

27-6A-2(e); 27-6A-4(d)  
15-day admission for  
examination

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

**State of West Virginia,**

**v.**

**Case No.:**

\_\_\_\_\_ ,

**Defendant**

**ORDER FOR 15-DAY MENTAL HEALTH FACILITY EXAMINATION  
TO DETERMINE COMPETENCY OR CRIMINAL RESPONSIBILITY OR BOTH**

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 or her counsel \_\_\_\_\_, pursuant to the motion of \_\_\_\_\_.

The Defendant underwent an initial forensic examination pursuant to the provisions of W. Va. Code § 27-6A-2(a).

Having reviewed the Report from the Qualified Forensic Evaluator and heard arguments of counsel and any evidence presented, the Court **FINDS** that

1. \_\_\_\_\_: The Defendant has been uncooperative during the forensic evaluation or

2. \_\_\_\_\_: One or more inadequate or conflicting forensic evaluations have been performed and the Court finds there is reason to believe that further observation and examination are necessary in order to determine whether Defendant is competent to stand trial or is not criminally responsible for the crime or crimes with which he or she has been charged or both.

Therefore, in accordance with [W. Va. Code § 27-6A-2(e) or 27-6A-4(d)], the Court hereby **ORDERS** the Defendant be admitted to a Mental Health Facility designated by the West Virginia Department of Health and Human Resources, for a period not to exceed fifteen days.

The Court further **ORDERS** that the attorney for the State contact the West Virginia Department of Health and Human Resources' Office of Health Facilities Statewide Forensic Coordinator at 304-269-1210 to coordinate Defendant's arrival with the Facility's ability to admit defendant.

The Court further **ORDERS** that counsel of record for the 1) State and 2) Defendant shall ensure that any information relevant to the evaluations is sent to the Mental Health Facility with Defendant, including:

- (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

(5) If the evaluations are to include a diminished capacity assessment, the nature of any lesser included criminal offenses.

The Court further **ORDERS** that counsel for the Defendant shall meet with Defendant and Defendant's family and friends and prepare a list of mental health facilities and professionals from which Defendant has received treatment and forward that list to the Mental Health Facility prior to Defendant's examination.

The Court **ORDERS** that the Mental Health Facility may release this order to other mental health facilities and professionals for the purpose of obtaining Defendant's mental health records. The Court **FINDS** that any mental health records requested by the Mental Health Facility are sufficiently relevant to the proceeding before the Court to outweigh the importance of maintaining the confidentiality thereof in accordance with W. Va. Code § 27-3-1(b)(2). The Court further **FINDS** that good cause exists such that the public interest and the need for disclosure outweighs the injury to the patient, to the patient-physician relationship and to the treatment services pursuant to 42 U.S.C.A. § 290dd-2 and 42 C.F.R. Part 2.

Therefore, the Court further **ORDERS** all facilities presented with this order to release the Defendant's mental health records to the Mental Health Facility which shall use them specifically for completing the examination ordered herein.

The Court further **ORDERS** the Sheriff of \_\_\_\_\_ County or the Regional Jail to transport Defendant to the Mental Health Facility only after receipt of notification that the Facility is able to admit Defendant. The Sheriff or Regional Jail

shall ensure that Defendant's arrival at the Mental Health Facility takes place between the hours of 9 a.m. and 3 p.m., Monday through Friday. The Sheriff or Regional Jail shall forthwith transport Defendant from the Mental Health Facility to the County or regional jail or other place authorized by the Court upon receipt of notification from the Mental Health Facility that Defendant's observation and examination are complete.

The Court further **ORDERS** the Department of Health and Human Resources' Office of Health Facilities, within ten business days after the completion of the examination, to forward to the Court the written report of the findings of its designated Qualified Forensic Evaluator, in triplicate, and that the Clerk of this Court distribute that report to the parties of record.

The Court further **ORDERS** the Clerk of the Court to forward copies of this Order to the parties in this matter.

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

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Assistant Prosecuting Attorney  
Address  
Telephone and Fax  
WV State Bar ID #

\_\_\_\_\_  
Counsel for Defendant State Bar ID #  
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