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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	Plaintiff,
)	No.
vs.)	
)	ORDER FOR PRETRIAL
_____)	DIMINISHED CAPACITY AND/OR
)	INSANITY EVALUATION BY
)	WESTERN STATE HOSPITAL
)	
)	
_____)	

THIS MATTER, coming on in open court upon the motion of the defense, and the court being in all things duly advised; the plaintiff being represented by the undersigned Deputy Prosecuting Attorney; the defendant is/is not present and the defendant being represented by undersigned counsel; now, therefore,

THE COURT FINDS the defense has obtained an evaluation which concludes that the defendant was insane and/or had diminished capacity at the time of the alleged offense and that the state is entitled to an evaluation; and

IT IS HEREBY ORDERED, under the authority of RCW 10.77.060, that the defendant, who is charged with the crime(s) of _____ be evaluated by a qualified expert from Western State Hospital, who shall be approved by the prosecuting attorney, and who is designated by the Secretary of the Department of Social and

1 Health Services. The secretary may choose to designate more than one evaluator. The
2 examination may include psychological and medical tests, and shall be completed as specified
3 below:

4 **I. PLACE OF EXAMINATION:**

5 [] **A. KING COUNTY JAIL.** The evaluation shall take place in the King County Jail.
6 The written report shall be provided as soon as practical following the receipt of all of **(i.) this**
7 **order, (ii.) the charging documents and (iii.) the prosecutor’s discovery** by Western State
8 Hospital, unless the court grants further time. If the defendant is transferred to another detention
9 or correctional facility or a treatment facility under RCW 71.05, the jail and/or the parties are to
10 immediately inform Western State Hospital at (253)761-7565 and the facility is ordered to make
11 the defendant available for the purposes of this evaluation. If the defendant is released from jail
12 prior to the examination, the defendant shall contact the staff at Western State Hospital at (253)
13 761-7565 within the next working day following his/her release from jail to schedule an
14 appointment for examination at Western State Hospital or an agreed facility.

15 If after an initial assessment, the evaluator determines that the examination should take
16 place or be completed at Western State Hospital, the evaluator shall notify the parties in writing,
17 and defendant shall be transported to Western State Hospital.

18 [] **B. OUT OF CUSTODY.** As the defendant is not currently in custody, the defendant
19 shall contact the staff at Western State Hospital at (253) 761-7565 within the next working day
20 following the date of this order to schedule and arrange an appointment for examination at
21 Western State Hospital or an agreed facility. If the defense attorney requests to be present,
22 Western State Hospital staff shall give defendant’s counsel reasonable notice of the time and
23 place of the evaluation. If the defendant is committed to a treatment facility before the

1 evaluation, the facility is ordered to make the defendant available for the purposes of this
2 evaluation order. The evaluation shall occur as soon as practical following the receipt of **(i) the**
3 **order, (ii) the charging documents and (iii) the prosecutor's discovery** by Western State
4 Hospital, unless the court grants further time. A new order must be entered to authorize inpatient
5 examination if necessary to complete the evaluation.

6 **C. INPATIENT at WESTERN STATE HOSPITAL.** The Court, having found
7 that:

8 defendant is charged with murder in the first or second degree; or

9 it is more likely than not that an evaluation in the jail will be inadequate to complete
10 an accurate evaluation; or

11 that an evaluation outside the jail setting is necessary for the health, safety, or welfare
12 of the defendant;

13 orders the examination to occur at Western State Hospital and the defendant is hereby committed
14 to the care of the Division of Social and Health Services for the evaluation.

15 King County Department of Adult and Juvenile Detention shall transport the defendant to
16 Western State Hospital as soon as possible for the purposes set forth above.

17 **D. INTERPRETER REQUIRED:** The court has determined that the defendant
18 requires the assistance of a qualified interpreter of the _____ language, to be
19 arranged by Western State Hospital.

20 **E.** The defense attorney requests to be present. The evaluator shall give the defense
21 attorney reasonable notice of and an opportunity to be present at any clinical interview. Notice
22 may be sent to the email address provided below.

23 **II. REPORT REQUIREMENTS:**

24 The staff of Western State Hospital shall provide the report to the chief criminal judge of
the court in which the criminal proceeding is pending, and provide copies to the Prosecuting

1 Attorney, the Defense Counsel and others as designated in RCW 10.77.060 and 10.77.065.

2 Distribution of the evaluation report by a facility providing inpatient services shall ordinarily be
3 accomplished within two working days or less following the final evaluation of the defendant.

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

5 **A.** A description of the nature of the evaluation;

6 **B.** A diagnosis or description of the current mental status of the defendant;

7 **C.** **INSANITY:** The defendant has indicated his or her intention to rely on the defense of
8 insanity pursuant to RCW 10.77.030, and has provided to the court and the State an evaluation
9 and report by an expert or professional person concluding that the defendant was criminally
10 insane at the time of the alleged offense. The Western State Hospital report shall include an
11 opinion as to the defendant's sanity at the time of the alleged offense, and an opinion as to
12 whether the defendant presents a substantial danger to other persons, or presents a substantial
13 likelihood of committing criminal acts jeopardizing public safety or security, unless kept under
14 further control by the court or other persons or institutions. Provided that no opinion shall be
15 rendered under this subsection unless the evaluator or court determines that the defendant is
16 competent to stand trial;

17 **D.** **DIMINISHED CAPACITY:** The defendant has indicated his or her intent to rely on
18 diminished capacity as a defense in his or her case and has provided to the court and the State an
19 evaluation and report by an expert or professional person concluding that the defendant lacked
20 the capacity to commit the crime(s) at the time of the alleged offense(s). The Western State
21 Hospital report shall include an opinion as to the capacity of the defendant to form the particular
22 mental state(s) of _____ which is an element of
23 the crime(s) charged.

1 E. An opinion as to whether the defendant should be evaluated by a County Designated
2 Mental Health Professional under RCW 71.05.

3
4 **III. RECORDS**

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

9
10 **IV. TRANSPORTATION AND DISCHARGE:**

11 At the end of any period of inpatient examination and/or testing the defendant shall be
12 returned to the custody of the King County Jail to be held pending further proceedings against
13 the defendant.

14
15 The next hearing date is scheduled for: _____.

16 DONE IN OPEN COURT this _____ day of _____ 20__.

17 _____
18 JUDGE

19 _____
20 Deputy Prosecuting Attorney

21 **PRINT NAME:** _____ WSBA No. _____

22 **PHONE NUMBER:** _____ FAX Number _____

23 **EMAIL ADDRESS** _____

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Attorney for defendant

PRINT NAME: _____ **WSBA No.** _____

PHONE NUMBER: _____ **FAX Number** _____

EMAIL ADDRESS _____