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☐ Other _____

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

STATE OF HAWAII,

vs.

Defendant.

) **CR. No.** _____
) **FC-CR.** _____
) **REP. NO(S):** _____
)
) JUDGMENT OF ACQUITTAL, ORDER
) COMMITTING DEFENDANT TO THE
) CUSTODY OF THE DIRECTOR OF
) HEALTH, AND ORDER FOR TRANSPORT
)
) **[§704-411(1)(a), HRS]**
)
) Hearing Date: _____
) Time: _____
) JUDGE: _____

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

Defendant's Motion for Judgment of Acquittal by reason of physical or mental

disease, disorder, or defect excluding penal responsibility, pursuant to HRS Section 704-411(1)(a), came on for hearing on _____. Defendant's counsel, _____ and Deputy Prosecuting Attorney _____, representing the State of Hawaii, were present. Defendant [] was physically present [] appeared via video-conference.

This Court, having received and reviewed the report(s) of Defendant's appointed examiner(s), having accepted the parties' stipulation to the facts, and for good cause appearing, finds as follows:

1. **Defendant is fit to proceed** on the above charge(s);
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 and/or substantially impaired Defendant's capacity to appreciate the wrongfulness of Defendant's conduct, thus excluding penal responsibility;
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 that:

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 ("DOH Facility") for detention, care, and treatment, subject only to discharge or release in accordance with the procedure prescribed in Section 704-412, Hawaii Revised Statutes.

[Check box, if applicable]

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

3. **[Check ONE box below]**

☐ From the date and time of the issuance of this Court's 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 seventy-two (72) hours pending admission and placement in an appropriate DOH Facility for detention, care, and treatment.

OR

☐ Defendant shall remain in the custody of the Director of Health and shall be placed in an appropriate institution 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 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 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 the maintenance, transmission and interchange of written, verbal and/or electronically recorded protected health information and pursuant to applicable state and federal law.
6. The treating physician for Defendant at the DOH Facility, 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 the Court.
7. **The Clerk of the Court shall provide a copy of the report(s) prepared by the examiner(s) appointed pursuant to HRS Section 704-404 to the Department of Health, along with a copy of this Order of commitment. The examiner 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 no later than _____. The **original** of the 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 examiner 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.
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.

ORDER FOR TRANSPORT TO DEPARTMENT OF HEALTH FACILITY

IT IS FURTHER ORDERED that:

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:

[Check ONE box below]

☐ (In-custody): Within seventy-two (72) 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 704-411(1).

OR

☐ (Out-of-Custody): Defendant shall be taken into custody forthwith by representatives of the Department of Law Enforcement, Sheriff's Division and transport of the Defendant shall occur within seventy-two (72) 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 704-411(1).

ORDER FOR TRANSPORT TO COURT

IT IS FURTHER ORDERED that:

Representatives of the Department of Law Enforcement, Sheriff's Division shall transport Defendant from _____ to this Court and back to said DOH Facility 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 DOH Facility.

In the event that Defendant's treating physician determines that transport to the Next hearing 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: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel