

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
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- HSH Forensics 808 236-8716
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**IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII**

STATE OF HAWAII,

) **CR. No.** _____

) **FC-CR.** _____

) **REP. NO(S):** _____

) [List offenses or attach complaint, information or
indictment]

vs.

_____,
Defendant.

) ORDER FOR RE-EXAMINATION OF
DEFENDANT AS TO FITNESS TO
PROCEED
) [704-406(3), HRS]
)
) Hearing Date: _____
) Judge: _____
)

ORDER FOR RE-EXAMINATION OF DEFENDANT AS TO FITNESS TO PROCEED

The above-entitled matter came on for hearing on _____. Present were Deputy Prosecuting Attorney _____ for the State of Hawaii, Defendant and Defendant's counsel, _____.

IT IS HEREBY ORDERED:

A. SUSPENSION OF PROCEEDINGS, HRS SECTION 704-404(1)

Further proceedings herein shall be suspended except for matters pertaining to bail.

B. APPOINTMENT OF EXAMINER(S), HRS SECTION 704-404(2)

Defendant shall be re-examined by:

State Designate, Adult Mental Health Division
Court Evaluation Branch
1700 Lanakila Street
Honolulu, Hawaii 96817

Psychiatrist's name

Address

Psychiatrist's, Psychologist's, or Physician's name

Address

C. DATABASE, HRS SECTION 704-404(8)

The Adult Client Probation Services Branch shall obtain and timely make available for inspection by the examiner, all existing medical, mental health, social, police and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statutes and Rule 16 of the Hawaii Rules of Penal Procedure.

The court further orders that alcohol and drug abuse patient records within the scope of 42 C.F.R. part 2 that are in the custody of public agencies be provided to the Adult Client Probation Services for review by the examiner(s).

D. PLACE OF DETENTION AND/OR EXAMINATION

- Defendant shall be re-examined at the _____, or other suitable facility as deemed appropriate by the Director of Health.

- Defendant shall be re-examined at The Kauai Judiciary Complex, 3970 Kaana Street, Lihue, Kauai, in a secured detention area interview room to be specified by the Department of Public Safety Sheriffs Division. Arrangements shall be made by contacting the Sheriffs Division at (808) 482-2472 **not less than three (3) business days before the desired examination date.**

- Defendant shall be re-examined at the Kauai Community Correctional Center, or other correctional facility as deemed appropriate by the Director of Public Safety.

- Defendant shall be re-examined on a date and time as requested by the examiner(s). To arrange the Defendant's appointment, the examiner(s) shall contact:
 - Office of the Public Defender
Deputy Public Defender _____
Telephone: (808) 241-7128

 - Defendant's counsel, _____
Telephone: _____

E. CONTENTS OF REPORT, HRS SECTIONS 704-404(4); 704-406(3)

The examiners report shall only include the following:

1. A description of the nature of the examination.
2. A diagnosis of the physical or mental condition of the Defendant
3. An opinion as to the defendant's capacity to understand the proceedings against the Defendant and to assist in the Defendant's own defense.
4. An opinion as to the substantial likelihood of the Defendant becoming fit to proceed in the future.
5. If the opinion of the examiner is that the Defendant is not fit to proceed and will not become fit in the future, the examiner shall advise the Court on the following questions, as applicable:

- a. Is the Defendant mentally ill or suffering from substance abuse?
 - b. Is the Defendant imminently dangerous to self or others, gravely disabled or obviously ill?
 - c. Is the Defendant in need of care or treatment, or both, and there are no suitable alternatives available through existing facilities and programs that would be less restrictive than hospitalization?
6. A statement that the diagnosis and opinion rendered was arrived at independently of other examiners, unless there is a showing of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report.
 7. If the re-examination cannot be conducted by reason of the unwillingness of the Defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether the Defendant's unwillingness is a result of physical or mental disease, disorder, or defect.
 8. Any examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.

F. DUE DATE OF EXAMINER'S REPORT

The examiner shall file a written report with the Court no later than _____ . An original plus three copies of the report of the examination, including any supporting documents, shall be filed with the clerk of the court for distribution to the prosecuting attorney, defendant's counsel and the probation office.

G. NEXT COURT DATE

The Defendant is ordered to appear before this Court on _____ at _____ .m., or sooner, if the examiner has completed the examination, and defense counsel can set an earlier court hearing.

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defendant's Counsel