

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

ADMINISTRATIVE ORDER NO. A-2014- 28

**ADMINISTRATIVE ORDER ESTABLISHING UNIFORM ORDERS
FOR MENTAL EVALUATIONS**

WHEREAS, there is much confusion regarding the proper appointment of expert; and

WHEREAS, there is much confusion regarding payment of certain evaluations and which evaluations are to be paid using local, due process funds; and

WHEREAS, there is a need for uniformity in the form Orders used to appoint experts to perform certain enumerated evaluations throughout this Fifth Circuit; and

THEREFORE, in accordance with Florida Rule of Judicial Administration 2.215 (b) (2); it is

THEREFORE ORDERED: The following Orders must be entered using the form orders attached hereto:

1. Appointment of an expert to determine defendant's competency to proceed to trial.
2. Appoint of an expert to determine developmental disability/autism.
3. Order compensating the Guardianship Committee (an order declaring the Ward indigent must be in the file or entered contemporaneous with this Order).

13 **DONE AND ORDERED** in Chambers at Tavares, Lake County, Florida this day of June, 2014.



DON F. BRIGGS
CHIEF JUDGE

IN THE _____ COURT OF THE
FIFTH JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

CASE NO.

STATE OF FLORIDA

v.

Defendant
_____ /

ORDER APPOINTING EXPERT FOR COMPETENCY EVALUATION

THIS CAUSE having come on to be heard before this Court, and the competency of the Defendant to proceed at any material stage of criminal proceeding, to wit:

- _____ the trial of this case
- _____ pre-trial hearings
- _____ entry of a plea
- _____ violation of probation or community control proceedings
- _____ sentencing
- _____ hearings on issues regarding a defendant's failure to comply with court orders or conditions
- _____ other matters where the mental competence of the defendant is necessary, having been raised in accordance with the provisions of Rules 3.210 and Section 916.115, Florida Statutes; and, further, the court having reasonable grounds to question the Defendant's competence to proceed, it is **ORDERED AND ADJUDGED** as follows:

1. The following individual(s) is/are hereby appointed as an expert(s) to examine the Defendant in accordance with the requirements of this Order:

2. Each expert appointed in Paragraph 1. above, shall examine the Defendant in accordance with the provisions of Rules 3.210, and 3.211 of the Florida Rules of Criminal Procedure and report relative to the following issues:
 - a) Whether the Defendant is competent to proceed for the purpose indicated above, pursuant to the criteria set forth in section 916.12 Florida Statutes and Rules 3.210, and 3.211 of the Florida Rules of Criminal Procedure; that is, whether the Defendant has sufficient present ability to consult with his/her lawyer with a reasonable degree of rational understanding and whether he/she has a rational, as well as factual, understanding of the proceedings against him/her. In considering the issue of the Defendant's competence to proceed, said experts shall consider and include in their report the following factors and any others deemed relevant by the experts:

The Defendant's capacity to:

- (1) Appreciate the charges or allegations against him or her;
 - (2) Appreciate the range and nature of possible penalties, if applicable, which may be imposed in the proceedings against him or her;
 - (3) Understand the adversarial nature of the legal process;
 - (4) Disclose to his or her attorney facts pertinent to the proceedings at issue;
 - (5) Manifest appropriate courtroom behavior;
 - (6) Testify relevantly; and
 - (7) Any other factors deemed relevant by the expert;
- b) If the expert finds the Defendant is incompetent to proceed, then the expert shall report on any recommended treatment for the Defendant to attain competence to proceed.
3. In considering the issues relating to treatment, each examining expert shall report on the following factors:
- (a) Any mental illness or problem causing the incompetence;
 - (b) The treatment or treatments appropriate for the mental illness of the Defendant, and an explanation of each of the possible treatment alternatives in order of choices;
 - (c) The availability of acceptable treatment. If treatment is available in the community, the expert shall so state in the report;
 - (d) The necessity or advisability of involuntary hospitalization or placement;
 - (e) The likelihood of the Defendant attaining competence under the treatment recommended, an assessment of the probable duration of the treatment required to restore competence, and the probability that the Defendant will attain competence to proceed in the foreseeable future.
4. Any written report submitted by the expert shall contain the following:
- (a) The report shall identify the specific matters referred for evaluation;
 - (b) The report shall describe the evaluative procedures, techniques and tests used in the examination and the purpose or purposes for each;
 - (c) The report shall describe the expert's clinical observations, findings and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the expert could not give an opinion; and

