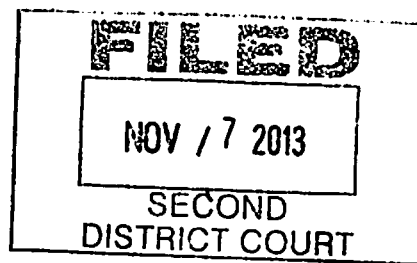


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IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF DAVIS, STATE OF UTAH

THE STATE OF UTAH
Plaintiff,
vs.

ANDRES ESQUIVEL
DOB: 09/08/1970,
Defendant.

ORDER FOR COMPETENCY
EVALUATION

Case No. 111701135
Judge David M. Connors

The Court having reviewed the petition filed in the above case, and having determined that the specific allegations contained in the petition raise a bona fide doubt as to the defendant's competency to stand trial,

IT IS HEREBY ORDERED, pursuant to Utah Code Ann. § 77-15-5 et seq., that an examination be conducted to determine the competency of defendant to proceed as follows:

1. Defendant shall be examined by at least two mental health experts not involved in the current treatment of defendant. The examination of the defendant is to be conducted by experts as determined by the Utah State Department of Health and Human Services.

2. If, in the conduct of the examination, it becomes apparent that defendant may be incompetent due to mental retardation, at least one expert experienced in mental retardation assessment shall evaluate defendant.

3. The Davis County Attorney's Office shall provide information and material to the examiners relevant to a determination of defendant's competency including copies of the charging document, arrest or incident reports pertaining to the charged offenses, known criminal history information, and known prior mental health evaluations and treatments.

4. During the examination, defendant shall be retained in the same custody or status defendant was in at the time the examination was ordered.

5. The experts shall, in the conduct of their examination and in their report to the court, consider and address, in addition to any other factors determined to be relevant by the experts:

(a) Defendant's present capacity to:

(i) Comprehend and appreciate the charges or allegations against him/her;

(ii) Disclose to counsel pertinent facts, events, and states of mind;

(iii) Comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against him/her;

(iv) Engage in reasoned choice of legal strategies and options;

(v) Understand the adversary nature of the proceedings against him/her;

(vi) Manifest appropriate courtroom behavior; and

(vii) Testify relevantly, if applicable;

(b) The impact of the mental disorder, or mental retardation, if any, on the nature and quality of the defendant's relationship with counsel.

(c) If psychoactive medication is currently being administered:

(i) Whether the medication is necessary to maintain the defendant's

competency; and

(ii) The effect of the medication, if any, on the defendant's demeanor and affect and ability to participate in the proceedings.

6. If the experts conclude defendant is incompetent to proceed, the experts shall indicate in the report:

(a) Which of the above factors contribute to defendant's incompetence;

(b) The nature of defendant's mental disorder or mental retardation and its relationship to the factors contributing to defendant's incompetence;

(c) The treatment or treatments appropriate and available; and

(d) Defendant's capacity to give informed consent to treatment to restore competency.

7. The experts examining defendant shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiners' opinion concerning the competency of defendant to stand trial, or, in the alternative, the examiners may inform the court in writing that additional time is needed to complete the report. If the examiners inform the court that additional time is needed, the examiners shall have up to an additional 30 days to provide the report to the court and counsel. The examiners must provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

8. Any written report submitted by the experts shall:

(a) Identify the specific matters referred for evaluation;

(b) Describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) State the experts' clinical observations, findings, and opinions on each issue referred for examination by the court, and indicate specifically those issues, if any, on which the experts could not give an opinion; and

(d) Identify the sources of information used by the experts and present the basis for the experts' clinical findings and opinions.

9. Prior to examining defendant, the examiners should specifically advise defendant of the limits of confidentiality, which are: any statements made by defendant in the course of any competency examination, where the examination is with or without the consent of defendant, any testimony by the experts based upon such statements, and any other fruits of the statements may not be admitted into evidence against the defendant in a criminal proceeding except on an issue respecting mental condition on which defendant has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the defendant's competency.

10. For purpose of this examination, defendant is incompetent to proceed if he/she is found to be suffering from a mental disorder or mental retardation resulting either in:


(a) His/her inability to have a rational and factual understanding of the proceedings against him/her or of the punishment specified for the offenses charged; or

(b) His/her inability to consult with his/her counsel and to participate in the proceedings against him/her with a reasonable degree of rational understanding.

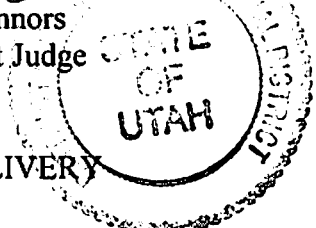
11. The parties should be prepared to make a report to the court concerning the status of the competency evaluation on Tuesday, January 07, 2014, at the hour of 8:30 AM.

Dated this 5th day of Nov, 2013.

BY THE COURT:



David M. Connors
District Court Judge



CERTIFICATE OF MAILING/DELIVERY

I certify that I mailed/delivered an unexecuted copy of the foregoing Order for Competency Evaluation, to Mark Arrington, Attorney for Defendant, 1010 No. 500 East, #100, No. Salt Lake, Utah 84054 on ~~October 29~~ ^{Nov 4}, 2013.

