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 Fiscal

IN THE \_\_\_\_\_ COURT OF THE THIRD CIRCUIT  
 \_\_\_\_\_ DIVISION  
 STATE OF HAWAII

STATE OF HAWAII

vs.

\_\_\_\_\_

Defendant.

CASE NO. \_\_\_\_\_

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

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

Hearing Date

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Next 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 Section 704-411(1)(a), Hawai'i Revised Statutes ("HRS"), came on for hearing on \_\_\_\_\_ at \_\_\_\_\_ .m. with Defendant  physically present  present by video. Defendant's counsel, \_\_\_\_\_, and the State of Hawai'i, represented by Deputy Prosecuting Attorney, \_\_\_\_\_, were also present.

The Court, having reviewed and received the report(s) of the 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 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 self 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.

IT IS THEREFORE HEREBY ORDERED that:

1. Defendant is ACQUITTED of the charged offense(s) on the grounds of physical or mental disease, disorder, or defect excluding penal responsibility.
2. Pursuant to HRS Section 704-411(1)(a), 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 HRS Section 704-412.

**[Check box, if applicable]**

- As Defendant is charged with offense(s) which do not involve violence or attempted violence, the Director of Health shall place Defendant in the least restrictive environment appropriate in light of 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 Public Safety at the Hawai'i 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 Sheriff's Division or Department of Public Safety designate shall effect the immediate transfer and transport of Defendant from the Hawai'i Community Correctional Center to the DOH Facility.

5. The Adult Client Services Branch 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 Hawai'i State Hospital, the records shall be kept confidential pursuant to Hawai'i 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 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 report(s) shall be kept confidential pursuant to Rule 9 of the Hawai'i 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 for distribution to the prosecuting attorney, Defendant’s counsel, and the probation office via the Judiciary Electronic Filing System.

9. Defendant is ordered to appear at all review hearings set by this Court, the first of which is set for \_\_\_\_\_ at \_\_\_\_\_ .m.

**ORDER FOR TRANSPORT TO DEPARTMENT OF HEALTH FACILITY**

IT IS FURTHER ORDERED that:

Representatives of the Sheriff’s Division or the Department of Public Safety shall transport the Defendant from the \_\_\_\_\_ Court of the Third Circuit, State of Hawai’i, to \_\_\_\_\_ (name of DOH Facility). The transportation of Defendant shall occur within the following time period:

(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).

(Out-of-Custody): Defendant shall be taken into custody forthwith by representatives of the Sheriff’s Division or Department of Public Safety, and transport of 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 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



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](mailto:adarequest@courts.hawaii.gov). The ADA Coordinator will try to provide, but cannot guarantee, the requested auxiliary aid, service, or accommodation.