

IN THE CIRCUIT COURT OF _____ COUNTY

STATE OF ALABAMA

v.

Defendant.

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CASE NO.: _____

ORDER FOR OUTPATIENT EVALUATION OF COMPETENCY TO STAND TRIAL

WHEREAS, the above-named Defendant is before the Court, having been charged with the offense(s) _____; and whereas the Court has received information indicating the Defendant may lack sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the Defendant, and the Court finding reasonable grounds exist to question the Defendant's competency,

IT IS HEREBY ORDERED that:

- 1) The Defendant shall under undergo examination on an out-patient basis by a psychologist or psychiatrist under contract with or employed by the Alabama Department of Mental Health to conduct a clinical evaluation as to whether the Defendant has sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceeding against the Defendant;
- 2) If the Defendant is in custody, the party having custody of the Defendant shall make the Defendant available at such times and locations as required by the Alabama Department of Mental Health, and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the Defendant during the out-patient visit. If the Defendant is not in custody, appearance at the out-patient evaluation shall be considered a condition of bond;
- 3) The District Attorney shall make available to the examining psychologist or psychiatrist information concerning the nature and circumstances of the offense(s) charges, as well as the prior criminal history of the Defendant ***within fourteen (14) business days*** of receipt of a request for the District Attorney Case Discovery file by the Alabama Department of Mental Health;
- 4) The Defendant's attorney shall provide information requested on the Alabama Department of Mental Health Defense Attorney Information form ***within fourteen (14) business days*** of receipt of a request by the Alabama Department of Mental Health to assist the examining psychologist or psychiatrist in the evaluation of the Defendant's mental condition, ***including records of prior psychiatric treatment***. All information provided to the psychologist or psychiatrist pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure;

5) Upon completion of the clinical examination, a written report shall be forwarded to the Circuit Judge, the Defendant's attorney, the District Attorney, and upon further order of the Court, to others having a proper interest therein. The original written report shall be filed with the Clerk of Court, under seal, and shall include the following information;

- a) Whether the Defendant has sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the Defendant;
- b) If the opinion is the Defendant is incompetent, the report shall also state the opinion of the psychologist or psychiatrist as to:
 - (1) The condition causing the Defendant's incompetency and the nature thereof;
 - (2) The treatment required for the Defendant to attain competency;
 - (3) The most appropriate form and place of treatment, in view of the Defendant's therapeutic needs and potential danger to himself or herself, or to others, and an explanation of the appropriate treatment alternatives;
 - (4) The likelihood of the Defendant's attaining competency under treatment and the probable duration of the treatment; and
 - (5) The availability of the various types of acceptable treatment in the local geographic area and specifying the agencies or the settings in which the treatment might be obtained and whether the treatment would be available on an out-patient basis; and

6) Further criminal proceeding against the Defendant are hereby continued generally until such time as the Court receives a report from the Alabama Department of Mental Health. Provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all of which may be conducted as necessary.

ORDERED this the _____ day of _____, 20____.

Circuit Judge

IN THE CIRCUIT COURT OF _____ COUNTY, ALABAMA

STATE OF ALABAMA

V.

Defendant.

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Case No. CC-20XX-0000.00

**ORDER FOR OUTPATIENT EVALUATION OF
COMPETENCY TO WAIVE MIRANDA**

WHEREAS, the above-named Defendant is before the Court, having been charged with the offense(s) of , and whereas the Court has received information indicating that the Defendant may have lack sufficient ability at the time of arrest to waive his Miranda rights, and the Court finding reasonable grounds exist to question the Defendant's competency, to-wit; and whereas the defendant, through his attorney, has timely filed notice pursuant to Rule 15, Alabama Rules of Criminal Procedure,

IT IS HEREBY ORDERED that:

1) The Defendant shall undergo examination on an out-patient basis by a psychologist or psychiatrist under contract with or employed by the Alabama Department of Mental Health to conduct a clinical evaluation as to whether the Defendant had sufficient understanding to waive Miranda at the time of arrest;

2) If the Defendant is in custody, the party having custody of the Defendant shall make the Defendant available at such times and locations as required by the Alabama Department of Mental Health, and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the Defendant during the out-patient visit. If the Defendant is not in custody, appearance at the out-patient evaluation shall be considered a condition of bond;

