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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]

)

)

)

) **JUDGMENT OF ACQUITTAL AND**

) **ORDER COMMITTING DEFENDANT**

) **TO THE CUSTODY OF THE**

) **DIRECTOR OF HEALTH AND FOR**

) **TRANSPORT**

) **[§704-411(1)(a), HRS]**

)

) **Hearing Date:** _____

) **JUDGE:** _____

**JUDGMENT OF ACQUITTAL AND ORDER COMMITTING DEFENDANT TO THE
CUSTODY OF THE DIRECTOR OF HEALTH AND FOR TRANSPORT**

The matter of Defendant's examination under Chapter 704, Hawaii Revised Statutes, came on for hearing on _____. 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 heard or reviewed the medical evidence presented and being otherwise fully advised in the premises, finds as follows:

1. **Defendant is fit to proceed** on the above charge(s); and
2. The Court finds by a preponderance of the evidence that at the time of the offense(s) charged, Defendant was affected by a physical or mental disease, disorder or defect that substantially impaired Defendant's capacity to appreciate the wrongfulness of Defendant's conduct or to conform Defendant's conduct to the requirements of the law, thus excluding penal responsibility; and
3. Defendant is still affected by the physical or mental disease, disorder or defect, and presents a risk of danger to Defendant or others; and
4. 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 custody, care and treatment.

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

1. Defendant is acquitted of the charged offense(s) on the grounds of physical or mental disease, disorder or defect excluding responsibility.
2. Pursuant to Section 704-411(1)(a), Hawaii Revised Statutes, Defendant is committed forthwith to the custody of the Director of Health to be placed in 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.

[Check box, if appropriate]

- As defendant is charged with offenses not involving violence or attempted violence, the Director of Health shall place the Defendant in the least restrictive environment appropriate in light of the defendant's treatment needs and the need to prevent harm to the person confined and others.

3. From the date and time of the issuance of this Court's Oral Ruling, made on _____ at _____ .m., until Defendant's transfer to a DOH Facility, Defendant shall remain in the custody of the Department of Public Safety at the Kauai Community Correctional Center; provided that the persons having custody of Defendant and the Director of Health shall ensure that physical custody of Defendant is transferred to the Director of Health **no later than 72 (seventy-two) hours after the date and time of the Court's oral ruling committing Defendant.**
4. The Adult Client Probation Services Branch of the Fifth Judicial Circuit shall provide the report(s) prepared by the examiner(s) appointed pursuant to HRS Section 704-404 to the institution deemed appropriate for detention, care and treatment only for the purposes of detention, care and treatment of the Defendant. If Defendant is admitted to Hawaii State Hospital, 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. Should the Director of Health or the Defendant make application to the Court for discharge or conditional release pursuant to HRS Section 704-412, a review hearing shall be held in the above-entitled court.
6. The Defendant's treating physician shall provide a release placement plan to the Court prior to the Court discharging Defendant, or if Defendant's condition has not stabilized, a report describing the same and Defendant's prognosis, prior to the next scheduled review hearing, with copies of said report being provided to the Defendant, Defendant's attorney and the Prosecuting Attorney.
7. In the event that Defendant's treating physician determines that transport to the hearing set on _____ would present an unacceptable 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 or waived.
8. The representatives of the Sheriff's Division or the Department of Public Safety designate shall transport Defendant from the DOH Facility to this Court and back to the DOH Facility for the hearing set for _____ and for all further hearings ordered by the Court.

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel