

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

STATE OF FLORIDA

CASE NO. [case number]

vs.

[Defendant's Name],

Defendant.

_____ /

**ORDER ADJUDGING DEFENDANT INCOMPETENT TO PROCEED AND
COMMITMENT TO DEPARTMENT OF CHILDREN AND FAMILIES**

THIS CAUSE having come to be heard before the Court, and the questions of the competency of the Defendant in this cause to proceed having been raised in accordance with the provisions of Rule 3.210(b), Fla.R.Crim.P., the Court, pursuant to Section 916.115, Florida Statutes, and Rule 3.210(b), Fla.R.Crim.P., appointed [name of doctor that conducted evaluation]. to examine the Defendant and to report to the Court on whether the Defendant is competent to proceed and, if not, report on any recommended treatment for the defendant to attain competence to proceed. The Court having received:

 X the written reports

_____ the oral testimony

_____ both written reports and oral testimony

of the above-named experts and others in relation to the issue of the Defendant's competency to proceed and need for treatment, the court hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACTS

Please see the attached written Trial Competency Evaluation conducted on [date examination conducted], by [name of doctor.] for the Findings of Facts.

CONCLUSIONS OF LAW

A. The Defendant is incompetent to proceed due to the Defendant's mental illness as defined in Section 916.106(11) and 916.106(14), Florida Statutes.

B. The Defendant is incompetent to proceed with:

Pre-Trial Hearings

Entry of a Plea

the Trial of the case

Sentencing

Violation of Probation or Community Control proceedings

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, i.e. _____

C. The Defendant, who is incompetent to proceed, is presently charged with a felony.

D. The Defendant meets the criteria for involuntary placement with the Department of Children and Families as provided in Section 916.13(1), Florida Statutes. to wit

(1) The Defendant is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, the Defendant is likely to suffer from neglect or refuse to care for himself and such neglect or refusal poses a real and present threat of substantial harm to the Defendant's well-being; and,

(2) There is a substantial likelihood that in the near future the Defendant will inflict

serious bodily harm on himself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.

E. There are no appropriate, less restrictive alternatives, including treatment in community residential facilities or community settings, which would offer an opportunity for improvement of the Defendant's condition, which are appropriate.

F. There is a substantial probability that the mental illness causing the Defendant's incompetence will respond to treatment and the Defendant will regain competency to proceed in the reasonably foreseeable future.

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW, it is ORDERED AND ADJUDGED that:

1. The Defendant is incompetent to proceed due to the Defendant's mental illness as defined in Section 916.106(11) AND 916.106(14), Florida Statutes and all further proceedings are hereby stayed.

2. The Defendant is hereby committed to the Department of Children and Families.

3. The Defendant meets the criteria for commitment to a treatment facility of the Department of Children and Families as provided in Section 916.13(1), and is hereby committed to the Department of Children and Families to be placed in a mental health treatment facility pursuant to Section 916.13(1), Florida Statutes.

4. The Clerk of the Court is directed to forthwith forward a certified copy of this Order along with copies of any written reports submitted to this Court by the expert appointed relating to the issues of competency and need for treatment; copies of any other psychiatric, psychological or social work reports submitted to the court relative to the mental state of the Defendant; and a copy of the charging instrument and all supporting affidavits or other documents used in the

determination of probable cause to:

**Rita Watson, Government Operations Consultant
Department of Children and Families
Mental Health Program Office
1317 Winewood Boulevard, Building 6, Room 232
Tallahassee, FL 32399-0700
Phone: (850) 487-3471; Fax: (850) 922-9197**

5. Upon notification of an admission date by the Department of Children and Families, the Sheriff of Hernando County shall, on the date specified, forthwith transport and deliver the Defendant to a treatment facility designated by the Department, together with a certified copy of this Order and the other documentation outlined in paragraph 4 above.

6. The Department, through the Administrator of the facility to which the Defendant is admitted, shall report directly to this Court, with copies to the attorneys for the State and the Defense on the issues of competency to proceed and the need for continued commitment as provided in Section 916.13(2), Florida Statutes and in Rule 3.212(5), Fla.R.Crim.P.

7. In the event the Defendant's presence is required at any hearing in this cause, the Court shall issue an Order to Transport, directing the Sheriff of Hernando County or his designee to resume custody of and transport the Defendant back to the jurisdiction of this Court.

8. In the case of those Defendants found incompetent to proceed with the trial of the case, the requirements of Rule 3.191, Fla.R.Crim.P., are hereby temporarily suspended.

9. This Court retains jurisdiction in this cause, pursuant to Section 916.16, Florida Statutes, and the Defendant shall not be discharged or released from commitment within the Department Children and Families without further Order of this Court.

DONE AND ORDERED at Brooksville, Hernando County, Florida, this [date].

STEPHEN E TONER, JR.
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been furnished by courthouse mail/U.S. Mail delivery to the Office of the State Attorney, 20 North Main St., Room 400, Brooksville, FL 34601; Office of the Public Defender, Hernando County Courthouse, Brooksville, FL; a certified copy to, Department of Children and Families, Mental Health Program Office: Forensics Unit, DCF.Adult.Forensic.Admissions@myflfamilies.com; and to the Hernando County Sheriff's Office, Brooksville, FL; Hernando County Jail, 16425 Spring Hill Drive, Brooksville, FL 34609, to Jensey Heding, Legal Assistant to: Kathleen Loftus, Assistant Regional General Counsel, Circuit 5, Department of Children & Families, 1300 Duncan Drive, Bldg. D, Tavares, FL 32778, to Lauren W. Pilkinton, MA, Adult System of Care Manager, LSF Health Systems, 9428 Baymeadows Road, Bldg, III, Suite 320, Jacksonville, FL 32256, to Bay Care, C/O Sandra Soares, 15311 Cortez Blvd., Brooksville, FL 34613, Bay Care, C/O Jodi Sirard, 15311 Cortez Blvd., Brooksville, FL 34613: E-Mail: Jodi.Sirard@baycare.org; by hand, mail and/or e-service, on this the [date of COS]

DEPUTY CLERK