**27-6A-3(e)**

**Post hearing finding of not competent to stand**

**trial; not likely to regain competency, crime**

**did not involve violence against a person.**

**IN THE CIRCUIT COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, WEST VIRGINIA**

**State of West Virginia,**

**v. Case No.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,**

 **Defendant**

**COURT ORDER ON DEFENDANT’S**

**COMPETENCY TO STAND TRIAL WHO IS CHARGED WITH A CRIME THAT DOES NOT INVOLVE AN ACT OF VIOLENCE AGAINST A PERSON**

 On the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ came the State of West Virginia by and through its counsel, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Assistant Prosecuting Attorney, and the Defendant, by and through his/her counsel, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, for a hearing on Defendant’s competency to stand trial as defined by W.Va. Code §27-6A-1(a)(2).

 Having reviewed the reports from the forensic examinations, heard arguments of counsel and reviewed the evidence and testimony presented, the Court **FINDS** by a preponderance of the evidence that Defendant is not competent to stand trial because Defendant does not exhibit a sufficient present capability to consult with his or her lawyer with a reasonable degree of rational understanding, including a rational understanding and factual understanding of the procedure and charges against him or her as defined by W.Va. Code §27-6A-1(a)(2).

 The Court further **FINDS** that Defendant has received competency restoration services as defined by W.Va. Code §27-6A-1(a)(1) for the lesser of 180 days or the maximum sentence the Defendant could serve, if convicted of the offense, in accordance with W.Va. Code §27-6A-3(e). This Court further **FINDS** that Defendant is not substantially likely to attain competency and that the indictments or charges against the Defendant do not involve an act of violence against a person.

 Therefore, pursuant to W. Va. Code § 27-6A-3(e), this Court hereby **ORDERS** that the criminal charges against the Defendant be dismissed without prejudice. The Court further **ORDERS** that the Defendant shall be released upon the following conditions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Court further **ORDERS** that this discharge order shall be stayed for twenty days to allow the prosecutor to commence civil commitment proceedings pursuant to W.Va. Code §27-5-1 *et seq.*, and that Defendant shall be thereafter released from his or her current inpatient facility upon the conditions outlined in this Order unless otherwise civilly committed.

 The Court **ORDERS** the Clerk of this Court to forward copies of this Order to the parties in this matter and Forensic Services via facsimile 304/269-1542 or email forensicservices@wv.gov

Entered this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Assistant Prosecuting Attorney

Address

Telephone and Fax

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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