

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's jurisdiction shall be extended thereafter by 10 days to allow the prosecuting attorney to institute civil commitment proceedings against the Defendant pursuant to W.Va. Code §27-5-1 *et seq.* Thereafter, the Defendant shall be released unless otherwise civilly committed.

The Court further **ORDERS** that the Defendant shall be committed to {Name}, an outpatient mental health facility or outpatient mental health provider, for an outpatient evaluation in accordance with W.Va. Code §27-6A-4(g).

The Court further **ORDERS** the Defendant's counsel to contact mental health facility or outpatient mental health provider to coordinate the outpatient evaluation of the Defendant. The Defendant shall continue any medically appropriate psychiatric and psychological treatment currently ordered by his psychologist or physician pending further order of the court.

This Court further **ORDERS** that prosecutor and defense attorney shall ensure that the following information is sent with Defendant or provided to the outpatient mental health facility or outpatient mental health provider when he is admitted to the outpatient mental health facility or outpatient mental health provider for his outpatient evaluation:

(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 a qualified forensic evaluator at the outpatient mental health center or outpatient mental health provider shall conduct a dangerousness evaluation 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 the comprehensive mental health center designated by the Department of Health and Human Resources within ten business days after the evaluation is completed. Pursuant to W.Va. Code §27-6A-5(b), the dangerousness evaluation 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 evaluation shall make a recommendation regarding the Defendant's conditional release or release without conditions.

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 Review 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.

Entered this _____ day of _____, 20__.

Judge

Assistant Prosecuting Attorney
Address
Telephone and Fax

Counsel for Defendant
Address
Telephone and Fax