

**IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA**

CASE NO:

STATE OF FLORIDA,
Plaintiff,

vs.

Defendant.
_____ /

**ORDER APPOINTING EXPERT FOR COMPETENCY EVALUATION
AND NOTICE OF HEARING**

THIS CAUSE came before the Court during a hearing on _____, this _____ day of _____, 20____, during which the defense attorney suggested that the Defendant may be in need of a competency evaluation. It is thereupon

ORDERED AND ADJUDGED:

1. The following individual is hereby appointed as expert to examine the Defendant in accordance with the requirements of this Order:

_____ Dr. Wende J. Anderson, 200 N Palm Ave, Ste 33850, Indialantic FL 32903;
wendeanderson@yahoo.com

_____ Dr. Julie Costopoulos, FIT, 150 W. University Blvd, Melbourne, FL 32901;
costopoulos@fit.edu

_____ Dr. Katherine Oses; 5415 Lake Howell #203, Winter Park, FL 32792;
oseskathy@gmail.com

_____ Dr. Susan Sullivan, 2123 Franklin Drive, NE, Palm Bay, FL 32905;
drsusansullivan@gmail.com

_____ Dr. Jeffrey Williamson, 3150 N Wickham Rd, #4, Melbourne, FL 32935;
Jeffpsalms103@bellsouth.net

Prior confirmation of the expert's availability is needed.

2. The expert appointed in paragraph one shall examine the Defendant to report whether the Defendant is competent to proceed, pursuant to the criteria set forth section 916.12 of Florida Statutes and Rule 3.211 of Florida Rules of Criminal Procedure. Specifically, 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 expert shall consider and include in the report the following factors and any other deemed relevant by the expert:

The Defendant's capacity to:

- (a) Appreciate the charges or allegations against him/her;
- (b) Appreciate the range and nature of possible penalties, if applicable, which may be imposed in the proceedings against him/her;
- (c) Understand the adversarial nature of the legal process;
- (d) Disclose to his/her attorney facts pertinent to the proceedings at issue;
- (e) Manifest appropriate courtroom behavior; and
- (f) Testify relevantly.

3. If the expert should find that the Defendant is incompetent to proceed, then the expert shall report on any recommended treatment for the Defendant to attain competence to proceed, including the least restrictive setting in which to receive the treatment. In considering the issues relative to treatment, the examining expert shall report on the following factors:

- (a) The mental illness or other mental factor causing the incompetence;
- (b) The treatment or treatments appropriate for the mental illness or other mental factor 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; and
- (d) 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 an expert shall contain the following information:

- (a) The specific matters referred for evaluation;
- (b) A description of the evaluation procedure, techniques, and tests used in the examination, and the purpose or purposes for each;

- (c) The expert's clinical observations, findings, and opinions on each issue referred to the expert for evaluation by the Court, and specifically those issues, if any, on which the expert could not give an opinion; and
- (d) Identification of the sources of information used by the expert and the factual basis for the expert's clinical findings and opinions.

5. The Defendant currently resides at: Brevard County Jail, 860 Camp Road, Cocoa, Florida. If the Defendant is incarcerated at the time of the scheduled evaluation, then the expert shall arrange to conduct the evaluation at the Brevard County Detention Center. If the Defendant is not incarcerated, the Defendant shall contact the expert to schedule a time for the evaluation. If the Defendant is incarcerated outside Brevard County, Court Administration must be notified. Every effort will be made to appoint an expert from the appropriate Circuit's expert witness list, thereby avoiding the excessive fees related to out of county travel.

6. The expert appointed in paragraph one shall submit his/her written report directly to this Court with copies to the attorneys for the State and the Defense, on or before

_____.

7. All costs and fees incurred in the competency evaluations specified in this Order shall be billed as follows:

- (a) ____ The initial competency evaluation for defendants shall be paid by Court Administration if the Court determines and appoints one of the experts listed in paragraph one herein.
- (b) ____ If defense counsel specifies issues of both competency and sanity, Court Administration shall pay for the competency evaluation but shall not pay for the sanity evaluation. In such cases, the expert shall submit two (2) separate reports, one addressing the competency issues and another addressing the defense of insanity at the time of commission of the crime(s) charged with a separate billing for each report.

8. Procedure upon receipt of evaluation reports:

- (a) ____ If defense counsel requests the evaluation, only one report shall be ordered, for instance, one expert appointed to do the evaluation. If the report's contents and conclusion is incompetency and is stipulated to by the State Attorney, no additional evaluation shall be ordered and the Court may make its findings and rule on the basis of one evaluation.

(b) ____ If the prosecution or defense disagrees with the Court's expert, then they may hire their own expert for an additional competency evaluation. The Court will not pay for these additional experts. Likewise, if the prosecution or defense wishes to have the Court's expert testify as to the findings in a particular case, then the expert's fee for testimony shall be paid by the party requesting the expert's presence.

(c) ____ If the Court requires testimony from its own expert, the Court will pay per the expert's contracted fee with Court Administration.

9. Payment of due process costs is controlled by the Eighteenth Judicial Circuit Administrative Order Number 09-18. The billing for competency evaluations shall be sent:

(a) If to be paid by Court Administration to:

Court Administration
Attention: Michelle Kennedy
2825 Judge Fran Jamieson Way
Viera, Florida 32940
(321) 637-5355

(b) If defense counsel, to:

_____, Esquire
Address: _____

Phone # _____

(c) If prosecution counsel, to:

_____, Esquire
Address: _____

Phone # _____

(d) If sanity evaluation, to counsel:

_____, Esquire
Address: _____

Phone # _____

10. This cause is rescheduled for a hearing on the issue of the Defendant's competence to proceed at _____. o'clock on the _____ day of _____ in courtroom ____ at _____.

DONE AND ORDERED at _____, Brevard County, Florida, this _____ day of _____, 20__.

CIRCUIT/COUNTY JUDGE

cc: Assistant State Attorney
Assistant Public Defender/Defense Attorney
Expert

ATTN: PERSONS WITH DISABILITIES. If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration at the Moore Justice Center, 2825 Judge Fran Jamieson Way, 3rd Floor, Viera, FL 32940-8006, (321) 633-2171 ext. 3, within two working days of your receipt of this notice. If you are hearing or voice impaired call 1-800-955-8771.