

FAX Distribution to:

- ☒ Prosecutor 808 241-1758
☒ Defense Attorney
 ☐ Public Defender 808 274-3422
 ☐ Private Attorney _____
☒ Adult Probation 808 482-2652
☐ State Designate 808 832-1855
☐ 2nd Examiner Dr. _____
☐ 3rd Examiner Dr. _____
☒ KCMHC Forensics 808 241-3133
☒ AMHD Forensics 808 777-6169
☒ Sheriff Division 808 482-2389
☐ KPD Cellblock 808 241-1645
☐ KCCC 808 241-3059
☐ OCCC 808 832-1412
☒ HSH Forensics 808 236-8716
☐ Kahi Mohala 808 677-2810
☐ Other _____
☐ Other _____

**IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII**

STATE OF HAWAII,

vs.

Defendant.

) **CR. No.** _____
) **FC-CR.** _____
) **REP. NO(S):** _____
) _____
) _____
) ORDER REVOKING CONDITIONAL
) RELEASE AFTER TEMPORARY
) HOSPITALIZATION HEARING,
) COMMITTING DEFENDANT TO THE
) CUSTODY OF THE DIRECTOR OF
) HEALTH, AND ORDER FOR
) TRANSPORT
) _____
) **[704-413(4), HRS]**
) _____
) Hearing Date: _____
) Judge: _____
) _____

**ORDER REVOKING CONDITIONAL RELEASE AFTER TEMPORARY
HOSPITALIZATION HEARING, COMMITTING DEFENDANT TO THE CUSTODY OF
THE DIRECTOR OF HEALTH, AND ORDER FOR TRANSPORT**

The matter of Defendant's hospitalization under an Order for Temporary Hospitalization issued pursuant to Section 704-413(4), Hawaii Revised Statutes, came on for hearing on _____ at _____ .m. Defendant's counsel, _____ and the State of Hawaii, represented by Deputy Prosecuting Attorney _____, were present at the hearing. Defendant [] was physically present [] appeared via video-conferencing

This Court, having considered the evidence and testimony presented, and the record and file in this case, finds by a preponderance of the evidence as follows:

- ☐ Defendant has not fulfilled the Conditions of Release.
- ☐ For the safety of Defendant or others, Defendant's conditional release should be revoked; and/or
- ☐ Defendant is not a proper subject for conditional release and should be committed to the custody of the Director of Health to be placed in an appropriate institution for detention, care and treatment.

IT IS THEREFORE ORDERED as follows:

1. Defendant's conditional release is hereby **revoked**.
2. Pursuant to Section 704-413(4), Hawaii Revised Statutes, Defendant is committed forthwith to the custody of the Director of Health for placement at an appropriate institution for custody, care, and treatment ("DOH Facility") subject only to discharge or release in accordance with the procedure prescribed in Section 704-412, Hawaii Revised Statutes.
3. From the date and time of the issuance of this Courts oral order of commitment (on _____, at _____ .m.) until Defendant's transfer to a DOH Facility, Defendant shall remain in the custody of the Department of Corrections and Rehabilitation at the Kauai Community Correctional Center for **no more than forty-eight (48) hours** pending admission and placement in an appropriate DOH Facility for detention, care and treatment.
4. When Defendant is admitted to an institution deemed appropriate by the Director of Health, representatives of the Department of Law Enforcement, Sheriff's Division shall effect the immediate transfer and transport of Defendant from the Kauai Community Correctional Center to the DOH Facility.

5. The Adult Client Services Branch of the Fifth Judicial Circuit shall provide the DOH Facility with copies of all of Defendant's medical and mental health records in the possession of the probation office, to be used only for the purposes of detention, care and treatment of the Defendant. If Defendant is admitted to Hawaii State Hospital, the records shall be kept confidential pursuant to Hawaii State Hospital Policy and Procedure no. 04.0556, concerning the maintenance, transmission, and interchange of written, verbal, and/or electronically recorded protected health information and pursuant to applicable state and federal laws. If Defendant is admitted to another institution, the records shall be kept confidential pursuant to that institution's policy and procedure concerning maintenance, transmission, and interchange of written, verbal, and/or electronically recorded protected health information and pursuant to applicable state and federal law.

