**CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**THE STATE OF TEXAS**  **§** **IN THE \_\_\_\_\_\_\_\_\_ COURT OF**

**§**

**v.** **§**

**§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** **§** **\_\_\_\_\_\_\_\_\_ COUNTY, TEXAS**

**DETERMINATION OF INCOMPETENCY AND ORDER TO PARTICIPATE IN THE JAIL-BASED COMPETENCY RESTORATION PROGRAM**

On the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_202\_\_\_, came on to be heard, pursuant to Chapter 46B of the Code of Criminal Procedure the above numbered and styled cause for a determination of whether the Defendant, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is presently incompetent to stand trial. The Defendant appeared through their attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the State appeared through her Assistant District Attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Defendant’s personal appearance and right to a jury and jury finding was waived by the Defendant’s attorney after review by counsel and/or consultation and approval with the Defendant.

Both sides announced ready, and there being a competency evaluation on file with the Court from **Dr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Ph.D.,** a competent and qualified mental health professional. Both parties’ attorneys agreed and stipulated to the opinions and conclusions stated in the Competency Evaluation of Dr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Ph.D. dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_\_. The Court admitted into evidence Dr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’s Competency Evaluation (Sealed Exhibit A contained in the Court’s file) stating that the Defendant is at this time incompetent to stand trial. In accordance with Texas Code of Criminal Procedure, Article 46B.005, all matters of fact and law were submitted to the Court as neither party’s attorney requested a jury trial and neither party’s attorney opposed a finding of incompetency. Furthermore, the Court determined that a trial was not necessary to determine incompetency.

I.

After having considered the evidence presented, including the competency evaluation, the Court finds by a preponderance of the evidence that the Defendant is incompetent to stand trial. The Court further finds that with proper treatment and care, the Defendant may attain competency and obtain:

1. Sufficient ability to consult with their attorney with a reasonable degree of rational understanding;
2. A rational as well as factual understanding of the proceedings against them.

II.

It is further found that the Defendant is charged with the felony offense of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

III.

Pursuant to these findings shown by clear and convincing evidence, it is hereby ORDERED, ADJUDGED AND DECREED that the Defendant shall be committed for competency restoration services for a period not to exceed 120 days and is FURTHER ORDERED to first participate in the Jail-Based Competency Restoration Program for a period not to exceed 60 days and to abide by and follow all terms and conditions of such program.

IT IS FURTHER ORDERED that the Defendant receive jail-based competency restoration services provided pursuant to Article 46B.091 of the Texas Code of Criminal Procedure. The Defendant shall receive mental health treatment and substance use disorder treatment, as necessary, for competency restoration. If at any time during the Defendant’s commitment to the Jail-Based Competency Restoration Program it is determined that the Defendant has attained competency to stand trial, the Jail-Based Competency Restoration Program shall promptly issue and send to this Court a report demonstrating that fact.

IT IS FURTHER ORDERED that the Defendant is to remain under the weekly supervision and monitoring by the staff of the Jail-Based Competency Restoration program. The Defendant shall comply with any treatment plan including taking any medication as prescribed. The Jail-Based Competency Restoration program shall notify this Court immediately of any violation by the Defendant of the terms and conditions of the program or any violations by the Defendant of this Order or violations by the Defendant of any local, state or federal law. A psychiatrist or psychologist for the Jail-Based Competency Restoration Program shall evaluate the Defendant’s competency and report to the court as required by Article 46B.079.

IT IS FURTHER ORDERED that if the Defendant has not been restored to competency by the end of 60th day after the date the Defendant began to receive services in the program, the jail-based competency restoration program shall continue to provide competency restoration services to the Defendant for the period authorized by this subchapter, including any extension ordered under Article 46B.080, unless the jail-based competency restoration program is notified that space at a facility or outpatient competency restoration program appropriate for the Defendant is available and, as applicable:

1. For a Defendant charged with a felony, not less than 45 days are remaining in the initial restoration period; or
2. For a Defendant charged with a felony or a misdemeanor, an extension has been ordered under Article 46B.080 and not less than 45 days are remaining under the extension order.

IT IS FURTHER ORDERED that after receipt of notification that space is available at a facility or outpatient competency restoration program appropriate for the Defendant is available, the Defendant shall be transferred without unnecessary delay to the appropriate mental health facility, residential care facility, or outpatient competency restoration program for the remainder of the period permitted by this subchapter, including any extension that may be ordered under Article 46B.080 if an extension has not previously been ordered under that article. If the Defendant is not transferred, and if the psychiatrist or psychologist for the provider determines that the Defendant has not been restored to competency by the end of the period authorized by this subchapter, the Defendant shall be returned to the court for further proceedings.

APPROVED AS TO SUBSTANCE AND FORM:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for the State Attorney for

Print: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State Bar No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State Bar No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed this \_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 202\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CRIMINAL COURT MAGISTRATE