- (d) The report shall identify the sources of information used by the expert and present the factual basis for the expert's clinical findings and opinions.
5. The expert appointed above shall submit his or her written report directly to this Court, with copies to the Attorney for the State and the Attorney for the Defendant, on or before the _____ day of _____, 2015.
6. The Office of the State Courts Administrator shall pay the fees of each expert appointed above upon the submission of a Statement for Payment and in accordance with the terms and amount set forth in Administrative Order A2008-41-A. **However, if any expert appointed herein also evaluates the Defendant for sanity or mitigation purposes, the billing for that purpose shall be separate and sent to the requesting party, and not to the Office of the State Courts Administrator.**

DONE AND ORDERED at _____, _____ County, Florida, this _____ day of _____, 2015.

 _____ JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via US mail and/or inter-office mail delivery to the following individuals on this _____ day of _____, 2014:

 JUDICIAL ASSISTANT/DEPUTY CLERK

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL
CIRCUIT IN AND FOR _____ COUNTY,
FLORIDA

STATE OF FLORIDA

vs.

CASE NO.:

Defendant.

ORDER TO DETERMINE INTELLECTUAL DISABILITY OR AUTISM

It having been made known to the Court in accordance with the provisions of s.916.301(2), Fla. Stat., and Rule 3.210, Fla. R. Crim. P., and the Court finding that reasonable grounds exist to believe that the above named defendant meets the definition of "intellectual disability" in S.916.106(13), Fla. Stat., or "autism" in s.916.106(2), Fla. Stat., and that the defendant may be incompetent to proceed with any material stage of the judicial proceeding, and that an evaluation should be scheduled to determine whether the defendant meets the definition of "intellectual disability" in s.916.106(13), Fla. Stat, or "autism" in s.916.106(2), Fla. Stat, and to determine whether the defendant's intellectual disability or autism renders the defendant incompetent to proceed, it is

ADJUDGED:

1. That all proceedings in this case are now stayed, pending further order of this Court.
2. That, because the defendant is suspected of being intellectually disabled or autistic, the Agency for Persons with Disabilities is hereby appointed, pursuant to s.916.301(2), Fla. Stat. The Agency shall select a psychologist who is licensed or authorized by law to practice in this state, with experience in evaluating persons suspected of having intellectual disability or autism, and a social service professional, with experience in working with persons with intellectual disability or autism to examine and evaluate the defendant to determine if the defendant meets the definition of intellectual disability found in s.916.106(13), Fla. Stat or autism found in s.916.106(2), Fla. Stat. If the defendant does not meet the definition of intellectual disability found in s.916.106(15), Fla. Stat, or autism found in s.916.106(2), Fla. Stat, the Court will be so advised in writing, stating the reasons and recommending other appropriate experts or evaluations to examine the defendant's condition.

Recommendations for the defendant may be given when these have been discovered through examination of the defendant.

3. That, if the defendant meets the definition of intellectual disability found in s.916.106(13), Fla. Stat, or autism found in s.916.106(2), Fla. Stat., the Agency for Persons with Disabilities will further examine the defendant in accordance with the provisions of s.916.3012(2), Fla. Stat, and Rule 3.211, Fla. R. Crim. P., to determine:

A. Whether the defendant is competent to proceed for the purpose indicated above, that is, whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational, as well as factual, understanding of the proceedings against him. In considering the issue of the defendant's competence to proceed, the Agency for Persons with Disabilities shall consider and include in the report the following factors and any others deemed relevant by the Agency for Persons with Disabilities concerning the defendant's capacity to:

- [1] Appreciate the charges or allegations against him;
- [2] Appreciate the range and nature of possible penalties, if applicable, which may be imposed in the proceedings against him;
- [3] Understand the adversary nature of the legal process;
- [4] Disclose to his attorney facts pertinent to the proceedings at issue;
- [5] Manifest appropriate courtroom behavior; and
- [6] Testify relevantly.

