

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA

vs.
Defendant.

Case No. _____

**ORDER GRANTING INITIAL FORENSIC EXAMINATION TO DETERMINE
COMPETENCY OR CRIMINAL RESPONSIBILITY OR BOTH**

On this _____ day of _____, 2023 came the State of West Virginia, by and through its prosecuting attorney, _____ and came the Defendant, _____ by counsel, _____, and tendered this Order granting an initial forensic examination to determine competency or criminal responsibility or both.

Whereupon, counsel for the Defendant expressed his concerns to the Court regarding the Defendant's competency during his consultations with the Defendant and after reviewing some of the Defendant's medical records. The State did not object to the Defendant's motion.

This Court, in accordance with W. Va. Code §27-6A-2(a), having heard the arguments of counsel does hereby **ORDER** that the Defendant undergo an initial forensic examination by Dr. Edward Baker, a Qualified Forensic licensed psychologist, at Fremouw, Sigley & Baker Psychological Associates to determine Defendant's competency to stand trial and, only if the Defendant is determined competent, to determine whether the Defendant is not guilty by means of mental illness for the crimes charged. If it is determined that the Defendant is incompetent to stand trial, there shall be further determination as to whether the Defendant is likely to regain competency, and whether the Defendant requires inpatient management at a mental health facility in order to regain competency.

The Court further **ORDERS** that Dr. Edward Baker provide a written and signed report of the examination and findings to be filed in triplicate with the Clerk of the Circuit Court for distribution to this Court and the attorneys of record within ten business days of the completion of the evaluation, unless the parties agree that an oral report may suffice.

The Court further **ORDERS** that the Defendant shall be transported to Fremouw, Sigley & Baker Psychological Associates at 1445 Stewartstown Road, Suite 200, Morgantown, West Virginia by the _____ Jail authorities, on _____. At the conclusion of the

evaluation, the _____ Jail authorities shall transport the Defendant back to _____ Jail.

Court further **ORDERS** that the party making the motion or other party shall ensure that any information relevant to the evaluations be sent to the Qualified Forensic Evaluator within ten day of this Order, including:

1. A copy of the warrant or indictment;
2. Information pertaining to the alleged crime, including statements by the Defendant made to the police, investigative reports and transcripts of preliminary hearings, if any;
3. Any available psychiatric, psychological, medical or social records that are considered relevant;
4. A copy of the Defendant's criminal record; and
5. If the evaluations are to include a diminished capacity assessment, the nature of any lesser included criminal offenses.

This Court further **ORDERS** that counsel for the Defendant meet with the Defendant and the Defendant's family and friends and prepare a list of mental health facilities and professionals from which the Defendant has received treatment and forward that list to Dr. Edward Baker prior to the scheduled examination. The Court finds that Dr. Baker may release this Order to other mental health facilities and professionals for the purpose of obtaining the Defendant's mental health records. This Court finds any mental health records requested by Dr. Baker are sufficiently relevant to the proceedings before the Court to outweigh the importance of maintaining confidentiality established by W. Va. Code §27-3-1. This Court further finds that good cause exists such that the public interest and the need for disclosure outweighs the injury to the patient, to the patient-physician relationship, and to the treatment services pursuant to 42 U.S.C.A Section 290dd-2 and 42 C.F.R. Part 2.

Therefore, this Court **ORDERS** all facilities presented with this Order to release the Defendant's mental health records to Dr. Baker who shall use them specifically for completing the examination ordered herein.

This Court further **ORDERS** that, upon receipt of an original invoice and a Court Order with a raised seal of the Clerk of this Court, the West Virginia DHHR Office of Behavioral Health Services shall pay for the initial examination pursuant to W. Va. Trial Court Rules, Rule 35.05 up to the maximum rates established in accordance with W.Va. Code §27-6A-2. The

original invoice, a copy of the evaluation and the Court Order shall be forwarded to William R. Sharpe, Jr, Hospital, Attn: Business Office, 936 Sharpe Hospital Road, Weston, West Virginia 26452.

The Court further **ORDERS** the Clerk of this Court forward copies of this Order to the attorneys of record; the _____ Jail; the County Prosecutor's Office, and to Fremouw, Sigley & Baker Psychological Associates, 1445 Stewartstown Road, Suite 200, Morgantown, West Virginia 26505.

ENTERED: _____

JUDGE