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

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

**§**

**v.** **§**

**§**

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

**ORDER OF COMMITMENT FOR RESTORATION TO COMPETENCY**

**PURSUANT TO ARTICLE 46B.0711 OR 46B.072**

|  |  |
| --- | --- |
| Judge Presiding: | Degree of Offense |
| Attorney for State: | Offense: |
| Attorney for Defendant: | Date of Alleged Offense: |

1. **PROCEDURAL BACKGROUND**

The **Defendant** was charged by information for the offense shown in the above-numbered and entitled cause. In advance of trial on the merits, the Court considered the issue of the Defendant’s incompetence to stand trial. The Court asked for announcements from the parties. The State appeared by an assistant district/county attorney.

**Choose One:**

The Defendant appeared in person represented by counsel.

Counsel for the Defendant waived the Defendant’s appearance on good cause.

**Choose One:**

Uncontested Incompetence, Art. 46B.005(c)) Counsel for the State and counsel for the Defendant waived trial by jury and trial to the Court on the issue of incompetence; counsel for the State and counsel for the Defendant did not oppose a finding of incompetence; and the Court did not, on its own motion, find cause to determine that a trial was necessary to establish incompetence. The Court considered the testimony of the expert appointed to examine the Defendant in the form of the expert’s motion report and such other evidence tendered by either party. Therefore, the Court FINDS the Defendant INCOMPETENT to stand trial.

(Incompetence, Court Trial, Art. 46B.051(b)) Counsel for the State and counsel for the Defendant waived trial by jury and tried the cause to the Court as the finder of fact. The Court considered the testimony of the expert appointed to examine the Defendant in the form of the expert’s report and such other evidenced tendered by either party. With the Defendant and the Defendant’s counsel present, the Court rendered its verdict and entered it upon the record of the Court as follows: The Court FINDS the Defendant INCOMPETENT to stand trial.

(Incompetence, Jury Trial, Art. 46B.051(a)) Counsel for the Defendant or State requested a trial by jury. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The jury heard the evidence submitted and argument of counsel including evidence required by TEX. CODE CRIM. PROC. ART. 46B. The Court charged the jury as to its duty to determine the competence of the Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of the parties as follows: “We the Jury, unanimously find the Defendant INCOMPETENT to stand trial.” The Court received the unanimous verdict and ORDERED it entered upon the record of the Court. Thereafter, the jury was discharged.

1. **FINDINGS**

The Court FINDS the Defendant is likely to be restored in the foreseeable future.

(Public Safety Exception) The Court FINDS the Defendant is a danger to others, and may not be safely effectively treated on an outpatient basis.

(Outpatient Program Available) The Court FINDS the Defendant is not a danger to others and may be safely treated in an outpatient treatment program. The Court FURTHER FINDS that an appropriate outpatient treatment program is presently available, and that the Court has received a comprehensive plan that proves for the treatment of the defendant for purposes of competency restoration; and identifies the person within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ responsible for providing treatment. The program facility has (a) evaluated the defendant and found the person to be suitable for the program, and (b) has submitted a treatment plan to this court.

1. **ORDERS**

**(Choose location of commitment: OUTPATIENT/JAIL-BASED/INPATIENT)**

**Outpatient Commitment**

The Defendant is charged with a Class B Misdemeanor and is on bond or shall be released on bail. The Defendant is ORDERED to participate in an outpatient competency restoration program provided by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (facility), for a period not to exceed 60 days **from the date competency restoration services actually begin** for further examination and treatment toward the specific objective of attaining competency to stand trial.

The Defendant is charged with a Class A Misdemeanor, or a felony and is on bond or shall be released on bail. The Defendant is ORDERED to participate in an outpatient competency restoration program provided by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (facility) for a period not to exceed 120 days **from the date competency restoration services begin** forfurther examination and treatment toward the specific objective of attaining competency to stand trial.

The Court ORDERS the Sheriff of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Texas to release the Defendant, releasing instructions have been provided wherein the Defendant will be released to the person named, either a staff member of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or other responsible person as the Court may direct.

If the Defendant is on bond, they are ORDERED to appear as directed.

**Jail-based Commitment:**

Inasmuch as an Outpatient Restoration Program is not available or appropriate, the Defendant, therefore, having been charged (choose only one)

with a misdemeanor, and a **Jail-based Restoration Program is available**, is committed for 60 days **from the date of transfer to,**

with a felony, and a **Jail-based Restoration Program is available** is committed for 120 days **from the date of transfer to,**

a jail-based restoration program, located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, for further examination and treatment toward the specific objective of attaining competency to stand trial.

**Inpatient Commitment:**

Inasmuch as an Outpatient Restoration Program or Jail-based restoration program is not available, or not appropriate, the Defendant, therefore, having been charged (choose only one)

with a misdemeanor, is committed for 60 days **from the date of transfer to,**

with a felony, and is committed for 120 days **from the date of transfer to,**

a mental health facility operated by, or contracted with, the Texas Health and Human Services Commission (HHSC), for further examination and treatment toward the specific objective of attaining competency to stand trial.

The Court ORDERS the Sheriff of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Texas to take the Defendant into custody and deliver the Defendant to a mental health facility operated by, or contracted with, the Texas Health and Human Services Commission (HHSC) and selected by that agency.

The Court FURTHER ORDERS the court reporter to transcribe promptly all medical testimony received by the Court or jury and forward it to the Sheriff for inclusion with the other papers in this cause.

The Court further ORDERS the clerk of this court, **NOT LATER THAN THE DATE THIS ORDER IS SIGNED**, to prepare a certified copy of this order to be sent to the outpatient program in which the Defendant is ordered to participate, and a copy of: 1) this order, 2) the reports of each expert; 3) the information or indictment; 4) any psychiatric, psychological, or social work reports; 5) the offense report; 6) any reports tendered by counsel for either party; 7) the **Defendant’s** criminal history; and 8)the names and addresses of the attorney representing the state and the attorney representing the **Defendant** to the Sheriff of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County and that such transcripts accompany the **Defendant** to the program where committed.

SIGNED:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

JUDGE PRESIDING