IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR

LEE COUNTY, FLORIDA

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| STATE OF FLORIDA,   vs.  DEFENDANT | CASE NO. |
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**ORDER APPOINTING EXPERT FOR COMPETENCY EVALUATION**

Based on a Stipulated Motion for Competency Examination filed on February 5, 2018, the Court has reasonable grounds to believe that the Defendant may not be mentally competent to proceed through every material stage of this criminal proceeding (pretrial conferences, motions, pleas, trial and sentencing). Therefore, in accordance with the provisions of Fla.R.Crim.P. 3.210(b) and s. 916.12, F.S., it is hereby

**ORDERED AND ADJUDGED** as follows:

1. The following individual is hereby appointed as an expert to examine the Defendant in accordance with the requirements of this Order:
2. That the expert appointed in Paragraph 1, shall examine the Defendant in accordance with the provisions of Fla.R Crim.P. 3.211(a), and report relative to the following issues:
   1. Whether the Defendant meets the criteria for competence to proceed; that is, whether the Defendant has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the Defendant has a rational, as well as factual, understanding of the pending proceedings. In considering the issues of competence to proceed, the examining experts shall consider and include in his/her report:
   2. The Defendant’s capacity to:
      1. Appreciate the charges or allegations against the Defendant;
      2. Appreciate the range and nature of possible penalties, if applicable, which may be imposed in the proceedings against the defendant;
      3. Understand of the adversary nature of the legal process;
      4. Disclose to counsel facts pertinent to the proceedings at issue;
      5. Manifest appropriate courtroom behavior and
      6. Testify relevantly;
   3. Any other factors deemed relevant by the expert.
   4. If the expert should find that the Defendant is incompetent to proceed, the expert shall report on any recommended treatment for the Defendant to attain competence to proceed. In considering the issues relating to treatment, the examining expert shall specifically report on:
      * 1. The mental illness causing the incompetence;
        2. The treatment or treatments appropriate for the mental illness of the Defendant and an explanation of each of the possible treatment alternatives in order of choices;
        3. The availability of acceptable treatment. If treatment is available in the community, the expert shall so state in the report; and
        4. The likelihood of the Defendant attaining competence under the treatment recommended, an assessment of the probable duration of the treatment required to restore competence, and the probability that the Defendant will attain competence to proceed in the foreseeable future.
   5. Any written report submitted by the expert shall;
      * 1. Identify the specific matters referred for evaluation;
        2. Describe the evaluative procedures, techniques and tests used in the examination and the purpose or purposes for each;
        3. State the expert’s clinical observations, findings and opinions on each issue referred for evaluation by the Court, and indicate specifically those issues, if any, on which the expert could not give an opinion; and
        4. Identify the sources of the information used by the expert and present the factual basis for the expert’s clinical findings and opinions.
   6. If an expert should find that the Defendant is incompetent to proceed, the expert shall report whether, in his/her opinion, the Defendant meets the criteria for involuntary commitment for treatment pursuant to section 916.13, Florida Statutes specifically, the examining expert shall report on whether:
      * 1. The Defendant has a mental illness and because of the mental illness:
           1. The Defendant is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, the Defendant is likely to suffer from neglect or refuse to care for herself or himself and such neglect or refusal poses a real and present threat of substantial harm to the Defendant's well-being; or
           2. There is a substantial likelihood that in the near future the Defendant will inflict serious bodily harm on herself or himself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;
        2. All available, less restrictive treatment alternatives, including treatment in community residential facilities or community inpatient or outpatient settings, which would offer an opportunity for improvement of the Defendant's condition have been judged to be inappropriate; and
        3. There is a substantial probability that the mental illness causing the Defendant's incompetence will respond to treatment and the Defendant will regain competency to proceed in the reasonably foreseeable future.
   7. The expert appointed above shall submit his/her written report directly to this Court with copies to the Attorney for the State and the Attorney for the Defendant, (addresses set forth in the Certificate of Service below), by **.** If an extension is necessary, please contact the Court’s judicial assistant,      , at (239) 533-

This cause is scheduled for a Case Management Conference on **.** The expert is not required to attend unless specifically notified by the lawyers or the Court.

* 1. For experts appointed by the court for the determination of competency, the court is responsible for payment.  If the expert addresses affirmative defenses of insanity, the court only pays for that portion of the fees related to competence. Prior to issuing a subpoena for the court-appointed expert to testify, counsel shall confer with opposing counsel to confirm that: (1) counsel have received the expert’s written report and there is no stipulation or agreement for the Court to make a determination of competency in reliance on the expert’s written report without testimony; (2) sufficient hearing time has been scheduled for the expert testimony – both direct and anticipated cross-examination; and (3) the hearing is noticed and scheduled with the court’s judicial assistant as an evidentiary hearing.
  2. All billings from the above-named expert shall be submitted for payment to the Administrative Office of the Courts, 20th Judicial Circuit, Lee County Justice Center, 1700 Monroe Street, Fort Myers, FL, 33901.
  3. It is further ORDERED that the Sheriff of Lee County, Florida, or one of his duly appointed deputies, shall make the Defendant available for the above-referenced examination appointments at the appropriate time, if the Defendant is in custody.

If the Defendant is not in custody, the Defendant shall appear at a reasonable place and time, as scheduled, when scheduled for an evaluation pursuant to this order.

**DONE AND ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

Judge of the Circuit Court

**CERTIFICATE OF SERVICE**

Order Appointing Expert for Competency Evaluation has been furnished to Claudia Parsons Esq. Office of the Public Defender 1700 Monroe St., Fort Myers, FL 33901; to Office of the State Attorney Ashley Adams Esq., Lee County Justice Center Annex, 2000 Main Street, 6th Floor, Fort Myers, Florida 33901; to Forensic Specialist, SalusCare, 2789 Ortiz Avenue, Fort Myers, Florida 33905;Dr. Keegan Culver 4461 Camino Real Way Fort Myers, FL 33966;this \_\_\_\_\_ day of October, 2019.

Linda Doggett,

Clerk of the Circuit Court

By:

Deputy Clerk