

*General Sessions Order following Blair Hearing on Defendant's Competency To Stand Trial
Finding Defendant Not Competent, and Not Likely to Become Competent
§44-23-430(2)*

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF _____)	
)	
The State of South Carolina,)	FINDING OF LACK OF COMPETENCE TO
)	STAND TRIAL FOR THE FORSEEABLE
)	FUTURE AND ORDERING PROBATE
)	COMMITMENT PROCEEDINGS
)	
vs.)	
)	
Defendant.)	

This matter is before me pursuant to S. C. Code Ann. §44-23-430 (1976) for a hearing on the issue of the Defendant's competency to stand trial.

Defendant is charged with _____. Pursuant to a previous Court order, Defendant's competence to stand trial has been evaluated. In a report dated _____, the examiners found that the Defendant is not currently competent to stand trial, and is unlikely to become competent in the foreseeable future. The report was statutorily admitted into evidence pursuant to S.C. Code Ann. § 44-23-420(C), and a copy of the report is attached hereto.

[OPTIONAL LANGUAGE ONLY IF APPLICABLE: This report was rendered after Defendant was previously found by the Court to lack the competence to stand trial but was likely to become competent with appropriate treatment. Thereafter, Defendant was hospitalized pursuant to S.C. Code Ann. §44-23-430(3), for observation and treatment in an effort to restore Defendant's competence to stand trial. This restoration effort was unsuccessful. **END OF OPTIONAL LANGUAGE]**

Based upon the examiners' report, I find that the Defendant is currently incompetent to stand trial for the reasons set forth in S.C. Code Ann. §44-23-410, and unlikely to become competent in the foreseeable future.

THEREFORE IT IS ORDERED that pursuant to S.C. Code Ann. §44-23-430(2) the Solicitor responsible for the prosecution of the Defendant shall initiate judicial admission proceedings in the County Probate Court within fourteen (14) business days

from the date of this Order pursuant to: **(Check the box which corresponds to the principal disorder that impairs the Defendant’s competency to stand trial)**

_____ S.C. Code Ann. §44-17-510 through §44-17-610
(Mental Illness -- Department of Mental Health)

OR

_____ S.C. Code Ann. §44-20-450
(Intellectual Disability or Related Disability—
Department of Disabilities and Special Needs)

IT IS FURTHER ORDERED that pending the commencement of the judicial admission proceedings, and until such time as the Probate Court shall gain jurisdiction over the Defendant by finding that the Defendant meets the criteria for civil commitment, the Defendant shall: **(Check one)**

- (A) _____ Continue in detention;
- (B) _____ Remain on bond;
- (C) _____ Be hospitalized through the South Carolina Department of Mental Health (SCDMH) if incompetent due to mental illness; or
- (D) _____ Be admitted to an intellectual disability facility or otherwise remanded to services through the Department of Disabilities and Special Needs (SCDDSN) if incompetent due to an intellectual disability or a related disability.

In the event requirements “C” or “D” above are chosen by the Court, the Defendant shall immediately be taken into custody by the Sheriff, and the Sheriff’s office is hereby authorized and required to transport defendant to the facility designated by SCDMH following confirmation with SCDMH that a bed is available if requirement “C” was chosen, and to a facility or services designated by SCDDSN following confirmation with SCDDSN that placement is available if requirement “D” was chosen.

IT IS FURTHER ORDERED that, if after examination and a hearing, the Probate Court determines the Defendant does not meet the criteria for further Probate proceedings and dismisses the proceedings pursuant to S.C. Code Ann. §44-17-580(2) (mental illness) or S.C. Code Ann. §44-20-450(D) (intellectual or related disability), then the solicitor responsible for prosecution of the Defendant shall return this matter to the General Sessions Court so that this Court may enter such Order as is appropriate with

respect to ongoing provisions for bond, notification of the victim(s) as to the status of the case, and such other requirements necessary to the ends of justice. In the interim prior to the General Sessions hearing, the provisions of Defendant's current bond and any additional requirements stated above shall remain in place.

FILING, SERVICE, AND TRANSMITTAL OF THIS ORDER. It is the responsibility of the solicitor to file and serve this order as outlined herein. After being signed by the Court, the original order must be immediately filed with the Clerk of Court and a certified copy served upon the opposing party. Further, **within five (5) business days**, a certified copy of this order must be served upon the examining agency at the address listed below. To expedite the agency's ability to implement this order and prepare for legal proceedings, the solicitor is instructed to immediately contact the examining agency to advise of the issuance of this order and forthcoming service upon the agency:

Information for Service of Order on Agency

Department of Mental Health
Forensic Evaluation Service Paralegal
S.C. Department of Mental Health
CBHS Forensic Center
7901 Farrow Road
Columbia, SC 29203-3220
(803)935-5540 (Phone)
(803)935-5544 (Fax)
Email: FES-PARALEGAL@SCDMH.ORG

Department of Disabilities and Special Needs
Office of Clinical Services
Department of Disabilities and Special Needs
Post Office Box 4706
Columbia, SC 29240
(803)898-9694 (Phone)
(803)898-9660 (Fax)
Email: OBSForensics@ddsn.sc.gov

IT IS SO ORDERED.

Date: _____

Presiding Judge

Judicial Circuit

Solicitor's name: _____
Telephone: _____
Email: _____

Defense Counsel: _____
Telephone: _____
Email: _____