

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
☐ 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):** _____
) _____
) _____
) _____
) **JUDGMENT OF ACQUITTAL AND**
) **ORDER OF CONDITIONAL RELEASE,**
) **CONDITIONS OF RELEASE**
) **[§704-411(1)(b), HRS]**
) _____
) **Hearing Date:** _____
) **Time:** _____
) **JUDGE:** _____

JUDGMENT OF ACQUITTAL AND ORDER OF CONDITIONAL RELEASE,
CONDITIONS OF RELEASE

Defendant moved this Court for judgment of acquittal by reason of physical or mental disease, disorder or defect, excluding penal responsibility, pursuant to Section 704-411(1)(b), Hawaii Revised Statutes. Said motion came on for hearing on _____. Defendant's counsel, _____, and _____

the State of Hawaii, represented by the Deputy Prosecuting Attorney, _____, were present. Defendant [] was physically present [] appeared via video-conferencing.

The 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. By a preponderance of the evidence, 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 and/or substantially impaired Defendant's capacity 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, but Defendant can be controlled adequately and given proper care, supervision and treatment if Defendant is released on the conditions set forth in the attachment to this Judgment of Acquittal and Order of Conditional Release.

Therefore, IT IS HEREBY ORDERED 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)(b), Hawaii Revised Statutes, Defendant is released on the terms and conditions contained in the attached CONDITIONS OF RELEASE.

[Check box, if applicable]

☐ **Defendant was charged with offense(s) which do not involve violence or attempted violence.** Therefore, the period of conditional release shall be no longer than ONE (1) YEAR from the date of this Order (expiring on _____, 20_____).

3. A probation officer of the Adult Client Services Branch of the Fifth Judicial Circuit shall have supervision over Defendant, shall instruct Defendant regarding the attached terms and conditions of release, and shall furnish a copy of this Judgment of Acquittal and Order of Conditional Release to Defendant. The original CONDITIONS OF RELEASE shall be signed by Defendant and filed herein.
4. The Adult Client Services Branch shall provide the Defendant's treating

physician(s) 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 care and treatment of the Defendant. The records shall be kept confidential pursuant to that physician(s)' policy and procedure concerning maintenance, transmission, and interchange of written, verbal, and/or electronically recorded protected health information and pursuant to applicable state and federal law.

5. Defendant is ordered to appear at all review hearings set by this Court, the first of which is set for _____ at _____ .m., in the above-entitled Court.

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM ON: _____:

Deputy Prosecuting Attorney

Defendant's Counsel

Defendant's Tel. No.: _____

Defendant's Email Address: _____

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

Case No. _____

CONDITIONS OF RELEASE

☐ **AMENDED**

TO: _____, Defendant:

YOUR RELEASE SHALL BE ON THE FOLLOWING TERMS AND CONDITIONS:

1. You shall not violate any federal or state laws.
2. You are placed under the supervision of a probation officer of the Adult Client Services Branch of the Fifth Judicial Circuit (or of such other jurisdiction to which you have been duly authorized to move), and you must follow all directions given to you by your probation officer.
3. You must at all times maintain mental health and/or psychiatric treatment, as directed by your probation officer, until you are clinically discharged. You must keep all appointments with your probation officer and all appointments for treatment. You must take all medication prescribed to you, as directed by your doctor(s). You must comply with the treatment plan developed by your treating mental health professional(s).
4. At any time, should any mental health professional treating you be of the opinion that you should be placed in the custody of the Director of Health for detention, care, and treatment, or that any changes to your Conditions of Release should be made, the treating mental health professional may make such a recommendation(s) to your probation officer.
5. You must sign Waiver of Confidentiality form(s) to allow your probation officer and treatment team to monitor your compliance with drug and/or alcohol treatment, mental health treatment, and/or any other treatment required by your probation officer and these Conditions of Release.
6. Your probation officer shall have the right to ask your treating mental health professional(s) about your progress.
7. You must notify your probation officer of any change in your address or phone number, prior to changing your address or phone number.
8. You must not leave the island of Kauai (or other location to which you have been duly authorized to move) without first obtaining permission from your probation officer.

9. You must follow all instructions and directions given to you by your probation officer.
10. Pursuant to HRS Section 704-413, your probation officer may order you temporarily hospitalized for seventy-two (72) hours if there is probable cause to believe that you are in violation of these Conditions of Release.
11. If your whereabouts become unknown to your probation officer because of your failure to keep your probation officer informed, the Court may order your arrest. Any failure by you to comply with these Conditions of Release will mean that the Court can revoke your release and place you into the custody of the Director of Health for detention, care and treatment.
12. You may not own or possess any firearms, ammunition, or any dangerous instrument, as defined by law.
13. You must appear at all review hearings set by this Court, the first of which is for _____ at _____ .m.
14. Your further special conditions are as follows:
 - ____ A. You shall obtain professional mental health and/or case management services from _____, and you shall comply with the treatment plan developed for you. Pursuant to HRS Section 704-413(1), any mental health professional treating you shall promptly notify your probation officer 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 reside in a group home, care home, or other residence as approved by your probation officer, case manager, and/or treatment team, and you shall follow all house rules including curfew and travel restrictions.
 - ____ C. You shall participate in educational, vocational, and/or employment training and/or other activities as determined by your probation officer, case manager, and/or treatment team.
 - ____ D. You shall not possess or consume alcohol, illegal drugs and/or unprescribed drugs.
 - ____ E. You shall submit to drug and/or alcohol testing as directed by your probation officer, case manager, and/or treatment team. A positive test or a failure to provide a specimen within two (2) hours of instruction may be considered prima facie evidence of a violation of your Conditions of Release.

- ___ F. You shall obtain and maintain outpatient and/or residential drug/alcohol treatment, including taking all prescribed medication and submitting to testing as instructed by your probation officer (including blood tests), until you are clinically discharged.
- ___ G. You shall attend sober support meetings as determined by your probation officer and submit verification of your attendance to your probation officer.
- ___ H. OTHER TERMS: _____

The foregoing terms and conditions have been explained to me, and I fully understand them and agree to abide by them in every way. A copy of these CONDITIONS OF RELEASE has been given to me.

Dated: _____
(Signature of Defendant)

I certify that I have explained the foregoing terms and conditions to the defendant. I believe the defendant understands the terms and conditions. The defendant has signed the CONDITIONS OF RELEASE in my presence.

Dated: _____
(Signature of Probation Officer/Witness)

(Print Name of Witness)