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Fiscal

IN THE _____ COURT OF THE THIRD CIRCUIT
_____ DIVISION
STATE OF HAWAI'I

STATE OF HAWAI'I

vs.

Defendant.

CASE NO. _____

**JUDGMENT OF ACQUITTAL AND ORDER
OF CONDITIONAL RELEASE**

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

Hearing Date

Date: _____

Time: _____

Next Hearing

Date: _____

Time: _____

JUDGE: _____

JUDGMENT OF ACQUITTAL AND ORDER OF CONDITIONAL RELEASE

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)(b), 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; and
3. Defendant is still affected by the physical or mental disease, disorder, or defect, and presents a risk of danger to self 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.

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)(b), Defendant is released on the terms and conditions contained in the attached CONDITIONS OF RELEASE.

[Check box, if applicable]

- As Defendant is charged with offense(s) which do not involve violence or attempted violence, the period of conditional release shall be limited to ONE (1) YEAR from the date of this Order.
3. A probation officer of this Court 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.
4. The Adult Client Services Branch shall provide 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. 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 release on conditions. 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.

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

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: _____

CONDITIONS OF RELEASE

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 this Court, 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. 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 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 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 Hawai'i (or other location to which you have been duly authorized to move) without first obtaining permission from your Probation Officer.
9. You shall 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. 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 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 set for _____ at _____ .m.
14. Your further special conditions are as follows:
 - 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 they believe that you are either not complying with your treatment plan or there is evidence that hospitalization is appropriate.
 - 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.
 - You shall participate in educational, vocational, and/or employment training and other activities as determined by your Probation Officer, case manager, and/or treatment team.
 - You shall not possess or consume alcohol, illegal drugs, and/or unprescribed drugs.
 - You shall submit to drug and 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 these Conditions of Release.

- 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.
- You shall attend sober support meetings as determined by your Probation Officer and submit verification of your attendance to your Probation Officer.
- 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 this Judgment of Acquittal and Order of Conditional Release has been given to me.

Dated: _____

Signature of Defendant

Signature of Witness

Print Name of Witness



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.