3) The District Attorney shall make available to the examining psychologist or psychiatrist information concerning the nature and circumstances of the offense(s) charged, as well as the prior criminal history of the Defendant; the Defense Attorney shall provide information to assist the examining psychologist or psychiatrist in the evaluation of the Defendant's mental condition, including records of prior psychiatric treatment. All information provided to the psychologist or psychiatrist pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure;

4) Upon completion of the clinical examination, a written report shall be forwarded to the Circuit Judge, the Defendant's attorney, the District Attorney, and upon further order of the Court, to others having a proper interest therein. The original written report shall be filed with the Clerk of Court, under seal, and shall include the following information:

a) The defendant's ability to waive Miranda at the time of his initial arrest;

6) Further criminal proceedings against the Defendant are hereby continued generally until such time as the Court receives a report from the Alabama Department of Mental Health. Provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all of which may be conducted as necessary.

ORDERED this ____ day of _____, 2019.

Circuit Judge

Copies to:

Defense Attorney

District Attorney

Alabama Department of Mental Health
Attn: Forensic Outpatient Services
100 North Union Street
Montgomery, AL 36130-1410

IN THE CIRCUIT COURT OF _____ COUNTY

STATE OF ALABAMA

v.

Defendant.

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CASE NO.: _____

**ORDER FOR OUTPATIENT EVALUATION OF DEFENDANT'S
MENTAL STATE AT THE TIME OF THE OFFENSE**

WHEREAS, the above-named Defendant is before the Court, having been charged with the offense(s) _____; and whereas the Court has received information indicating the Defendant may lack sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the Defendant, and the Court finding reasonable grounds exist to question the Defendant's competency; and whereas the defendant, through his/her attorney, has timely filed notice pursuant to Rule 15, Alabama Rules of Criminal Procedure, of his/her intent to pursue a special plea of not guilty and not guilty by reason of mental disease or defect.

IT IS HEREBY ORDERED that:

- 1) The Defendant shall under undergo examination on an out-patient basis by a psychologist or psychiatrist under contract with or employed by the Alabama Department of Mental Health to conduct a clinical evaluation of his/her mental state at the time of the alleged offense(s);
- 2) If the Defendant is in custody, the party having custody of the Defendant shall make the Defendant available at such times and locations as required by the Alabama Department of Mental Health, and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the Defendant during the out-patient visit. If the Defendant is not in custody, appearance at the out-patient evaluation shall be considered a condition of bond;
- 3) The District Attorney shall make available to the examining psychologist or psychiatrist information concerning the nature and circumstances of the offense(s) charges, as well as the prior criminal history of the Defendant ***within fourteen (14) business days*** of receipt of a request for the District Attorney Case Discovery file by the Alabama Department of Mental Health;
- 4) The Defendant's attorney shall provide information requested on the Alabama Department of Mental Health Defense Attorney Information form ***within fourteen (14) business days*** of receipt of a request by the Alabama Department of Mental Health to assist the examining psychologist or psychiatrist in the evaluation of the Defendant's mental condition, ***including records of prior psychiatric treatment***. All information provided to the psychologist or psychiatrist pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure;

5) Upon completion of the clinical examination, a written report shall be forwarded to the Circuit Judge, the Defendant's attorney, the District Attorney, and upon further order of the Court, to others having a proper interest therein. The original written report shall be filed with the Clerk of Court, under seal, and shall include the following information;

- (a) The mental condition of the Defendant at the time of the alleged offense(s);
- (b) If the opinion is the Defendant suffered from a mental disease or defect at the time of the alleged offense(s), the report shall state the relation, if any, of such mental disease or defect to the alleged offense(s); and

(c) _____
(List here such other matters the Court deems appropriate.)

6) Further criminal proceeding against the Defendant are hereby continued generally until such time as the Court receives a report from the Alabama Department of Mental Health. Provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all of which may be conducted as necessary.

ORDERED this the _____ day of _____, 20____.

Circuit Judge

IN THE CIRCUIT COURT OF _____ COUNTY

STATE OF ALABAMA

v.

Defendant.

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CASE NO.: _____

**ORDER FOR OUTPATIENT EVALUATION OF COMPETENCY TO STAND TRIAL
AND MENTAL STATE AT THE TIME OF THE OFFENSE**

WHEREAS, the above-named Defendant is before the Court, having been charged with the offense(s) _____; and whereas the Court has received information indicating the Defendant may lack sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the Defendant, and the Court finding reasonable grounds exist to question the Defendant's competency; and whereas the defendant, through his/her attorney, has timely filed notice pursuant to Rule 15, Alabama Rules of Criminal Procedure, of his/her intent to pursue a special plea of not guilty by reason of mental disease or defect or not guilty and not guilty by reason of mental disease or defect.