The experts may also consider any other factors deemed relevant which reflect upon the defendant's ability to participate in the case.

B. If the Agency for Persons with Disabilities should find the defendant is intellectually disabled or autistic and incompetent to proceed, then the Agency for Persons with Disabilities shall report on any recommended training for the defendant to attain competence to proceed. In considering the issues relating to training for the defendant to attain competence to proceed, the examining experts used by the Agency for Persons with Disabilities shall report on the

following factors:

[1] The nature and extent of the defendant's intellectual disability or autism causing the incompetence;

[2] The training appropriate for the intellectual disability or autism of the defendant, and an explanation of each of the possible training alternatives in order of choices;

[3] The availability of acceptable training. If training is available in the community, the Agency for Persons with Disabilities shall so state in the report; and

[4] The likelihood of the defendant attaining competence under the training recommended, an assessment of the probable duration of the training required to restore competence, and the probability that the defendant will attain competence to proceed in the foreseeable future.

C. If the Agency for Persons with Disabilities should find the defendant is incompetent to proceed, the Agency for Persons with Disabilities shall report on whether the defendant is intellectually disabled or autistic and because of the intellectual disability or autism:

[1] Whether the defendant is manifestly incapable of surviving with the help of willing and responsible family or friends, and without training the defendant is likely to suffer from neglect or refuse to care for self, and such neglect or refusal poses a real threat of substantial harm to the defendant's well-being;

[2] Whether there is a substantial likelihood that in the near future the defendant will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

[3] Whether the defendant requires a secure placement due to the defendant's risk to escape from a facility and whether there are available less-restrictive alternatives, including training in community residential facilities or other community settings, which might offer an opportunity for improvement of the defendant's condition which have been judged to be inappropriate.

D. Any written report submitted by the Agency for Persons with Disabilities shall:

- [1] Identify the specific matters referred for evaluation.
- [2] Describe the evaluative procedures, techniques and tests used in the examination and the purpose or purposes for each.
- [3] State the expert's clinical observations, findings and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the expert could not give an opinion.
- [4] Identify the sources of information used by the expert and present the factual basis for the expert's clinical findings and opinions.

4. Experts appointed by the court to evaluate the mental condition of this defendant in accordance with the terms of this Order shall be allowed reasonable fees for services rendered as evaluators and/or witnesses, which shall be paid by Court Administration.

5. The appointees identified under paragraph 1 of this Order shall submit their written reports directly to this Court with copies to the Attorney for the State and the Attorney for the Defendant on or before the _____ day of _____, 201____.

6. This cause is scheduled for a hearing on the issue of the defendant's competency to proceed at o'clock _____ .m. on the _____ day of _____, 201_ .

DONE AND ORDERED at _____, _____ County, Florida, this day of _____, 201_.

COURT JUDGE

Copies furnished to:

State Attorney
Attorney for the Defendant
Attorney for Agency for Persons with Disabilities

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

CASE NO:

PROBATE DIVISION

RE: GUARDIANSHIP OF

An alleged incapacitated person.

_____ /

ORDER COMPENSATING GUARDIANSHIP EXAMINING COMMITTEE

On the Petition to Determine Incapacity with respect to _____, the Court having appointed a guardianship examining committee as required by Florida Statutes Section 744.31, the Court finds that the members of the guardianship examining committee having performed the required services and rendered the report for which they were appointed, and finds that they are entitled to receive reasonable compensation for their services.

IT IS HEREBY ORDERED AND ADJUDGED that the members of the of guardianship examining committee are hereby awarded, as reasonable compensation for their services, the respective amounts set forth below for each their names listed below, which shall be paid by the Office of the State Court Administrator.

(Vendor) _____	\$ _____
(Vendor) _____	\$ _____
(Vendor) _____	\$ _____

DONE AND ORDERED in _____, _____ County, Florida on this _____ day of _____, 2014.

CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail/Courthouse mail to (1) Office of the Court Administrator, Todd J. Tuzzolino, Chief Deputy Court Administrator, Marion County Judicial Center, 110 NW 1st Avenue Room 585 Ocala, FL 34475 and (2)

On this _____ day of _____, 2014.

By: