

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

CASE NO:

STATE OF FLORIDA,

Plaintiff,

vs.

,

Defendant.

_____ /

ORDER APPOINTING EXPERT FOR COMPETENCY EVALUATION

THIS CAUSE came upon the Court during a hearing on _____ during which the issue of the Defendant's competency was raised. It is thereupon **ORDERED AND ADJUDGED** as follows:

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

_____ Psychological Affiliates, Inc., 2737 West Fairbanks Ave., Winter Park, FL 32789; Telephone: 407.740.6838

_____ Dr. Darlene Antonio, PhD., 2700 Westhall Ln., Suite 110, Maitland, FL 32751; Telephone: 407.475.1025

_____ Dr. Katherine M. Oses, Psy.D., 5415 Lake Howell Rd., #203, Winter Park, FL 32792; Telephone: 407.865.4130

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 in 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) Identification of 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:

_____.

If the Defendant is incarcerated at the time of the scheduled evaluation, then the expert shall arrange to conduct the evaluation at the John E. Polk Correctional Facility/Detention Center. If the Defendant is not incarcerated, the Defendant shall contact the expert to schedule a time for the evaluation.

6. The expert appointed in paragraph one shall submit his/her written report directly to the Court with copies to the attorneys for the State and the Defense, on or before the ____ day of _____, 20__.

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 court-appointed conflict counsel requests a specific expert to complete the evaluation and that expert is not one of the appointed experts listed in paragraph one herein, or moves for a confidential expert, the Justice Administrative Commission (“JAC”) shall be responsible for payment. In such cases, the bill shall be submitted to conflict counsel by the appointed expert for submission to the JAC.
- _____ (C) 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 17-19 Amended. The billing for competency evaluations shall be sent:

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

Brandy Jenkins
Seminole County Criminal Justice Center
101 Eslinger Way
Sanford, FL 32773
Seminoleinvoices@flcourts18.org

(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 scheduled for a hearing on the issue of the Defendant's competence to proceed by the parties on a date and time that is coordinated by both parties.

DONE AND ORDERED in chambers, Sanford, Seminole County, Florida this _____ day of _____, 20__.

JUDGE

cc:

05/03/2023-bmj