

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,)	
)	No.
Plaintiff,)	
)	AGREED ORDER FOR RCW 10.77.060
vs.)	SANITY COMMISSION, STAY ORDER
)	AND REPORT TO THE COURT
_____,)	(Clerk's Action Required)
(DOB: _____))	(ORSP)
)	
Defendant.)	

I. MOTION

This matter came before the undersigned Judge on the motion of the attorney for _____, for the appointment of a Sanity Commission to evaluate and report on defendant's mental state.

This motion is based upon RCW 10.77 *et seq*, the records and files herein, and the incorporated Certificate of _____.

II. CERTIFICATE

_____, WSBA # _____ states: I am the Attorney for the defendant and as such am familiar with the files, the defendant and the circumstances of this case. I further assert:

I have a good faith belief that there is reason to doubt the defendant's fitness to proceed; and it appears that as a result of mental disease or defect defendant is incapable of aiding counsel in his/her own defense or understanding the proceedings against him/her.

I have a good faith belief that the defendant may be developmentally disabled.

Pursuant to RCW 9A.72.085 and Washington State Rules of Court GR 13, I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date: _____ Place: _____

_____, WSBA # _____
Attorney at Law

III. FINDINGS

There is good cause to believe that, because of a mental disease or defect, the defendant is presently incapable of aiding counsel in his/her own defense, or understanding the proceedings against him/her.

There is good cause to believe that the defendant is developmentally disabled.

IV. ORDER

Under the authority of RCW 10.77.060, the Court directs the Secretary of the Department of Social and Health Services or his/her designee to appoint a Sanity Commission comprised of staff at Eastern State Hospital, or such other qualified experts as may be deemed appropriate by the Secretary.

The Commission shall evaluate and report as detailed below.

SECTION A: IDENTITY OF EVALUATOR

The defendant is to be evaluated by an expert or professional person designated by the Secretary of the Department of Social and Health Services.

SECTION B: PLACE OF EXAMINATION

B (1). SPOKANE COUNTY JAIL/GEIGER CORRECTIONAL CENTER. The defendant is held in the Spokane County Jail, Geiger Correctional Center on this cause number, and the examination shall take place in the Jail/Geiger.

If subsequent to the date of this Order it is determined that the examination should take place or be completed at Eastern State Hospital, the expert shall notify the parties in writing. Such writing and a conformed copy of this order, without more, shall direct the Spokane County Sheriff to transport the defendant to Eastern State Hospital, and at the end of such period of examination and testing, return the defendant to the custody of the Spokane County Jail/Geiger. If the defendant is transferred to ESH for the evaluation, the defendant shall not be committed for longer than fifteen days from the time of admission to the facility.

If the defendant is transferred to another detention or correctional facility or a treatment facility under RCW 71.05, the Jail/Geiger and/or the parties are to immediately inform Eastern State Hospital at (509) 565-4423 and the new facility is ordered to make the defendant available for the purposes of this evaluation order.

If the defendant is released from Jail/Geiger prior to the examination, the defendant's attorney shall contact the staff at Eastern State Hospital to schedule an appointment for examination at Eastern State Hospital or an agreed facility.

B (2). NOT IN CUSTODY. As the defendant is not currently in custody, the defendant and/or his/her attorney shall contact Eastern State Hospital to schedule and arrange an appointment for examination at Eastern State Hospital or an agreed facility. The fifteen (15) days shall begin upon the date of the examination.

If the defendant is committed to another treatment facility before the evaluation, that other facility is ordered to make the defendant available for the purposes of this evaluation order.

This order must be amended to authorize in-patient examination if necessary to complete the evaluation.

B (3). IN-PATIENT AT EASTERN STATE HOSPITAL. The examination is to occur at Eastern State Hospital and the defendant is hereby committed to the care of the Division of Social and Health Services for up to fifteen (15) days from the date of admission to the hospital, as (check the appropriate finding): a) The defendant is charged with first or second degree murder; b) The court finds that it is more likely than not, that an

evaluation in the jail will be inadequate to complete an accurate evaluation; [_____] c) The court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant.

The fifteen (15) days shall begin upon the date of admission to Eastern State Hospital.

If the defendant is in Jail or at Geiger, staff of Eastern State Hospital and the Spokane County Sheriff's Department shall coordinate and arrange for transportation of the defendant from the detention facility to Eastern State Hospital, and back to detention, as may be necessary to give effect to this order.

