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- ☒ Prosecutor 808 241-1758
☒ Defense Attorney
 ☐ Public Defender 808 274-3422
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☐ 2nd Examiner Dr. _____
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☐ Other _____

**IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII**

STATE OF HAWAII

vs.

Defendant.

) **CR. No.** _____
) **FC-CR.** _____
) **REP. NO(S):** _____
)
) ORDER GRANTING MOTION FOR
) NEUROPSYCHOLOGICAL EXAMINATION
) OF DEFENDANT AND ORDER FOR
) TRANSPORT
) **(Attach Copy of Complaint)**
) **[§§704-404(2); 704-407.5(2), HRS]**
)
) Hearing Date: _____
) JUDGE: _____
)

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

_____'s Motion for a Neuropsychological
Examination of Defendant Pursuant to Sections 704-404 and 704-407.5, Hawaii Revised
Statutes, came on for hearing on _____ at ____m. Defendant's counsel,

_____ was present. Deputy Prosecuting Attorney _____ was present. Defendant [] was physically present [] appeared via video-conferencing. 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, HRS §§704-404(2); 704-407.5(2)

Defendant shall be examined by:

☐

Neuropsychologist's name

Selected by: ☐ Prosecutor ☐ Defense Counsel

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

The Adult Client Services Branch shall obtain and timely make available for inspection by the 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 Hawaii Rules of Penal Procedure.

The court further orders that alcohol and drug abuse patient records within the scope of 42 C.F.R. part 2 that are in the custody of public agencies be provided to the Adult Client Services for review by the examiner(s).

C. PLACE OF EXAMINATION

Defendant shall be examined at:

☐

The Kauai Community Correctional Center, or other correctional facility as deemed appropriate by the Department of Corrections and Rehabilitation.

☐

The Kauai Judiciary Complex, 3970 Kaana Street, Lihue, Kauai, in a secured detention area interview room to be specified by the Department of Law Enforcement, Sheriffs Division. Arrangements shall be made by contacting the Sheriffs Division at (808) 482-2470 **not less than three (3) business days before the desired examination date.**

☐

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 exceeding 30 days)**, unless the Court determines that a longer period is necessary.

☐ The 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
Deputy Public Defender _____
Telephone: (808) 241-7128

☐ Defendant's Attorney _____
Telephone: _____

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 _____. The **original** of the report of the examination, including any supporting documents, shall be submitted to the Clerk of the Court by either

of the following methods: (1) mailing via U.S. Postal Service to 3970 Ka'ana Street, Lihue, Hawaii 96766; or (2) emailing to LegalDocs.5CC@Courts.Hawaii.Gov. As a courtesy, the examiner is encouraged to fax/email an unfiled copy of the report to the appropriate judge's chamber. FAX numbers for judges' chambers are:

District Court Chambers #2 – (808) 482-2535
Family Court Chambers #1 – (808) 482-2541
Family Court Chambers #3 – (808) 482-2655
Circuit Court Chambers #4 – (808) 482-2662
Circuit Court Chambers #6 – (808) 482-2561

The Clerk of the Court shall distribute the report, and any supporting documents, to the prosecuting attorney, Defendant's counsel, and the Adult Client Services Branch.

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 the neuropsychological examiner has completed the examination, and defense counsel can set an earlier court hearing. If, on the date of such hearing, the Defendant's treating physician determines that transport to the hearing would present a risk of danger to Defendant or others, or if Defendant chooses to waive his/her physical presence at the hearing, Defendant's presence at the hearing may be by way of Video-Conferencing.

H. ORDER FOR TRANSPORT TO COURT OF COMMITTED DEFENDANT

IT IS FURTHER ORDERED that:

Representatives of the Department of Law Enforcement, Sheriff's Division shall transport the Defendant from _____ to this Court 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"). If the Defendant's treating physician determines that transport to the hearing would present a risk of danger to Defendant or others, or if Defendant chooses to waive his/her physical presence at the hearing, Defendant's presence at the hearing may be by way of Video-Conferencing.

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

DATED: Lihue, Hawaii, _____.

Judge

APPROVED AS TO FORM on _____:

Deputy Prosecuting Attorney

Defense Counsel

Defendant's Tel. No.: _____

Defendant's Email Address: _____