

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.

Entered this _____ day of _____, 20__.

Judge

Assistant Prosecuting Attorney
Address
Telephone and Fax

Counsel for Defendant
Address
Telephone and Fax