

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA

Case No.:

vs

SPN:

Defendant.

FELONY DIVISION:

_____ /

**ORDER ADJUDGING DEFENDANT INCOMPETENT TO PROCEED
AND PLACING DEFENDANT ON CONDITIONAL RELEASE
[RETARDATION / AUTISM] (512A)**

THIS CAUSE having come to be heard before the Court, and the questions of the competency of the defendant in this cause to proceed having been raised in accordance with the provisions of Florida Rule of Criminal Procedure 3.210(b) and Florida Statute section 916.301 the Court appointed **The Agency for Persons with Disabilities (Dr. Prichard)** to examine the defendant and to report to the Court on whether the defendant is competent to proceed and, if not, to report on any recommended training for the defendant to attain competency to proceed. The Court having received:

the written reports

the oral testimony

both written reports and oral testimony

of the above-named experts and others in relation to the issue of the defendant's competency to proceed and need for training, the Court hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACTS

1. The Defendant is charged with a felony
2. The Defendant is incompetent to proceed due to mental retardation
3. Defendant does not meet the criteria for involuntary commitment to a forensic facility as provided in F.S. 916.302 (2006).

CONCLUSIONS OF LAW

A. The defendant is incompetent to proceed due to the defendant's retardation or autism causing the incompetence as defined in §916.106(1) or (12), Fla.Stat. (Supp. 1998).

B. The defendant is incompetent to proceed with

- pre-trial hearings
 - entry of a plea
 - the trial of the case
 - sentencing
 - violation of probation or community control proceedings
 - hearings on issues regarding a defendant's failure to comply with court orders or conditions
 - other matters where the mental competence of the defendant is necessary, i.e.
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C. The defendant does not meet the criteria for commitment to a forensic facility as provided in Florida Statute section 916.302, but is in need of outpatient training to restore competency to proceed.

Based upon the findings of facts and conclusions of law, it is ORDERED AND ADJUDGED that:

1. The defendant is incompetent to proceed due to the defendant's retardation or autism causing the incompetence as defined in Florida Statute section 916.106(1)or(12) and all further proceedings are hereby stayed.

2. The defendant does not meet the criteria for commitment to a forensic facility of the Agency for Persons with Disabilities as provided in Florida Statute section 916.302 but is in need of outpatient training to restore competency to proceed.

3. Accordingly, the defendant is hereby released, pursuant to Florida Statute section 916.304 and Florida Rule of Criminal Procedure 3.212(d) on the following release conditions for a period not to exceed one year, under the supervision and direction of the Agency for Persons with Disabilities.

(a) The defendant will remain in outpatient training for his retardation or autism during his conditional release period. Such training will be provided by the Agency for Persons with Disabilities. All aspects of his training and reporting requirements will be coordinated by the **Agency for Persons with Disabilities**.

(b) The defendant will reside at _____.
Any change in address must be approved by the Court .

(c) The defendant will take psychotropic medication if prescribed by an attending psychiatrist. If needed, periodic psychiatric consultations will be coordinated by his case manager/forensic specialist.

(d) The defendant will attend outpatient substance abuse training if directed and arranged by his case manager/forensic specialist.

(e) The defendant will not drink alcohol or use illegal substances of any kind and may be required to undergo periodic drug screening as directed by his case manager/forensic specialist.

(f) The defendant will not possess or use any firearms or other weapons of any kind.

4. No later than 6 months after the date of placement on conditional release, the defendant's competency shall be reevaluated under the supervision of Agency for Persons with Disabilities who shall report to the committing Court, with copies to the attorney for the state and defense on the issue of the need for continued conditional

release as provided in Florida Rule of Criminal Procedure 3.212(d) and Florida Statute section 916.304 and on an annual basis thereafter.

In the event the defendant has failed to comply with all conditions of his conditional release or that the defendant's condition has deteriorated to the point that inpatient care is required, or that the release conditions should be modified, the case manager shall immediately file an affidavit or statement under oath to that effect. The court will thereafter conduct a hearing to determine if the release conditions need to be modified.

5. The Clerk of the Court is directed to forthwith forward a certified copy of this Order along with copies of any written reports submitted to this Court by experts appointed by the Court relating to the issues of competency and commitment; copies of any other psychiatric, psychological or social work reports submitted to the Court relative to the mental state of the Defendant; and a copy of the charging instrument and all supporting affidavits or other documents used in the determination of probable cause to: **Agency for Persons with Disabilities, Regina Schouest, 2383 Phillips Rd, Tallahassee, FL 32308.**

6. The conditional release plan has been reviewed by the defendant. The defendant understands the conditions of release listed and agrees to comply with them. Pursuant to Florida Statute section 916.304(1) a copy of the plan is attached to this order and copied to all parties.

7. The Court hereby retains jurisdiction in this cause, pursuant to Florida Statute section 916.3025(2) for the entry of such Order as may be necessary or appropriate.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida this
_____ day of December , 2009.

CIRCUIT JUDGE

Copies furnished to:

Assistant State Attorney:

Assistant Public Defender:

Defendant

Agency for Persons with Disabilities

Kendra Brown: Mental Health Coordinator, Court Administration, 201G, Leon County Courthouse

