

_____ Court of Washington
County of _____

_____,
Plaintiff
vs.
_____,
Defendant
DOB: _____

No.

**Order Dismissing “Serious Nonfelony”
Charge and Directing Referral or Release
(ORDSMIN, ORDSMWO, RIVTE, ORRL)**

[] Clerk’s Action Required: 4, 7

Use this form for when competency restoration treatment was unsuccessful or unlikely to be successful.

Introduction

After notice and a hearing on the defendant’s competency following:

- [] the competency evaluation, or
- [] restoration efforts by the Department of Social and Health Services (DSHS) or a facility or provider determined by DSHS or under the guidance and control of a professional person,

the court considered:

_____.

Findings of Fact and Conclusions of Law:

1. Nature of Charges.

The court finds by clear and convincing evidence that the defendant is charged with the serious nonfelony crime of _____, which is a serious offense because:

- [] It is listed in RCW 10.77.092 as a serious offense per se.

The court determined it is a serious offense pursuant to RCW 10.77.092. In making that determination, the court considered the following factors:

- the charge includes an allegation that the defendant actually inflicted bodily or emotional harm on another person or that the defendant created a reasonable apprehension of bodily harm or emotional harm to another.
- The extent of the impact of the alleged offense on the basic human need for security of the citizens within the jurisdiction.
- The number and nature of related charges pending against the defendant.
- The length of potential confinement if the defendant is convicted.
- The number of potential and actual victims or persons impacted by the defendant's alleged acts.

2. Incompetency to Stand Trial. The court finds by a preponderance that, as a result of mental disease or defect, the defendant lacks the capacity to:

understand the nature of the proceedings against him/herself.

assist in his/her own defense.

The defendant is not competent to stand trial.

3. Restorability.

No Treatment Ordered. The defendant has not undergone any competency restoration treatment.

Restoration Unlikely. The court has determined that the defendant is unlikely to regain competency within the treatment period allowed by RCW 10.77.088.

Other: _____

Treatment was Previously Ordered. Defendant has undergone treatment in accordance with RCW 10.77.088 as follows (*check all that apply*):

Inpatient competency restoration treatment.

Outpatient mental health treatment and competency restoration..

Combined Inpatient and Outpatient mental health treatment and competency restoration.

After receiving treatment:

The court concludes that the defendant is not likely to regain competency.

or

The maximum allowable period for treatment has ended and the defendant's competency has not been restored.

Orders:

4. Dismissal Without Prejudice. (ORDSMWO)

This case is dismissed without prejudice.

5. Referral of Defendant for Evaluation Pursuant to Ch. 71.05 RCW.

The court refers the defendant for civil commitment evaluation under ch. 71.05 RCW:

Defendant in Custody.

The defendant is currently in custody in the _____ jail/detention facility (Jail/Detention facility).

Evaluation at Treatment Facility. The defendant shall be transported to the _____ evaluation and treatment facility (Treatment Facility) for up to 72 hours, excluding weekends and holidays, for civil commitment evaluation under RCW Ch. 71.05. The 72-hour period shall begin on the next judicial day after this order is signed, and ends at _____ a.m./p.m. on (date) _____. The Jail/Detention Facility shall transport the defendant to the Treatment Facility as soon as possible.

The defendant shall be released from custody in this case upon the earlier of (a) being transported to the treatment facility, or (b) the expiration of the 72-hour period.

Any other custody orders on any other cases remain unaffected by this order.

Evaluation in Custody. For the reasons below, the evaluation for purposes of RCW Ch. 71.05 shall occur as set forth in RCW 10.77.065, pursuant to a separate order of this court.

The court has been advised that there are no Treatment Facilities that are able to admit the defendant within the time limits provided by RCW10.77.088.

The defendant is subject to a jail hold from another jurisdiction such that the Detention Facility is unable to transport the defendant to the Treatment Facility within the time limits contemplated by RCW10.77.088.

Defendant on Conditional Release.

The defendant is on conditional release. The designated crisis responder (DCR) for _____ County shall evaluate the defendant pursuant to ch. 71.05 RCW. The evaluation shall be conducted at a location chosen by the DCR, and shall occur within 48 hours.

The defendant is released from the conditional release in this matter.

Any other custody on any other cases are to remain unaffected by this order.

6. Release of Defendant Currently Subject to Ch. 71.05 RCW Proceedings.

The court and the parties have been informed that the defendant is currently subject to proceedings under chapter 71.05 RCW. A further referral for evaluation is duplicative.

The court orders the immediate release of the defendant from custody on this case.

Any other custody orders on any other cases remain unaffected by this order.

7. History of One or More Violent Acts.

[] The defendant **does have** a history of one or more violent acts as defined in RCW 10.77.010. The defendant shall immediately surrender any concealed pistol licenses and the defendant may not possess a firearm unless the defendant's right to do so is restored by a court of record. The *Notice of Ineligibility to Possess a Firearm* is filed separately. **(ORDSMIN)**

[] The defendant **does not have** a history of one or more violent acts. **(ORDSMWO)**

8. Other: _____

Dated: _____

Judge

Print Name: _____

Approved as to form

Approved as to form

Deputy Prosecuting Attorney

Attorney for the Defendant

Print Name: _____

Print Name: _____

WSBA No. _____

WSBA No. _____