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

**Post hearing finding of not**

**competent to stand trial; not**

 **likely to regain competency,**

**crime involves act of violence**

**against a person Defendant is**

**a danger to self or/ others**

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

**State of West Virginia,**

**v. Case No.**

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

 **Defendant.**

**COURT’S FINDING ON DEFENDANT’S**

**COMPETENCY TO STAND TRIAL**

 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.

 Having reviewed the report(s) from the forensic examination(s) and heard arguments of counsel and the evidence presented, this Court FINDS that defendant is not competent to stand trial because he/she does not exhibit sufficient present ability to consult with his/her lawyer with a reasonable degree of rational understanding and a rational as well as a factual understanding of the proceedings against him/her.

 This Court further FINDS that the Defendant is not substantially likely to attain competency and that indictment against the defendant does involve an act of violence against a person.

 This Court hereby **ORDERS** the defendant be committed to mental health inpatient or outpatient facility as designated by the West Virginia Department of Health and Human Resources, which is the least restrictive environment available to manage the defendant and allow for the protection to the public.

 This Court finds that the Defendant would have been convicted of the following offenses but for the determination that he/she is not competent to stand trial, and the court finds that the maximum sentence he/she would have received is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 This Court further FINDS that it maintains jurisdiction over the defendant for (no. of years), the maximum possible sentence defendant would have received if he/she had been convicted of the crime(s) charges, or until the defendant regains competency and the criminal charges reach resolution whichever is sooner. The end date of the maximum sentence period is \_\_\_\_\_\_\_, 20\_\_, and the Court’s jurisdiction is extended thereafter by 10 days to allow the prosecuting attorney to institute civil commitment proceedings under Article 5 of Chapter 27 of the West Virginia Code. Thereafter the defendant shall be released from the facility if not first civilly committed.

The Court orders a qualified forensic evaluator to conduct a dangerousness evaluation including dangerousness risk factors within thirty days of admission of the defendant to the mental health facility and to render a report to the court within ten business days of completing the evaluation.

 The medical director of the mental health facility shall submit an annual summary report of defendant’s condition during the time of the Court’s jurisdiction. The attorney for the State is ORDERED to contact the Statewide Forensic Coordinator to coordinate defendant’s arrival with the hospital’s ability to admit defendant. If defendant cannot immediately be admitted into the facility, the defendant shall continue any medically appropriate psychiatric and psychological treatment ordered by mental health facility or physician while in jail or other appropriate location pending further order of the Court.

 The Court further **ORDERS** that attorney for the State shall ensure the following information is sent with defendant when he is admitted to the mental health facility:

(1) A copy of the warrant or indictment;

 (2) Information pertaining to the alleged crime, including statements by the defendant made to the police, investigative reports and transcripts of preliminary hearings, if any;

 (3) Any available psychiatric, psychological, medical or social records that are considered relevant;

 (4) A copy of the defendant's criminal record; and

 The Court further **ORDERS** the Sheriff or the Regional Jail to transport defendant to the mental health facility only after receipt of notification that it is able to admit defendant. The Sheriff shall ensure that defendant’s arrival at the facility takes place between the hours of 9:00 a.m. and 3:00 p.m. Monday through Friday.

 The Court ORDERS the Clerk of this Court to forward copies of this Order to the attorneys of record in this matter and Statewide Forensic Coordinator, William R. Sharpe, Jr. Hospital 936 Sharpe Hospital Road Weston, WV 26452-8550.

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

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

 Judge

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

Assistant Prosecuting Attorney

Address

Telephone and Fax

Bar ID #

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

Counsel for Defendant

Address

Telephone and Fax

Bar ID #