If the defendant is released from Jail/Geiger prior to the examination, the defendant's attorney shall contact the staff at Eastern State Hospital to schedule an appointment for examination at Eastern State Hospital or an agreed facility.

When the evaluation ordered herein is complete, if defendant was transferred to ESH from Jail or Geiger, s/he shall be returned to that custody status pending further order of the court.

If the defendant is at Eastern State Hospital and the evaluator(s) concludes that the defendant is not competent to proceed, Eastern State Hospital is authorized to maintain custody of the defendant for fourteen (14) days pending an order of competency restoration on condition the Court and attorneys for both parties are provided written notice of this decision.

SECTION C: EVALUATION REQUIREMENTS:

RCW 10.77 applies to all aspects of the evaluation. In addition:

[_____] **C (1). DEVELOPMENTAL DISABILITIES PROFESSIONAL:** As the defendant may be developmentally disabled, the Court hereby orders that the expert qualify as a developmental disabilities professional. If the expert at Eastern State Hospital determines the defendant is not developmentally disabled, the Court and attorney shall be informed of that determination, and the examination shall proceed accordingly.

[_____] **C (2).** The defendant requires the assistance of a Court-certified interpreter of the _____ language.

[_____] **C (3).** The defense attorney wishes to be present for the evaluation. Eastern State Hospital staff shall provide five (5) business days notice of the proposed time and place of any forensic interview to defense attorney _____, at phone number _____. The current criminal charge(s) shall not be discussed with the defendant, outside the forensic interview.

SECTION D: REPORT CONTENTS, TIMING AND DISTRIBUTION:

The report ordered herein shall be in writing and filed with the undersigned Court, and copies provided to the prosecuting attorney, the defense counsel, to the county designated Mental Health Professional and the designated professional person at the local correctional facility where the person is held as per RCW 10.77.060 and 10.77.065.

The report of the evaluation shall include the following pursuant to RCW 10.77.060:

D (1) A description of the nature of the evaluation;

D (2) A diagnosis or description of the current mental status of the defendant;

D (3) COMPETENCY: If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

D (4) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public

safety or security, unless kept under further control by the court or other person or institutions, provided that no opinion shall be rendered under this subsection D(4) unless the evaluator or court determines that the defendant is competent to stand trial;

D (5) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

D (6) MHP EVALUATION: An opinion as to whether the defendant should be evaluated by a designated mental health professional under chapter 71.05 RCW.

D (7) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

D (8) DATE REPORT DUE: The written report is to be submitted to the parties specified in the statute as defined in RCW 10.77.

SECTION E: RECORDS:

E (1). In accordance with RCW 10.77.060 (1)(a) the staff of Eastern State Hospital is granted access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant for the purpose of conducting the examination.

E (2). For the purpose of this evaluation, if the defendant is being evaluated on an in-patient basis or will come into direct contact with a staff member of Eastern State Hospital, the staff of Eastern State Hospital is also specifically granted access to records containing information regarding HIV or any other sexually transmitted disease evaluation and treatment, and the authority to disclose this information to the undersigned Court, the prosecuting attorney, the defense counsel, and others as designated in RCW 10.77.060 and 10.77.065. This access and authority to disclose has been granted in compliance with the confidentiality requirements set forth in RCW 70.24.105.

E (3). In consideration of the urgent nature of this evaluation, it is ordered all records requested by Eastern State Hospital shall be provided as soon as possible, but no later than seven (7) days from the date requested.

E (4). For the purpose of this evaluation the staff of Eastern State Hospital is also specifically granted access to records containing information regarding alcohol and drug abuse evaluation and treatment, and the authority to disclose this information to the undersigned Court, the prosecuting attorney, the defense counsel and others as designated in RCW 10.77.060 and 10.77.065. Access and authority to disclose has been granted in compliance with the confidentiality requirements set forth in RCW 70.96A.150 and 42 CFR Part 2.

SECTION F: STAY OF PROCEEDINGS & OTHER ORDERS

All time from the entry of this order and during this examination period and until this Court enters an order finding the defendant to be competent to proceed is excluded from the calculation of time for trial. [See CrR 3.3(g)(1)].

The parties agree to **waive the presence of the defendant** or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

A separate scheduling order will be entered to set the next scheduled hearing on this matter. That separate scheduling order shall be presented to the Judge at the same time this order is presented.

DONE IN OPEN COURT THIS _____ day of _____, 20__.

JUDGE

Presented by:

Approved as to form:

, WSBA#
Attorney for the Defendant

, WSBA #
Deputy Prosecuting Attorney