**Kitsap County District Court, State of Washington**

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| STATE OF WASHINGTON,  Plaintiff,  v.  ENTER DEFENDANT NAME,  Defendant. | NO. Enter Case#  **Order Dismissing Misdemeanor Charges – Competency Restoration Treatment Unsuccessful or Unlikely to Be Successful**  **Clerk’s action required: Para 8** |

**Introduction**

By agreement of the parties.

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:

The report of the competency Evaluator who is a “professional person” as defined in RCW 10.77.010.

**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      .

This is a serious offense because:

It is listed in RCW 10.77.092(1) as a serious offense per se.

The court determined it is a serious offense pursuant to RCW 10.77.092(2). 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.

1. **Competency 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 or her own defense.

The Defendant is not competent to stand trial.

1. **Restorability.**

**No treatment ordered.** The Defendant has not undergone any competency restoration treatment.

The parties agree that:

The court has determined that:

The Defendant is unlikely to regain competency within the treatment period allowed by RCW 10.77.088(1).

**Treatment was ordered**. The Defendant has undergone:

**Inpatient** competency restoration treatment pursuant to RCW 10.77.088(1)(a).

**Outpatient** mental health treatment and competency restoration pursuant to RCW 10.77.088(1)(a).

**Combined** **inpatient and** **outpatient** mental health treatment and competency restoration pursuant to RCW 10.77.088(1)(a).

and:

The Defendant is not likely to regain competency; or

The maximum allowable period of treatment has ended and the Defendant’s competency has not been restored.

**Orders**

**4. Dismissal Without Prejudice**. This case is dismissed without prejudice.

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

The court refers the Defendant for civil commitment evaluation under RCW Ch. 71.05:

**Defendant in Custody.**

The Defendant is currently in custody in the Kitsap County Jail/detention facility (Jail/Detention facility). The Defendant shall remain in the Kitsap County Jail/detention 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 on       at 3:00 pm.

The Defendant shall be released from custody in this case upon the expiration of the 72-hour period.

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

**Defendant on Conditional Release.**

The Defendant is on conditional release. The Designated Crisis Responder (DCR) (formerly DMHP) shall evaluate the Defendant pursuant to chapter 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 RCW Ch. 71.05 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**.  **Interpreter.** The Defendant requires the services of an interpreter in the following language:      .

**8.** A copy of this order shall be forwarded to the Kitsap County Jail at [courtofficer@co.kitsap.wa.us](mailto:courtofficer@co.kitsap.wa.us), and to Kitsap Mental Health at [crt@kmhs.org](mailto:crt@kmhs.org) by the clerk of the court.

Dated and Filed Calendar Date.  The court approves the agreement of the parties to conduct this proceeding by video conference.

Done in open court in the presence of the defendant.



Judge