IT IS HEREBY ORDERED that:

- 1) The Defendant shall under undergo examination on an out-patient basis by a psychologist or psychiatrist under contract with or employed by the Alabama Department of Mental Health to conduct a clinical evaluation as to whether the Defendant has sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceeding against the Defendant;
- 2) If the Defendant is in custody, the party having custody of the Defendant shall make the Defendant available at such times and locations as required by the Alabama Department of Mental Health, and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the Defendant during the out-patient visit. If the Defendant is not in custody, appearance at the out-patient evaluation shall be considered a condition of bond;
- 3) The District Attorney shall make available to the examining psychologist or psychiatrist information concerning the nature and circumstances of the offense(s) charges, as well as the prior criminal history of the Defendant ***within fourteen (14) business days*** of receipt of a request for the District Attorney Case Discovery file by the Alabama Department of Mental Health;
- 4) The Defendant's attorney shall provide information requested on the Alabama Department of Mental Health Defense Attorney Information form ***within fourteen (14) business days*** of receipt of a request by the Alabama Department of Mental Health to assist the examining psychologist or psychiatrist in the evaluation of the Defendant's mental condition, ***including records of prior psychiatric treatment***. All

information provided to the psychologist or psychiatrist pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure;

5) Upon completion of the clinical examination, a written report shall be forwarded to the Circuit Judge, the Defendant's attorney, the District Attorney, and upon further order of the Court, to others having a proper interest therein. The original written report shall be filed with the Clerk of Court, under seal, and shall include the following information;

- a) Whether the Defendant has sufficient present ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the Defendant;
- b) If the opinion is the Defendant is incompetent, the report shall also state the opinion of the psychologist or psychiatrist as to:
 - (1) The condition causing the Defendant's incompetency and the nature thereof;
 - (2) The treatment required for the Defendant to attain competency;
 - (3) The most appropriate form and place of treatment, in view of the Defendant's therapeutic needs and potential danger to himself or herself, or to others, and an explanation of the appropriate treatment alternatives;
 - (4) The likelihood of the Defendant's attaining competency under treatment and the probable duration of the treatment; and
 - (5) The availability of the various types of acceptable treatment in the local geographic area and specifying the agencies or the settings in which the treatment might be obtained and whether the treatment would be available on an out-patient basis; and

6) A separate written report shall further address:

- (a) The mental condition of the Defendant at the time of the alleged offense(s);
- (b) If the opinion is the Defendant suffered from a mental disease or defect at the time of the alleged offense(s), the report shall state the relation, if any, of such mental disease or defect to the alleged offense(s); and

(c) _____
(List here such other matters the Court deems appropriate.)

7) Further criminal proceeding against the Defendant are hereby continued generally until such time as the Court receives a report from the Alabama Department of Mental Health. Provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all of which may be conducted as necessary.

ORDERED this the _____ day of _____, 20____.

Circuit Judge

IN THE CIRCUIT COURT OF _____ COUNTY, ALABAMA

STATE OF ALABAMA

V.

Defendant.

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Case No. CC-20XX-0000.00

**ORDER FOR OUTPATIENT EVALUATION OF CAPITAL MURDER DEFENDANT TO
DETERMINE THE PRESENCE OF MENTAL DISABILITY/RETARDATION FOR
POTENTIAL ATKINS HEARING REGARDING DEATH PENALTY CONSIDERATION**

WHEREAS, the above-named Defendant is before the Court, having been charged with the offense(s) of Capital Murder, and whereas the Court has received information indicating the Defendant may be mentally retarded (motion for examination having been filed by _____), And the Court finding reasonable grounds exist to question the Defendant's mental capacity, to-wit; and whereas the defendant, through his/her attorney, has timely filed notice pursuant to Rule 15, Alabama Rules of Criminal Procedure, of his/her intent to pursue a special plea of mental retardation, affecting potential post-conviction death penalty consideration,

IT IS HEREBY ORDERED that:

