

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,) **CR. No.** _____

) **FC-CR.** _____

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

) [List offenses or attach complaint, information or

vs.) indictment]

)

_____,)

Defendant.) **JUDGMENT OF ACQUITTAL AND**

) **ORDER OF CONDITIONAL RELEASE,**

) **CONDITIONS OF RELEASE**

) **[\$704-411(1)(b)]**

)

) **Hearing Date:** _____

_____) **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, and for conditional release, pursuant to §704-411(1)(b), Hawaii Revised Statutes, at a hearing on

_____. Defendant, Defendant's counsel,
_____, and the State of Hawaii, represented by
the Deputy Prosecuting Attorney, _____, were present.

The 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);
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 affected by a physical or mental disease, disorder, or defect and presents a 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, 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)(b), Hawaii Revised Statutes, Defendant is released on the terms and conditions contained in the attached CONDITIONS OF RELEASE (AFTER ACQUITTAL).

[Check box, if appropriate]

Defendant was charged with a petty misdemeanor, misdemeanor or violation. Therefore, the period of conditional release shall be no longer than ONE YEAR (expiring on _____, 20____).

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_____.

3. A probation officer of the Adult Client Probation Services Branch of the Fifth Judicial Circuit shall have supervision over Defendant, shall instruct Defendant regarding the 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 (AFTER ACQUITTAL) shall be signed by Defendant and filed herein.
4. The Adult Client Probation Services Branch of the Fifth Judicial Circuit shall provide the treating physician for Defendant with copies of all of Defendant's medical records in the possession of the probation office to assist in the treatment of Defendant.
5. Defendant is ordered to appear at all review hearings set by this Court, the first of which is set for _____, _____ at _____ a.m./p.m., in the above-entitled Court.

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM ON: _____:

Deputy Prosecuting Attorney

Defendant's Counsel

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

Case No. _____

CONDITIONS OF RELEASE [704-411(1)(b), 704-413(1)]

AMENDED

TO: _____, Defendant:

Pursuant to Hawaii Revised Statutes § 704-413(1), you are placed on Conditional Release. YOUR RELEASE SHALL BE ON THE FOLLOWING TERMS AND CONDITIONS:

1. You shall be under the supervision of a probation officer of the Adult Client Probation Services Branch of the Fifth Judicial Circuit or of such other jurisdiction to which you have been duly authorized to move, and you shall follow all reasonable instructions given to you by your probation officer.
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 probation officer.
3. You must inform your probation officer 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).
4. You must at all times continue to obtain/receive psychological or psychiatric care and treatment until you are discharged from your conditional release. 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. Should your treating mental health professional be of the opinion at any time that you should be placed in custody for detention, care and treatment or that any changes in these Conditions of Release should be made, your treating mental health professional may so recommend to your probation officer.
6. You shall do what is necessary to insure that your probation officer has your permission to consult from time to time with your treating mental health professional for the purpose of evaluating your progress.
7. You shall inform your treating mental health professional that he/she/they shall submit quarterly reports to your probation officer on your general condition.

8. If your treating mental health professional believes that you are not complying with the terms and conditions of these Conditions of Release or that there is other evidence that hospitalization is appropriate, he/she/they shall report the matter to your probation officer. Your probation officer may request that the Court order you temporarily hospitalized for 72 hours if your probation officer has probable cause to believe that you have: (1) failed to receive mental health or other treatment and care deemed appropriate by the director of health; (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.
9. If temporary hospitalization is ordered, a hearing will be held. After such hearing, if the Court determines that you are still affected by a physical or mental disease, disorder, or defect, and you are not fulfilling the requirements of your Conditions of Release, or that it is necessary for your safety or the safety of others that your conditional release should be revoked, the Court may revoke your conditional release, modify your Conditions of Release, or commit you to the custody of the director of health for a period not exceeding ____ days.
10. 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.
11. You shall not violate any federal or state laws, nor are you allowed to own or possess any firearms or ammunition or any dangerous instrument as defined by law.
12. Should 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 all of the terms and conditions of your conditional release will mean that the Court can revoke your release and place you in custody for detention, care, and treatment.
13. 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 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 obtain case management services from your treating mental health provider.

- ___ C. You shall reside in a group/care home or other residence as approved by your treating mental health professional and/or your probation officer.
- ___ 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 probation officer.
- ___ 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 probation officer 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 Conditions of Release.
- ___ 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 probation officer.
- ___ G. You shall attend peer support group meetings as determined by your mental health professional and/or your probation officer and submit verification of your attendance to your probation officer.
- ___ H. You shall submit to photographing by the Adult Client Probation Services Branch.
- ___ I. Other terms: _____

The foregoing terms and conditions have been explained to me. 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)