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- Prosecutor 808 241-1758
- Defense Attorney
 - Public Defender 808 274-3422
 - Private Attorney _____
- State Designate 808 832-1855
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**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, AND RELEASING

) DEFENDANT ON CONDITIONS; RELEASE

) CONDITIONS; EXAMINER'S REPORT(S)

) [704-406(1), HRS]

)

) Hearing Date: _____

) JUDGE: _____

**ORDER FINDING DEFENDANT UNFIT TO PROCEED, SUSPENDING
PROCEEDINGS, AND RELEASING DEFENDANT ON CONDITIONS, RELEASE
CONDITIONS, EXAMINER'S REPORT(S)**

The matter of Defendant's examination under Chapter 704, Hawaii Revised Statutes, came on for hearing on _____, 20____. Defendant, Defendant's counsel, _____, and Deputy Prosecuting Attorney _____, representing the State of Hawaii, were present.

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** in the above-captioned matter on the above charge(s);
2. Defendant can be released on conditions without danger to Defendant or the person or property of others.

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

1. The proceedings against Defendant in the above-captioned matter are hereby suspended, except as to those matters authorized under Section 704-407, Hawaii Revised Statutes.
2. Pursuant to Section 704-406(1), Hawaii Revised Statutes, Defendant is released on the terms and conditions contained in the attached CONDITIONS OF RELEASE.

a. Period of Release on Conditions: **[check applicable box below]**

As Defendant is charged with a PETTY MISDEMEANOR not involving violence or attempted violence, the period of release on conditions 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.

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 period of release on conditions 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.

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 period of release on conditions, as set forth in paragraph 2a (_____, 20_____), the charge(s) for which the defendant has been released on conditions shall be dismissed.

c. Release and/or Commitment after dismissal:

Upon dismissal of the charge, the Defendant shall be:

Released from the release conditions (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. Department of Health, Adult Mental Health Services (DOH, AMHD) shall have supervision over Defendant, shall instruct Defendant regarding the terms and conditions of release, and shall furnish to Defendant a copy of this Order Finding Defendant Unfit to Proceed, Suspending Proceedings, and Releasing Defendant on Conditions. The original RELEASE CONDITIONS shall be signed by Defendant and filed herein.

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel

In the _____ Court of the Fifth Circuit, State of Hawaii

Case No. _____

**RELEASE CONDITIONS [704-406(1)]
AMENDED**

TO: _____, Defendant:

The Court has found you unfit to proceed in this case and, pursuant to Hawaii Revised Statutes § 704-406(1), you are released on conditions. YOUR RELEASE SHALL BE ON THE FOLLOWING TERMS AND CONDITIONS:

1. You shall be under the supervision of the Department of Health Adult Mental Health Division (AMHD) and you shall follow all reasonable instructions given to you by your AMHD Case Manager.
2. You must not leave the island of Kauai, or other location to which you have been duly authorized to move, at any time without first obtaining permission from your AMHD Case Manager.
3. You must inform your Case Manager of your present residence and/or mailing address, and any change in your residence and/or mailing address, as well as all contact information such as telephone number(s) and e-mail address(es). Should your whereabouts become unknown to your Case Manager because of your failure to keep your Case Manager informed, the Court may order your arrest. Any failure by you to comply with all of the terms and conditions of your release on conditions will mean that the Court can revoke your release and place you in custody for detention, care, and treatment.
4. You must at all times continue to obtain/receive psychological or psychiatric care, treatment, and case management that lead to restoration, until you are discharged from your release on conditions. You must keep all appointments for treatment and take all medication prescribed for you according to the instructions of your treating mental health professional.
5. If your treating mental health professional believes that you are not complying with the terms and conditions of these Release Conditions or that there is other evidence that hospitalization is appropriate, he/she/they shall report the matter to your Case Manager. Your Case Manager may request that the Court order you temporarily hospitalized for 72 hours if your Case Manager has probable cause to believe that you have: (1) failed to receive mental health or other treatment and care deemed appropriate by your treating mental health professional; (2) failed to follow all prescribed treatments according to the instructions of your treating mental health professional; and/or (3) failed to take all prescribed medications according to the instructions of your treating mental health professional.

6. If temporary hospitalization is ordered, a hearing will be held. After such hearing, if the Court determines that you are not fulfilling the requirements of your Release Conditions, or that it is necessary for your safety or the safety of others, the Court may revoke your release on conditions, modify your Release Conditions, or commit you to the custody of the director of health for a period not exceeding ____ days.
7. You must appear at all review hearings set by this Court, the first of which is set for _____, 2_____, at _____.m., in the above-entitled Court.
8. You shall not violate any federal, state laws or county laws, nor are you allowed to own or possess any firearms or ammunition or any dangerous instrument as defined by law.
9. You are further ordered to comply with the following special conditions:
 - ___ A. You shall obtain professional mental health and/or case management services from _____. Any mental health professional treating you shall promptly notify your Case Manager should he/she/they believe that you are either not complying with your treatment plan or there is evidence that hospitalization is appropriate.
 - ___ B. You shall obtain Case management services from your treating mental health provider, or AMHD.
 - ___ C. You shall reside in a group/care home or other residence as approved by your treating mental health professional and/or your Case Manager.
 - ___ D. You shall participate in educational/vocational/employment training and/or other activities as determined by your Case Manager /treating mental health professional and/or Case Manager.
 - ___ E. You shall not possess or consume alcohol and/or illegal drugs and/or unprescribed drugs and you shall submit to drug and/or alcohol testing as directed by your Case Manager with the provision that a positive finding and/or a failure to provide a specimen within two hours of instruction may be considered prima facie evidence of a violation of your release on conditions.
 - ___ F. You shall obtain and maintain outpatient and/or residential drug/alcohol treatment, including medication and/or tests (including blood tests) if ordered, until clinically discharged with the concurrence of your treating mental health professional and/or Case Manager.

- ___ G. You shall attend peer support group meetings as determined by your treating mental health professional and/or your Case Manager and submit verification of your attendance to your Case Manager.

- ___ H. You shall submit to photographing by AMHD.

- ___ I. Other terms: _____

The foregoing terms and conditions have been explained to me. A copy of these RELEASE CONDITIONS has been given to me.

Dated: _____

(Signature of Defendant)

(Signature of Case Manager/Witness)