- 1) The Defendant shall undergo examination on an out-patient basis by a Certified Forensic Examiner under contract with or employed by the Alabama Department of Mental Health to conduct a clinical evaluation and such review of records and administration of psychological tests that are necessary to determine whether the Defendant is mentally retarded;
- 2) If the Defendant is in custody, the party having custody of the Defendant shall make the Defendant available at such times and locations as required by the Certified Forensic Examiner, and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the Defendant during the out-patient visit. If the Defendant is not in custody, appearance at the out-patient evaluation shall be considered a condition of bond;
- 3) The District Attorney shall make available to the examining certified forensic examiner information concerning the nature and circumstance of the offense(s) charged, as well as the prior criminal history of the Defendant; the Defense Attorney shall provide information to assist the examining psychologist in the evaluation of the Defendant's mental condition, including but not limited to prior school records, records of employment, medical records and records of prior psychiatric treatment. All information provided to the certified forensic examiner pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure;

4) Upon completion of the clinical examination, a written report shall be forwarded to the Circuit Judge, the Defendant's Attorney, the District Attorney, and upon further order of the Court, to others having a proper interest therein. The original written report shall be filed with the Clerk of Court, under seal, and shall include the following information:

- a) Whether the Defendant is mentally retarded and the bases for reaching the conclusions from the examination;
- b) If the opinion is that the Defendant is mentally retarded, the report shall also state the opinion of the certified forensic examiner as to:
 - (1) The condition causing the Defendant's mental retardation and the nature thereof;
 - (2) The treatment, if any, available for the Defendant to overcome mental retardation;
 - (3) The most appropriate form and place of treatment, in view of Defendant's therapeutic needs and potential danger to himself or herself, or to others, and an explanation of appropriate treatment alternatives;
 - (4) The likelihood of the Defendant's recovery from mental retardation under treatment and the probable duration of the treatment.

5) Further criminal proceeding against the Defendant are hereby continued generally until such time as the Court receives a report; provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all of which may be conducted as necessary

ORDERED THIS ____ DAY OF _____, 2019.

CIRCUIT JUDGE

Distribute to:

Defense Attorney –

District Attorney –

Alabama Department of Mental Health
Attn: Forensic Outpatient Services
100 North Union Street
Montgomery, AL 36130-1410

IN THE CIRCUIT COURT OF _____ COUNTY, ALABAMA

STATE OF ALABAMA

v.

_____,
DEFENDANT.

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CASE NO. _____

ORDER FOR PRODUCTION OF RECORDS

I, the undersigned Circuit Judge, do hereby certify that, it having been alleged to me that certain records of the above-named Defendant (DOB _____, SSN: _____) are in the custody of the agencies noted below, that the records are subject to the confidentiality provisions of 38 United States Code Section 7332 and 42 C.F.R. Sections 2.1 59 2.67-1, and that production of the records is necessary to the completion of the psychiatric evaluation and treatment ordered by this Court,

THEREFORE, after weighing the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship and to the treatment services,

CONSIDER, ORDER, ADJUDGE AND DECREE that good cause exists for production and disclosure of the records, ***at no cost to the defendant, defense counsel and/or the Alabama Department of Mental Health***, that other competent evidence or sources of information regarding the patient's condition are not reasonably available, that there is no successful treatment or rehabilitation of other patients, and that the following limitations on disclosure shall be imposed:

- 1) Disclosure is limited to the following described parts of the patient's records:
Hospitalization/Treatment Summaries, Mental Status Examinations, Physical Examinations, Psychological Testing Reports, Social History Studies, Lab & X-Ray Reports, Other (specify):

- 2) Disclosure is limited to the following agency whose need for information in order to execute a court order for outpatient mental evaluation is the basis of this order:
Alabama Department of Mental Health, Forensic Outpatient Program;
- 3) A copy of this Order shall be forwarded by the Clerk to the agencies listed below, which shall release the identified records to the attention of Alabama Department of Mental Health, Forensic Outpatient Program, 100 North Union Street, Montgomery, Alabama 36130-1410, upon the receipt of this Court Order.

ORDERED this _____ day of _____, 2019.

Circuit Court Judge

Distribute to:

Alabama Department of Mental Health
Forensic Outpatient Program
100 North Union Street
Post Office Box 301410
Montgomery, Alabama 36130-1410
Email: fop.dmh@mh.alabama.gov
Fax: 1 (334) 242-3025

**ATTORNEY TO LIST PREVIOUS TREATING ENTITY(IES)
AND/OR FACILITY IF DEFENANT IS IN CUSTODY:**

CLERK TO DISTRIBUTE