer with defense counsel was unsuccessful and no return call was ever received from Mr. Denton and no follow-up letter was received either.
4. The undersigned Assistant District Attorney had planned for some time to address the defendant's bond situation in light of the defendant's new

criminal charges in Union County which occurred after the setting of the initial bond in the instant offenses.

5. As indicated in the hearing on the State's Motion to Disqualify Counsel, the undersigned Assistant District Attorney duly believed that the lawyers who have been disqualified by Order of the Court had a non-waivable conflict of interest and, because of this, delayed presenting a plea offer to the defendant.
6. Not only did the undersigned Assistant District Attorney delay presenting a plea offer to the defendant, the undersigned also delayed addressing the defendant's bond situation until the conflict of interest on the part of defense counsel was resolved. The undersigned duly believed that it would have been manifestly unfair to the defendant to address the bond issue with his counsel laboring under an obvious legal disability, that disability being a conflict of interest.
7. On August 3, 2015, Mr. Denton entered a formal general appearance on behalf of the defendant in this case and his appearance was noted by the Court.
8. The appearance of Mr. Denton as defense counsel resolved the conflict of interest disability as far as the undersigned was concerned and, at that point, the bond issue became ripe to be addressed by the State. Thus, telephone contact was attempted with defense counsel and, when that failed, a formal motion was filed of record.
9. On Tuesday, August 25, 2015, the District Attorney's Office received a letter from Mr. Robert K. Denton, counsel for the defendant, by facsimile. A copy of this letter is attached hereto as "State's Exhibit 1."
10. In this letter, Mr. Denton accuses the undersigned of filing the Motion to Revoke Bond in this matter as retaliation for the defendant rejecting the State's plea offer. This is absolutely not true.
11. The District Attorney's Office first learned that the defendant was rejecting the State's plea offer in the letter from Mr. Denton which is attached as "Exhibit 1."
12. Prior to this time, the District Attorney's Office had received no written communication from Mr. Denton on behalf of the defendant.

13. The lawyers who have been disqualified to act for the defendant did indeed attach to their Motion for Reconsideration a purported rejection of the State's plea offer. However, the State did not believe this rejection to be valid because the signature of Mr. Denton appeared nowhere in any of the documents that disqualified counsel filed, including the purported rejection and the disqualified lawyers had an obvious conflict of interest in advising the defendant of his proper course of action.

14. In fact, the State would not have expected Mr. Denton to have rejected or accepted the State's offer because, as he stated in his letter:

“As you know, I do not even have discovery
in this case.”

15. The State fully expected that Mr. Denton would need to review the discovery and to see the evidence that the State has in the case before he could properly advise his client on whether he should accept or reject the State's plea offer.

16. Mr. Denton, by his letter, has now informed the State that, despite the fact that he himself knows that he does “not even have discovery in this case,” he has advised his client to reject the State's plea offer without having seen any discovery whatsoever.

17. The District Attorney's Office duly believed that defense counsel would need to: (1) review the discovery; (2) meet with his client and discuss the information; (4) conduct his own investigation on behalf of the defendant; before he could effectively (5) advise his client on a course of action in regards to the State's plea offer.

18. The State fully expected this process to take some period of time as discovery is ongoing in this case and Mr. Denton is new to the case.

19. The undersigned was at all times fully intending upon addressing the defendant's bond status once the conflict of interest issue was resolved and, in fact, that was what the State's Motion to Revoke Bond was done to accomplish.

20. However, the State now gives notice of its withdrawal of the Motion to Revoke Bond, not because anything was done improperly as Mr. Denton

suggests, but because of new information that has become known by the undersigned Assistant District Attorney.

21. After receiving Mr. Denton's letter, the undersigned met and conferred with the elected District Attorney, Mr. Ted Bell. In the meeting, Mr. Bell informed the undersigned that because the re-indictments were to correct procedural errors but did not change the substantive charges, he informed the Court at that time that the original conditions of pre-trial release should remain in effect. The undersigned was not in court at the time of this hearing, was not assigned to prosecute this case until approximately three months later, and was not aware of this information when the Motion to Revoke Bond was prepared and filed. Had this information been known by the undersigned, then this action would obviously not have been taken.

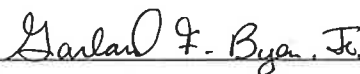
22. However, the State reserves the right to bring the issue of the defendant's pretrial release restrictions before the Court as permitted by Chapter 15A of the North Carolina General Statutes and affirmatively asserts that an offer of plea to a defendant in no way waives the State's right to do so in this or any other case.

WHEREFORE, the State of North Carolina hereby withdraws the Motion to Revoke Bond heretofore filed in this action and specifically reserves the right to address the issue at a later time upon proper notice.

This the 26th day of August, 2015.

Respectfully submitted,

FOR THE STATE:


GARLAND F. BYERS, JR.
Assistant District Attorney
N.C. State District Attorney's Office
Rutherford County
P.O. Box 70
Rutherfordton, North Carolina 28139
Telephone: (828) 288-6110
Facsimile: (828) 288-6111
Email: Garland.F.Byers@nccourts.org

CERTIFICATE OF SERVICE

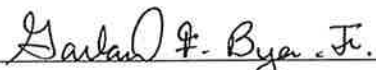
This is to certify that I have this day served Robert K. Denton, P.O. Drawer 1269, Morganton, NC 28680-1269, counsel for Adam Christopher Bartley, in the foregoing matter with a copy of the attached document by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon in the manner prescribed by Chapter 15A of the North Carolina General Statutes.

This is to certify that I have also this day served Robert K. Denton, counsel for Adam Christopher Bartley, in the foregoing matter with a copy of the attached document by telefacsimile transmittal to his office at 828-438-4517.

This the 26th day of August, 2015.

Respectfully submitted,

FOR THE STATE:


GARLAND F. BYERS, JR.
Assistant District Attorney
N.C. State District Attorney's Office
Rutherford County
P.O. Box 70
Rutherfordton, North Carolina 28139
Telephone: (828) 288-6110
Facsimile: (828) 288-6111
Email: Garland.F.Byers@nccourts.org