

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF LANE

STATE OF OREGON)
Plaintiff,)
)
)
)
)
)
)
Defendant.)
)
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DOB:)
SID:)

CASE NO: _____

ORDER FINDING DEFENDANT UNFIT TO PROCEED AND ORDER TO ENGAGE IN COMMUNITY RESTORATION AND TREATMENT SERVICES (ORS 161.370)

This matter came before the Court on _____ for a determination of Defendant’s fitness to proceed pursuant to ORS 161.370.

Crime Name: Crime ORS#: Felony/Misd/Viol:

Based on the Court’s review and consideration of (check all that apply):

- The report filed under ORS 161.365 by a certified evaluator, _____, dated _____;
Recommendation from Lane County Behavioral Health (LCBH);
The Court’s inquiry and observation of Defendant at the hearing;
The defense counsel’s representation;
Witness testimony
The parties’ stipulation that Defendant is not fit to proceed;
The parties’ stipulation that Defendant is appropriate for community restoration;
Other information provided: _____.

THE COURT, being fully informed, FINDS:

- 1. Defendant is not fit to proceed;
2. The most serious offense in the charging instrument is a FELONY. The Court further finds that:
Defendant: (a) is at least 18 years old; (b) does not require hospital-level-of-care due to public safety concerns or the acuity of symptoms of Defendant’s qualifying mental disorder; and (c) the appropriate community restoration services are present and available in the community.
Defendant: (a) is at least 18 years old; (b) does require hospital-level-of-care due to public safety concerns or the acuity of symptoms of Defendant’s qualifying mental disorder; (c) however, Defendant has timed out of care at OSH due to the directives under Oregon Advocacy Center v. Mink; and (d) the appropriate community restoration services are present and available in the community.

3. The most serious offense in the charging instrument is a MISDEMEANOR. The Court further finds that:

Defendant: (a) is at least 18 years old; (b) **does not** require hospital-level-of-care due to public safety concerns **or** the acuity of symptoms of Defendant's qualifying mental disorder; **and** (c) the appropriate community restoration services are present and available in the community.

Defendant: (a) is at least 18 years old; (b) **does** require hospital-level-of-care due to public safety concerns **or** the acuity of symptoms of Defendant's qualifying mental disorder; (c) **however**, Defendant has timed out of care at OSH due to the directives under *Oregon Advocacy Center v. Mink*; **and** (d) the appropriate community restoration services are present and available in the community.

It is therefore **ORDERED**:

1. The criminal proceeding against Defendant, in the aforementioned matter, is suspended.

2. Defendant shall reside at _____ (*name and address of residence or facility*) and shall not move without prior permission of the Court.

3. Transportation (*check one*):

Defendant shall appear voluntarily at the address in subsection (2) of this Order at the date and time determined by LCBH.

LCBH or its designees shall transport Defendant to the address in subsection (2) of this Order at the date and time determined by LCBH.

4. Defendant shall comply with the community restoration plan developed by LCBH under subsection (12) of this Order. Defendant shall meet with LCBH to address the requirements of community restoration. Defendant shall also meet with a Court Pre-Trial Release Officer to address the requirements of community restoration, which shall be issued to the defendant in writing. Defendant shall comply with all requirements of LCBH and the Pre-Trial Release Condition and failure to abide by any requirement may result in a warning being issued for the defendant's arrest and possible commitment to OSH.

5. Defendant shall appear for a forensic evaluation by a certified evaluator to evaluate whether Defendant has gained or regained fitness to proceed at the date and time determined by the certified evaluator. The evaluation shall be conducted:

By a certified evaluator, as identified by the community mental health program;

By the Oregon State Hospital Forensic Evaluation Service; or

By a private certified evaluator: _____; and

At intervals recommended by a treatment provider

At intervals of 90 and 180 days of this Order and then every subsequent 180 days.

The following party or entity shall bear the cost of the evaluation:

- The Public Defense Services Executive Director (if, upon motion of the Court or a financially eligible defendant, a CIRCUIT COURT has ordered the evaluation);
- The County or City (if a COUNTY or JUSTICE/MUNICIPAL COURT had ordered the evaluation);
- The County (if the prosecution has requested the evaluation);
- Defendant (if the evaluation was ordered at the request or with the acquiescence of a defendant who is not financially eligible for public defense services); or
- Other: _____.

6. If Defendant fails to appear for the scheduled evaluation, the evaluator shall notify the court, defense counsel, the deputy district attorney and LCBH of Defendant's failure to appear.

7. Defendant shall comply with any conditions:

- Provided by separate order;
- Set by pre-trial release program or LCBH; and/or
- Other: _____.

8. Defendant is required to immediately advise their attorney and pre-trial services if cited for any crime or major traffic infraction.

9. LCBH shall provide monthly status reports on Defendant's progress in gaining or regaining fitness to proceed. LCBH shall notify the court as soon as practicable if Defendant gains or regains fitness to proceed.

10. LCBH shall provide a status report if Defendant is not complying with court-ordered restoration services.

11. LCBH shall be responsible for arranging appropriate community restoration services for Defendant and shall:

- a. Set the requirements for community restoration and submit a copy of a treatment plan to the court and parties;
- b. Notify the court if Defendant's mental and/or behavioral condition changes, which might impact Defendant's ability to safely remain in community-based restoration, or the terms of community restoration in this Order need to be modified;
- c. Arrange for Defendant to be evaluated, as provided in subsection (6) of this Order.
- d. Coordinate transportation to and from the forensic evaluations and court appearances in this case.

12. If Defendant is placed in a Secure Residential Treatment Facility (SRTF), Defendant's placement under this Order shall be no longer than the maximum sentence the court could have imposed if Defendant had been convicted or three (3) years, whichever is less (*mark one*):

- The charging instrument includes a charge for Aggravated Murder or a crime listed in ORS 137.700(2). LCBH shall calculate Defendant's maximum commitment from the date of this Order; or

- The charging instrument **does not** include a charge for Aggravated Murder or a crime listed in ORS 137.700(2). LCBH shall calculate Defendant's maximum commitment based on the Defendant's booking/arrest date, giving credit for each day Defendant is held in jail both before and after Defendant's commitment under this Order.

13. Disclosure of Records:

- a. The certified evaluator shall provide its report(s) from the evaluation performed under subsection (6) of this Order.
- b. OSH and the community restoration facility or other placement, as applicable, shall disclose to LCBH information and documents about Defendant relevant to LCBH fulfilling its obligations under this Order.

NOTICE OF FIREARMS PROHIBITION

The court has found that Defendant is not able to assist their lawyer represent them in their criminal case. As a result, federal law prohibits Defendant from having or buying firearms (guns or ammunition). The Oregon Judicial Department is required to report to the Oregon State Police that this firearms restriction applies to Defendant.

Further proceedings are set for hearing on the community restoration review docket at 8:30 a.m. on

DATED: _____

Defense Attorney
Name: _____
Email: _____
Ph. No.: _____

Deputy District Attorney
Name: _____
Email: _____
Ph. No.: _____