

**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
- 2<sup>nd</sup> Examiner Dr. \_\_\_\_\_
- 3<sup>rd</sup> 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):** \_\_\_\_\_

) [List offenses or attach complaint, information or

) indictment]

) \*NOTE: Attach copy of Examiner's report(s)

)

)

) **ORDER FINDING DEFENDANT UNFIT**

) **TO PROCEED, SUSPENDING**

) **PROCEEDINGS, COMMITTING**

) **DEFENDANT TO THE CUSTODY OF**

) **THE DIRECTOR OF HEALTH, FOR**

) **PLACEMENT PENDING TRANSPORT**

) **AND FOR TRANSPORT; EXAMINER'S**

) **REPORT(S)**

) **[\$704-406(1), HRS]**

)

) **Hearing Date:** \_\_\_\_\_

) **JUDGE:** \_\_\_\_\_

**ORDER FINDING DEFENDANT UNFIT TO PROCEED,  
SUSPENDING PROCEEDINGS, COMMITTING DEFENDANT TO  
THE CUSTODY OF THE DIRECTOR OF HEALTH, FOR PLACEMENT  
PENDING TRANSPORT, AND FOR TRANSPORT; EXAMINER'S REPORT(S)**

The matter of Defendant's examination under Chapter 704, Hawaii Revised Statutes, came on for hearing on \_\_\_\_\_. Defendant's counsel, \_\_\_\_\_, and Deputy Prosecuting Attorney \_\_\_\_\_, representing the State of Hawaii, were present. Defendant was:

- present in court
- present via video-conference

This Court, having reviewed the report(s) of Defendant's appointed examiner(s), and having been fully advised in the premises, finds as follows:

1. **Defendant is unfit to proceed** on the above charge(s);
2. Defendant presents a risk of danger to Defendant or the person or property of others; and
3. Defendant cannot be released on conditions without danger to defendant or the person or property of others and should be committed to the custody of the Director of Health to be placed in an appropriate institution for detention, care and treatment.

**Therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:**

1. The proceedings against Defendant are hereby suspended, except as to those matters authorized under Section 704-407, Hawaii Revised Statutes.
2. Pursuant to Section 704-406, Hawaii Revised Statutes, Defendant is committed forthwith to the custody and care of the Director of Health to be placed in an appropriate institution for detention, care and treatment, subject only to discharge or release in accordance with the procedures set forth in Section 704-406, Hawaii Revised Statutes.

a. Period of Commitment: **[check applicable box below]**

As Defendant is charged with a PETTY MISDEMEANOR not involving violence or attempted violence, the commitment shall be limited to no longer than SIXTY DAYS from the date of this hearing (\_\_\_\_\_, 20\_\_\_\_), and the provisions of paragraph 2.b. and 2.c. hereinafter, shall apply. HRS § 704-406(1)(a)

A final status hearing shall be held on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ .m., in the above entitled Court, Courtroom \_\_\_\_\_. The Defendant's treating physician shall provide a

written report of Defendant's status to the Court by \_\_\_\_\_, 20\_\_\_\_\_.

As Defendant is charged with a MISDEMEANOR not involving violence or attempted violence, the commitment shall be limited to no longer than ONE HUNDRED TWENTY DAYS from the date of this hearing (\_\_\_\_\_, 20\_\_\_\_\_), and the provisions of paragraph 2.b. and 2.c., hereinafter, shall apply. HRS § 704-406(1)(b)

A final status hearing shall be held on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ m., in the above entitled Court, Courtroom \_\_\_\_\_. The Defendant's treating physician shall provide a written report of Defendant's status to the Court by \_\_\_\_\_, 20\_\_\_\_\_.

b. Dismissal of Charge(s)

If the defendant has not been found fit to proceed prior to the expiration of the relevant commitment period, as set forth in paragraph 2a (\_\_\_\_\_, 20\_\_\_\_\_), the charge(s) for which the defendant has been committed shall be dismissed.

c. Release and/or Commitment after dismissal:

Upon dismissal of the charge, the Defendant shall be:

Released from custody (not subject to prosecution for other charges)

Committed to the custody of the Director of Health to be placed in an appropriate institution for detention, care, and treatment (subject to prosecution for other charges and not subject to involuntary civil commitment)

3. [Check appropriate condition below]

Defendant's release on own recognizance or supervised release is hereby revoked and Defendant shall be taken into custody forthwith and shall remain in the custody of the Department of Public Safety at the Kauai Community Correctional Center, for **no more than 72 (seventy-two) hours** pending admission and placement at a facility deemed appropriate by the Director of Health. When Defendant is admitted to a facility deemed appropriate by the Director of Health, representatives of the Department of Public

Safety Sheriff's Division shall effect the immediate transfer and transport of Defendant from the Kauai Community Correctional Center to the facility deemed appropriate by the Director of Health.

Defendant shall remain in the custody of the Department of Public Safety at the Kauai Community Correctional Center for **no more than 72 (seventy-two) hours, after the Court's oral order committing Defendant**, pending admission and placement at a facility deemed appropriate by the Director of Health. When Defendant is admitted to a facility deemed appropriate by the Director of Health, representatives of the Department of Public Safety Sheriff's Division shall effect the immediate transfer and transport of Defendant from the Kauai Community Correctional Center to the facility deemed appropriate by the Director of Health.

Defendant shall remain in the custody of the Director of Health and shall be placed in a facility deemed appropriate by the Director of Health.

4. The Adult Client Probation Services Branch ("ACPSB") office shall provide the treating physician for Defendant at the facility deemed appropriate by the Director of Health with all of Defendant's medical records in the possession of the ACPSB to assist in the treatment of Defendant. The report(s) 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. If Defendant is admitted to another institution, the report(s) shall be kept confidential pursuant to that institution's policy and procedure concerning the maintenance, transmission and interchange of written, verbal and/or electronically recorded protected health information.
5. The treating physician for Defendant at the facility deemed appropriate by the Director of Health, or the treating physician's authorized designates, may administer medication prescribed for Defendant; provided, however, that no medication shall be administered to Defendant involuntarily, without further order of this Court.
6. The Defendant's treating physician shall provide a release placement plan to the Court prior to discharging Defendant, or if Defendant's condition has not stabilized, a report describing the same and his or her prognosis, prior to the next scheduled review hearing, with copies of said report being provided to this Court, Defendant's attorney and the prosecuting attorney.
7. The representatives of the Department of Public Safety Sheriff's Division shall effect the transport of Defendant from the facility deemed appropriate by the Director of Health to the above-entitled Court for further proceedings on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ .m.
8. The representatives of the Department of Public Safety Sheriff's Division shall remain with Defendant until the conclusion of the hearing, referenced in paragraph 7, at which time Defendant may or may not be transported back to the facility

deemed appropriate by the Director of Health.

9. In the event that Defendant's treating physician determines that transport to the hearing set on \_\_\_\_\_, 20\_\_\_\_, would present a risk of danger to Defendant or to others, or if Defendant chooses to waive his/her physical presence at the hearing, Defendant's presence may be by way of Video-conferencing or waived.
10. The representatives of the Department of Public Safety Sheriff's Division shall effect the transport of Defendant from the facility deemed appropriate by the Director of Health to this Court, 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