

**ORDER OF COMMITMENT TO THE
DEPARTMENT OF MENTAL HEALTH AND
MENTAL RETARDATION**
(On Stipulation to the Report of Examiner)

Case Number

IN THE CIRCUIT COURT OF _____, ALABAMA
(Name of County)

STATE OF ALABAMA v. _____ Defendant

The defendant has been evaluated by a psychologist or psychiatrist to assist the court in determining the defendant's ability to assist in his or her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the defendant pending before this court for the offense(s) of _____.

After the court has reviewed the written report of the psychologist or psychiatrist and after the parties have stipulated to the findings in the report, the court hereby finds that the defendant is incompetent, and that there is **substantial probability** **no substantial probability** that the defendant will become competent within a reasonable period of time. The court further finds by clear and convincing evidence that the defendant is mentally ill or has a mental defect; that as a consequence of such mental illness or defect, poses a real and present threat of substantial harm to himself or herself or to others. Also, the court finds that the defendant will, if not treated, continue to suffer mental distress and will continue to experience deterioration of the ability to function independently, and that the defendant is unable to make a rational and informed decision as to whether or not such treatment would be desirable.

IT IS HEREBY ORDERED that:

(1) The defendant be committed to the custody of the Alabama Department of Mental Health and Mental Retardation to receive such treatment as is required for the defendant to attain competency and/or minimize or abate the risk of harm threatened by the defendant's being at large.

(2) If the defendant is in custody, the person who has custody of the defendant shall make the defendant available for admission at such times and locations as required by the Alabama Department of Mental Health and Mental Retardation and, where necessary, the Sheriff's Department shall be responsible for the custody, care, and transportation of the defendant.

(3) The district attorney shall make available to the examining psychologist/psychiatrist information concerning the nature and circumstances of the offense(s) charged, as well as the prior criminal history of the defendant. The defense attorney may provide such information as may be in his/her possession to assist the examining psychologist/psychiatrist in the evaluation and treatment of the defendant's mental condition, including records of prior psychiatric treatment. All information provided to the psychologist or psychiatrist pursuant to this order shall be protected from discovery according to Rule 16, Alabama Rules of Criminal Procedure.

(4) Upon completion of the examination, the Alabama Department of Mental Health and Mental Retardation shall prepare a written report and file the original report with the clerk of court, under seal, regarding the defendant's mental status within ninety-one (91) days after admission and every ninety-one (91) days thereafter. Copies of the report shall be provided to the circuit judge, the defendant's attorney, the district attorney, and, upon further order of the court, to others having a proper interest therein.

(5) The defendant shall appear in a hearing before this court within six (6) months of admission to the Alabama Department of Mental Health and Mental Retardation, a date and time to be set upon receipt of the second status report. The Sheriff's Department shall be responsible for the custody, care and transportation of the defendant to and from this hearing.

(6) Upon the defendant's earlier restoration to competency or determination that the defendant no longer poses a real and present threat of substantial harm to himself or herself or to others, the original written report shall be filed with the clerk of court, under seal. Copies of the written report shall be provided to the circuit judge, the defendant's attorney, the district attorney and, upon further order of the court, to others having a proper interest therein, and shall include the following information.

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(a) The mental condition of the defendant as related to his/her sufficient present ability to assist in his/her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the defendant;

(b) If it is the opinion of the psychologist or psychiatrist that the defendant lacks sufficient present ability to assist in his/her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the defendant, the report shall also state the opinion of the psychologist or psychiatrist as to:

- (1) The condition causing the defendant's incompetency and the nature thereof;
- (2) The treatment required for the defendant to attain competency;
- (3) The most appropriate form and place of treatment in view of the defendant's therapeutic needs and potential danger to himself or herself or to others, and an explanation of appropriate treatment alternatives;
- (4) The likelihood of the defendant's attaining competency under treatment and the probable duration of the treatment;
- (5) The availability of the various types of acceptable treatment in the local geographic area, specifying the agencies or settings in which the treatment might be obtained and whether the treatment would be available on an out-patient basis; and

(7) _____

(List here such other matters the court deems appropriate)

(8) Further criminal proceedings against the defendant are hereby continued generally until such time as the court determines that the defendant has the sufficient present ability to assist in his/her defense, by consulting with counsel, with a reasonable degree of rational understanding of the facts and the legal proceedings against the defendant. Provided, however, such continuation does not include bond hearings, grand jury hearings, or preliminary hearings, all or which may be conducted as necessary.

ORDERED this _____ day of _____, 20 _____.

Circuit Judge

**Rule 11.6(c)(2), Ala.R.Crim.P.
11.6(c)(3), Ala.R.Crim.P.
11.6(d), Ala.R.Crim.P
11.6(f), Ala.R.Crim.P.**