

27-6A-3(d)

Post hearing finding of incompetent to stand trial; likely to regain competency

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia,

v.

Case No.

_____,
Defendant.

**COURT'S ORDER ON DEFENDANT'S
COMPETENCY TO STAND TRIAL**

Based upon the evidence adduced at the hearing held on _____,
20____, this Court, pursuant to W.Va. Code §27-6A-3(d), **FINDS** that Defendant is not
competent to stand trial as defined by W.Va. Code §27-6A-1(a)(2). The Court further
FINDS that there is a substantial likelihood that defendant will attain competency
within the next ensuing 90 days and that in order for defendant to attain
competency, he/she should be committed to inpatient/outpatient facility for
competency restoration as defined by W.Va. Code §27-6A-1(a)(1).

Therefore, pursuant to W. Va. Code § 27-6A-3(d), the Court **ORDERS** that
defendant be committed to inpatient or outpatient mental health facility for an
improvement period not to exceed 90 days and further **ORDERS** the inpatient or
outpatient mental health facility to provide competency restoration services to the
defendant.

At the end of this improvement period or when this Court receives notification from the mental health facility that defendant has attained competency, whichever comes first, this Court will proceed to hearing and cause this Court's finding of defendant's competency to stand trial to be reviewed.

Therefore, the Court hereby **ORDERS** the defendant to be committed to an inpatient or outpatient mental health facility for up to 90 days for a competency improvement period. The defendant's counsel is **ORDERED** to contact the mental health facility or program to coordinate defendant's arrival with the facility's ability to admit defendant.

This Court further **ORDERS** that the prosecuting attorney or defense counsel shall ensure the following information is sent with the defendant when he/she is admitted to the mental health facility but no later than two days after the entry of this Order:

- (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.

This 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 mental health facility is able to admit defendant. If the mental health facility is unable to immediately admit the defendant, 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 Sheriff or Regional Jail shall ensure that the defendant's arrival at the mental health facility takes place from Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m. The Sheriff or Regional Jail shall forthwith transport defendant from the mental health facility to that Regional Jail or other appropriate mental health facility after defendant's improvement period has terminated or when the Sheriff or Regional Jail is notified by the Clinical Director of the mental health facility that a finding of competency has been issued.

The Court **ORDERS** the Clerk of this 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

Counsel for Defendant
Address
Telephone and Fax