

FORM 28 - FELONY OR GROSS MISDEMEANOR FINDINGS OF FACT; ORDER INCLUDING PETITION FOR JUDICIAL COMMITMENT; ORDER FOR MENTAL EXAMINATION TO DETERMINE: (1) DEFENDANT'S COMPETENCY TO PROCEED WITH CRIMINAL CASE (2) MENTAL ILLNESS OR DEFICIENCY AT TIME OF COMMISSION OF THE OFFENSE

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
_____ JUDICIAL DISTRICT

_____,
Plaintiff,

vs.

_____,
Defendant.

FELONY OR GROSS MISDEMEANOR
FINDINGS OF FACT; ORDER
INCLUDING PETITION FOR
JUDICIAL COMMITMENT; ORDER
FOR MENTAL EXAMINATION TO
DETERMINE: (1) DEFENDANT'S
COMPETENCY TO PROCEED WITH
CRIMINAL CASE (2) MENTAL
ILLNESS OR DEFICIENCY AT TIME
OF COMMISSION OF THE OFFENSE

District Court File No. _____

This matter came on for hearing before the Court, the Honorable _____, District Judge presiding. _____, Assistant County Attorney, appeared for the State. The Defendant appeared in person and was represented by Attorney _____.

This Court finds that based on all the files, records, and proceedings in this case: There is reason to believe that the Defendant may be mentally ill or deficient and that proceedings should be commenced under the Minnesota Hospitalization and Commitment Act; there is reason to believe the Defendant is incompetent to proceed with the criminal case; the Defendant has notified the prosecuting attorney of an intention to assert a defense of mental illness or mental deficiency.

Pursuant to the Minnesota Hospitalization and Commitment Act, this Court represents that:

1. Defendant was born _____, 19____, at _____.
2. Defendant resides at _____, Minnesota.
3. Defendant's spouse and nearest kindred are:
(Name) (Relationship) (Age) (Address)

4. Defendant (is) (is not) a Veteran.

5. Defendant is believed to be (mentally ill) (mentally deficient) because

6. Defendant is further believed to be (mentally ill) (mentally deficient), as evidenced by the physician's statement furnished herewith.

7. The Court has been unable to procure a physician's statement because

8. Defendant is presently at _____

9. Defendant was last committed to the State Hospital at _____, Minnesota, by the _____ Probate Court on or about _____, 19____, and has received psychiatric treatment at the following hospitals:

10. Defendant has been under the care of Dr. _____ whose office address is:

This Court orders that:

A. The prosecuting attorney shall immediately:

1. Deliver a copy of these Findings of Fact, and Order Including Petition for Judicial Commitment to the county welfare department.
2. File these Findings of Fact and Order Including Petition for Judicial Commitment in the probate court.
3. Request the probate court to immediately issue such orders as may be necessary to provide for the examination of the proposed patient.
4. Cause to be delivered to the sheriff any order of the probate court directing the sheriff to transport the proposed patient to a designated hospital or other place for the purpose of an examination prior to the hearing on the petition for judicial commitment.

B. The sheriff shall immediately transport the proposed patient to a designated hospital or other place as directed by any order of the probate court.

C. The prosecuting attorney shall appear and represent the petitioner at the commitment hearing.

The criminal proceedings are continued pending the commitment and other determinations.

- E. The Probate Court shall transmit its findings to the District Court, including:
1. Its findings of fact and conclusions of law.
 2. A copy of the examiner's report.
 3. A determination as to whether defendant may be committed under the Minnesota Hospitalization and Commitment Act, and if so whether the Defendant is dangerous to the public.
 4. As to competency to proceed with the criminal case:
 - (a) A diagnosis of the mental condition of the Defendant.
 - (b) If the Defendant is mentally ill or mentally deficient, an opinion as to: (i) the Defendant's capacity to understand the criminal proceedings and to participate in the defense; (ii) whether the Defendant presents an imminent risk of serious danger to another person is imminently suicidal or otherwise needs emergency intervention; (iii) the treatment required, if any, for the Defendant to attain or maintain competence with an explanation of the appropriate treatment alternatives by order of choice, including the extent to which the Defendant can be treated without being committed to an institution and the reasons for rejecting such treatment if institutionalization is recommended; and (iv) whether there is a substantial probability that with treatment, or otherwise, the Defendant will ever attain the competency to proceed and if so, in approximately what period of time, and the availability of the various types of acceptable treatment in the local geographical area, specifying the agencies or settings in which the treatment might be obtained and whether it would be available to an outpatient.
 - (c) A statement of the factual basis upon which the diagnosis and opinion are based.
 - (d) If the examination could not be conducted by reason of the Defendant's unwillingness to participate therein, a statement to that effect with an opinion, if possible, as to whether the Defendant's unwillingness was the result of mental illness or deficiency.
 5. As to mental illness or deficiency at time of commission of offense:
 - (a) A diagnosis of the Defendant's medical condition at the time of the commission of the offense.
 - (b) An opinion as to whether, because of mental illness or deficiency, the Defendant at the time of the commission of the offense charged was laboring under such a defect of reason as not to know the nature of the act constituting the offense with which Defendant is charged or that it was wrong.
 - (c) A statement of the factual basis upon which the diagnosis and any opinion are based.
 - (d) If the examination could not be conducted by reason of the Defendant's unwillingness to participate therein, a statement to that effect with an opinion, if possible, as to whether the Defendant's unwillingness was the result of mental illness or deficiency.
- F. Following the examination by the Probate Court, the entry of the appropriate judgment is to be suspended and the Defendant returned to this Court.
- G. If any of the mental-health professionals appointed to examine the Defendant concludes that the Defendant presents an imminent risk of serious danger to another person, is imminently suicidal, or otherwise needs emergency intervention, the mental-health

professional shall promptly notify the prosecuting attorney, defense counsel, and this Court.

Dated: _____

District Court Judge

(Effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1990.)