6. The Defendant's treating physician at the DOH Facility, or the treating physician's authorized designate(s), may administer medication prescribed for Defendant; provided, however, that no medication shall be administered to Defendant involuntarily, without further order of the Court.

7. The Clerk of the Court shall provide a copy of the report(s) prepared by thee examiner(s) appointed pursuant to HRS Section 704-404 to the Department of Health, along with a copy of the Order of commitment. The report(s) shall be kept confidential pursuant to Rule 9 of the Hawaii Court Records Rules and applicable state and federal law, and shall not be disclosed to any other person or agency.

8. The Defendant's treating physician shall provide a release placement plan to the Court prior to the discharge of Defendant from the custody of the Director of Health, or, if Defendant's condition has not stabilized, a report describing the same and the Defendant's prognosis. Prior to the next scheduled review hearing, the placement plan or report required by this paragraph shall be filed with the Clerk of the Court for distribution to the prosecuting attorney, Defendant's counsel, and the Adult Client Services Branch. The treating physician's release placement plan shall be filed with the Court no later than _____. The **original** release placement plan shall be submitted to the Clerk of the Court by either of the following methods: (1) mailing via U.S. Postal Service to 3970 Ka'ana Street, Lihue, Hawaii 96766; or (2) emailing to LegalDocs.5CC@Courts.Hawaii.Gov.

As a courtesy, the treating physician is encouraged to fax/email an unfiled copy of the report to the appropriate judge's chamber. FAX numbers for judges' chambers are:

District Court Chambers #2 – (808) 482-2535
Family Court Chambers #1 – (808) 482-2541
Family Court Chambers #3 – (808) 482-2655
Circuit Court Chambers #4 – (808) 482-2662
Circuit Court Chambers #6 – (808) 482-2561

The Clerk of the Court shall distribute the report, and any supporting documents, to the prosecuting attorney, Defendant's counsel, and the Adult Client Services Branch.

9. Defendant is ordered to appear at all review hearings set by this Court, the first of which is set for _____ at _____ .m.

ORDER FOR TRANSPORT TO DEPARTMENT OF HEALTH FACILITY

Representatives of the Department of Law Enforcement, Sheriff's Division shall transport the Defendant from this Court to _____ (name of DOH Facility). The transportation of Defendant shall occur within the following time period:

- ☐ (In-custody): Within forty-eight (48) hours following the Court's oral order on _____ at _____ .m. committing Defendant to the care and custody of the Director of Health pursuant to HRS Section 704-413(4).
- ☐ (Out-of-Custody): Defendant shall be taken into custody forthwith by representatives of the Department of Law Enforcement, Sheriff's Division and transport of Defendant shall occur **within forty-eight (48) hours** following the Court's oral order on _____ at _____ .m. committing Defendant to the care and custody of the Director of Health pursuant to HRS Section 704-413(4).
- ☐ (Out-of-Custody): Other _____

ORDER FOR TRANSPORT TO COURT

Representatives of the Department of Law Enforcement, Sheriff's Division shall transport the Defendant from _____ to this Court for a further hearing on _____ at _____ .m. and shall remain with the Defendant until the conclusion of the hearing, at which time Defendant may or may not be transported back to the facility deemed appropriate by the Director of Health ("DOH Facility").

In the event that Defendant's treating physician determines that transport to the hearing set on _____ would present a risk of danger to Defendant or to others, or if the Defendant chooses to waive his/her physical presence at the hearing, Defendant's presence at the hearing may be by way of Video-Conferencing.

Representatives of the Department of Law Enforcement, Sheriff's Division shall transport the Defendant from the DOH Facility, and back to said facility, for any further hearings as ordered by this Court.

DATED: _____, Hawaii, _____

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel