

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, ARKANSAS

\_\_\_\_\_ DIVISION

STATE OF ARKANSAS

VS

CASE NO. : \_\_\_\_\_

\_\_\_\_\_  
(FULL NAME OF DEFENDANT)

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Sex

\_\_\_\_\_  
Race

\_\_\_\_\_  
OFFENSE(S) CHARGED AND CODE NOS.:

\_\_\_\_\_  
PROSECUTING ATTORNEY'S NAME AND ADDRESS:

\_\_\_\_\_  
DEFENSE ATTORNEY'S NAME AND ADDRESS:

\_\_\_\_\_  
NAME OF ATTORNEY OR JUDGE REQUESTING EXAMINATION:

\_\_\_\_\_  
ARKANSAS ARREST TRACKING NUMBER:

\_\_\_\_\_  
DEFENDANT'S CUSTODY STATUS AND LOCATION:

**ORDER FOR FITNESS TO PROCEED EXAMINATION OF DEFENDANT**

Pursuant to Ark. Code Ann. § 5-2-327, this Court finds and ORDERS as follows:

1. There is reasonable suspicion to believe that the defendant may not be fit to proceed.
2. All further proceedings in the prosecution are immediately suspended.
3. (Check the appropriate choice below.)

\_\_\_\_\_A. The defendant shall undergo examination by one (1) or more qualified psychiatrists or qualified psychologist not practicing with the Arkansas State Hospital:  
(name, address, and telephone no. of examiner):  
  
\_\_\_\_\_

\_\_\_\_\_B. The Director of the Division of Aging, Adult, and Behavioral Health Services [DAABHS] shall provide a qualified psychiatrists or qualified psychologist who will examine the defendant. The Director or his or her designee shall also determine the location of the examination.

DAABHS Forensic Coordinator  
Arkansas State Hospital  
305 South Palm St.  
Little Rock, AR 72205  
(Tel) (501) 686-9174  
(Fax) (501) 686-9182

4. The prosecuting attorney shall provide a copy of this Order to the DAABHS Director of Forensic Services, or examiner ordered by this Court to conduct the examination if not the Division of Aging, Adult, and Behavioral Health Services.
5. The prosecuting attorney shall provide the examiner any information relevant to the examination, including but not limited to the following:

- A. The name and address of any attorney involved in the matter; and
  - B. Information about the alleged offense (s).
6. Pursuant to Ark. Code Ann. § 5-2-327 (d)(5), the Court directs the attorney for the defendant to provide the following information to the examiner:

If required, check all boxes that apply

\_\_\_\_\_ Psychiatric records;

\_\_\_\_\_ Medical records;

\_\_\_\_\_ Records pertaining to treatment of the defendant for substance or alcohol abuse; and/or

Additional information as identified below:

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7. The examiner shall provide a report to this Court that includes the following:
- A. An opinion as to whether or not the defendant is fit to proceed and the basis for the opinion;
    - 1. When determining whether the defendant is fit to proceed, the examiner shall consider:
      - (a) The capacity of the defendant to:
        - (i) Rationally understand the charges against him or her and the potential consequences of the pending criminal proceedings;
        - (ii) Disclose to his or her attorney pertinent facts, events, and states of mind;
        - (iii) Engage in a reasoned choice of legal strategies and options;
        - (iv) Understand the adversarial nature of criminal proceedings;

- (v) Exhibit appropriate courtroom behavior; and
- (vi) Testify;
- (b) As supported by current indications and the defendant's personal history, whether the defendant is a person with:
  - (i) A mental disease or defect; or
  - (ii) An intellectual disability; and
- (c) The degree of impairment resulting from the mental disease or defect or intellectual disability, if existent, and the specific impact on the defendant's capacity to engage with his or her attorney in an effective manner;
- B. An opinion as to whether the defendant has a mental disease or defect;
- C. A substantiated diagnosis in the terminology of the American Psychiatric Association's most current edition of the Diagnostic and Statistical Manual of Mental Disorders;
- D. A statement that documents that the examiner explained to the defendant:
  - (i) The purpose of the examination;
  - (ii) The persons to whom the examination report is provided; and
  - (iii) The limits on rules of confidentiality applying to the relationship between the examiner and the defendant; and
- E. A description in specific terms of:
  - (i) The procedures, techniques, and tests used in the examination;
  - (ii) The purpose of each procedure, technique, or test; and

(iii) The conclusions reached.

8. The examiner's opinion on the defendant's fitness to proceed or lack of fitness to proceed may not be based solely on the defendant's refusal to communicate during the examination.
9. The examination shall be for a period not exceeding sixty (60) days unless the Director of the Division of Aging, Adult, and Behavioral Health Services or his or her designee determines a longer period of examination is necessary for the purpose of the examination.
10. The examiner shall file the report of the examination [report] with the Clerk of the Court and shall provide a copy of the report to DAABHS.
11. The Clerk of the Court shall provide copies of the report to the defense attorney and the prosecuting attorney.

IT IS SO ORDERED.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Circuit Judge