

Prosecutor
Defense Counsel
AMHD/Courts & Corrections [fax: (808) 832-1855]
Sheriff Div. [Hilo fax: (808) 933-8836; Kona fax: (808) 322-8788]
Probation [Hilo fax: (808) 961-7676; Kona fax: (808) 443-2188]
HISC [Hilo fax: (808) 933-8826; Kona fax: (808) 323-4571]
HCCC [fax: (808) 933-0447]
AMHD, UM [fax: (808) 453-6995]
Fiscal

IN THE _____ COURT OF THE THIRD CIRCUIT
_____ DIVISION
STATE OF HAWAII

STATE OF HAWAII

vs.

_____ ,

Defendant.

CASE NO. _____

**ORDER GRANTING MOTION FOR
NEUROPSYCHOLOGICAL EVALUATION
OF DEFENDANT AND ORDER FOR
TRANSPORT**

[§§704-404(2); 704-407.5(2)]

[Attach Copy of Complaint]

Hearing Date

Date: _____

Time: _____

Next Hearing

Date: _____

Time: _____

JUDGE: _____

**ORDER GRANTING MOTION FOR NEUROPSYCHOLOGICAL EVALUATION OF
DEFENDANT AND ORDER FOR TRANSPORT**

_____’s Motion for a Neuropsychological
Examination of Defendant Pursuant to Sections 704-404 and 704-407.5, Hawaii’s
Revised Statutes (“HRS”), came on for hearing on _____ at
_____ .m. with Defendant physically present present by video.
Defendant’s counsel, _____, and the State of Hawaii,

represented by Deputy Prosecuting Attorney, _____, were also present.

The Court, finding that there is good cause to order a neuropsychological examination of the Defendant,

IT IS HEREBY ORDERED as follows:

A. APPOINTMENT OF EXAMINER(S), HRS §§704-404(2); 704-407.5(2)

Defendant shall be examined by:

Neuropsychologist's Name

Selected by: Prosecutor Defense Counsel

B. EXISTING RECORDS, HRS §§704-404(9); 704-407.5(10)

The Adult Client Services Branch shall obtain and timely make available for inspection by examiner(s) all existing medical, mental health, social, police, and juvenile records, including those expunged, and other pertinent records in the custody of public agencies, notwithstanding any other statutes and Rule 16 of the Hawai'i Rules of Penal Procedure.

The Court further orders that any substance use disorder patient records within the scope of 42 C.F.R. part 2 that are in the custody of public agencies shall be provided to the Adult Client Services Branch for review by the examiner(s).

C. PLACE OF EXAMINATION

Defendant shall be examined at:

- The Hawai'i Community Correctional Center, or other correctional facility as deemed appropriate by the Director of Public Safety.

- A hospital or other suitable facility designated by the Director of Health ("DOH Facility") to which the Defendant is ordered committed until

_____ (a period not to exceed thirty (30) days),
unless the Court determines a longer period is necessary.

- If the Defendant is out of custody, a place, date, and time requested by the examiner(s). To arrange Defendant's appointment with the examiner(s), examiner(s) shall contact:

- Office of the Public Defender:

- Phone: Hilo (808) 974-4571; Kona (808) 327-4650

- Private Attorney: _____

D. CONTENTS OF REPORT, HRS §§704-404(3), (5), (6), (8); 704-407.5(3), (6), (7), (9)

The neuropsychologist's report shall include the following:

1. A description of the nature of the examination.
2. A diagnosis of the physical or mental condition of Defendant at the present time.
3. A full neuropsychological evaluation of Defendant pursuant to HRS §704-404(2) and §704-407.5(2). The examiner shall conduct neuropsychological testing, which will include an evaluation indicating intellectual assessment and adaptive functioning tests, and provide the Court with an opinion as to the possible impact on Defendant's fitness to proceed and Defendant's cognitive and/or volitional capacity to conform Defendant's conduct to the requirements of the law. If the examiner is of the opinion that further testing, such as imaging, should be ordered, the examiner shall so state, along with an explanation as to why such testing is being recommended by the examiner.
4. A statement that the diagnosis and opinion rendered were arrived at independently of other examiners, unless there is a showing of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report.
5. The examiner shall be permitted to make a separate explanation reasonably serving to clarify the examiner's diagnosis or opinion.

E. OTHER

F. DUE DATE OF EXAMINER’S REPORT

The neuropsychologist shall file a written report with the Court no later than seven (7) days prior to the hearing for the return on the report set in Section “G” below. The report of the neuropsychologist, including any supporting documents, shall be filed with the Clerk of the Court via the Judiciary Electronic Filing System for distribution to the prosecuting attorney, Defendant’s counsel, and the probation office.

Any request for an extension of the due date of an examiner’s report shall be made in writing and filed with the Court prior to the due date.

G. NEXT COURT DATE

Defendant is ordered to appear before this Court on _____ at _____ .m., or sooner if all necessary examiner reports have been filed and Defendant’s counsel can set an earlier court hearing. In the event that Defendant’s treating physician determines that transport to the hearing would present a risk of danger to Defendant or others, or if the Defendant chooses to waive their physical presence at the hearing, Defendant’s presence at the hearing may be by way of video-conferencing.

H. ORDER FOR TRANSPORT TO COURT

IT IS FURTHER ORDERED that:

Representatives of the Sheriff’s Division or the Department of Public Safety shall transport the Defendant from _____ to the _____ Court of the Third Circuit, State of Hawai’i, 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 facility deemed appropriate by the Director of Health (“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 their physical presence at the hearing, Defendant's presence at the hearing may be by way of video-conferencing.

Representatives of the Sheriff's Division or the Department of Public Safety shall transport the Defendant from the DOH Facility, and back to said facility, for any further hearings, as ordered by this Court.

DATED: _____, Hawai'i, _____.

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel

Print Name

Print Name

Defendant's Tel. No: _____

Defendant's Email Address: _____



If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as far in advance as possible to allow time to provide an accommodation. Call the ADA Coordinator at 808-961-7629, Fax 808-961-7577 or send an e-mail to adarequest@courts.hawaii.gov. The ADA Coordinator will try to provide, but cannot guarantee, the requested auxiliary aid, service, or accommodation.