27-6A-4 NGRMI Outpatient DRA

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

**State of West Virginia,**

**v. Case No.**

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

**Defendant.**

**COURT ORDER FINDING THAT DEFENDANT IS**

**NOT GUILTY BY REASON OF MENTAL ILLNESS**

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 to determine whether Defendant is not criminally responsible for the crimes charged.

 Based on the evidence presented herein, including the reports from the qualified forensic evaluator and the agreement of the parties, the Court finds that the Defendant is not guilty by reason of mental illness and the Court hereby enters judgment against the Defendant of not guilty by reason of mental illness.

The Court finds that the Defendant could otherwise have been convicted of the following offenses: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Court further finds that the maximum sentence he/she would have received for those offenses is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The end date of the maximum sentence period he/she could have received is \_\_\_\_\_\_\_, 20\_\_, and the Defendant shall remain under the Court’s jurisdiction until such end date. The Court further **ORDERS** that the Defendant shall be committed to the custody of DHHR, and will receive a Dangerousness Risk Assessment in an outpatient setting in accordance with W.Va. Code §27-6A-4(g).

 The Court further **ORDERS** the Defendant’s counsel to contact a qualified forensic evaluator to conduct a Dangerousness Risk Assessment of the Defendant. The Defendant shall continue any medically appropriate psychiatric and psychological treatment currently ordered by his medical and mental health provider/s pending further order of the court.

 This Court further **ORDERS** that the prosecutor and defense attorney shall ensure that the following information is sent to the qualified forensic evaluator prior to the Dangerousness Risk Assessment:

(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.

 The Court further **ORDERS** that the qualified forensic evaluator shall conduct a Dangerousness Risk Assessment of the Defendant within thirty days of the entry of this Order and a completed copy of the qualified forensic evaluator’s report shall be provided to the Court, prosecuting attorney, the Defendant’s attorney, and Forensic Services within ten business days after the evaluation is completed. Pursuant to W.Va. Code §27-6A-5(b), the Dangerousness Risk Assessment shall address at least the following factors:

1. The extent to which the Defendant has mental illness or an intellectual disability and whether the Defendant’s mental illness or serious emotional disturbance is in remission;

2. The likelihood that the Defendant will engage in conduct presenting a substantial risk of bodily harm to other persons or to himself or herself in the foreseeable future;

3. The likelihood that the Defendant can be adequately controlled with supervision and treatment on an outpatient basis;

4. Whether the Defendant is likely to participate in outpatient treatment with a legal obligation to do so;

5. Whether the Defendant is not likely to participate in outpatient treatment unless legally obligated to do so;

6. Whether the Defendant is a danger to self or others; and

7. Whether the Defendant’s outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

The Court further **ORDERS** that the qualified forensic evaluator as part of the Dangerousness Risk Assessment shall make a recommendation regarding treatment and supervision needs as a part of the Defendant’s conditional release.

Upon receipt of the qualified forensic evaluator’s report and recommendations, the Court will schedule a hearing to consider the conditions for the release, if any, of the Defendant, the less restrictive placement of the Defendant, and/or the referral of the Defendant’s potential release and/or placement to the Dangerousness Assessment Advisory Board in accordance with W.Va. Code 27-6A-13.

 The Court **ORDERS** the Clerk of the 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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