

## 20 DAY EVALUATION HEARING

### I. WHAT'S GOING ON WITH DEFENDANT?

Defendant's competency to stand trial has been raised as an issue and the court has ordered defendant to undergo an evaluation to determine whether the defendant is/is not competent. The examiner needs time to form an opinion as to the defendant's competency.

Defendant has pleaded "Not Guilty by Reason of Insanity" (NGRI) and the court-ordered examiner needs to determine whether the defendant was insane at the time of the crime.

### II. QUESTIONS PRESENTED:

Is the defendant willing or able to cooperate with the evaluation which the court has ordered to determine if defendant is competent to stand trial or was NGRI?

### III. RELEVANT STATUTES:

#### O.R.C. 2945.371

- A. **(O.R.C. 2945.371(A)):** If the defendant's competence to stand trial is raised as an issue or if the defendant pleads "not guilty by reason of insanity," the court may order an evaluation. The evaluation may be:
1. to determine competency to stand trial or
  2. to determine sanity at the time of the offense.
- B. **O.R.C. 2945.371(B):** Both the prosecution and the defense may recommend an expert to conduct the defendant's evaluation(s). If the court does not choose the examiner the defendant has recommended, or the court designates an examiner of its own choosing, **the court shall inform the defense that it may obtain an independent evaluation.** If the defendant is unable to procure an independent evaluation due to indigence, the evaluation must be provided the defendant at public expense (meaning that the court pays for the evaluation).
- C. **O.R.C. 2945.371(C):** When the court orders an evaluation pursuant to this statute, the defendant shall be available at the times and places specified by the evaluating forensic examiner. The court may order a defendant who has been released on bail or his/her own recognizance to submit to an evaluation at a certain place and time. If the defendant refuses or fails to appear, the court may amend bail or recognizance and order that the defendant be taken into custody by the law enforcement agency which has brought the criminal charge and delivered to a facility operated or certified by the Ohio Department of Mental Health. The defendant can then be held at the facility for the 20-day evaluation. For Cuyahoga County, this facility is called Northcoast Behavioral Healthcare, the state hospital.
- D. **O.R.C. 2945.371(D):** If the defendant has not been released from jail, he/she may be ordered examined at the place of detention. *Only if the examiner requests,* the court may order the law enforcement agency having custody of the defendant to transport the defendant to a facility operated by the department of mental health and addiction services or the department of developmental disabilities to be evaluated for not longer than 20 days. After the 20 day period,

absent further recommendations and orders for treatment, etc., the defendant shall be returned to jail. In Cuyahoga County, the defendant should be transported to Northcoast Behavioral Healthcare, the state hospital. Custodial police, pursuant to the court's order, would be responsible for defendant's transportation under these circumstances. A municipal court may make an order under this section only upon the request of a certified forensic center examiner.

- E. **O.R.C. 2945.37(A)(2):** "Examiner" means either of the following: A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code or is employed by a certified forensic center designated by the department of mental health and addiction services to conduct examinations or evaluations.

**IV. EVIDENCE WHICH MAY BE PRESENTED TO THE COURT FOR THE COURT TO FIND THAT THE DEFENDANT MUST SUBMIT TO A 20 DAY EVALUATION:**

The court may find that an examining doctor was unable to reach a conclusion due to the defendant's unwillingness or inability to cooperate with the examination/interview process.

Most likely, this information will come before the court as a letter or report from the doctor attempting to conduct the court ordered examination of the defendant. Many times the parties will stipulate to the letter or report. If not, the doctor's testimony is required in court to show defendant cannot or will not cooperate in his/her court ordered evaluation.

**IN THE \_\_\_\_\_ MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO**

STATE/MUNICIPALITY	)	CASE NO. _____
vs.	)	JUDGE _____
DEFENDANT	)	<b>ORDER FOR 20 DAY EVALUATION</b>
	)	
	)	
	)	

This cause came on for hearing this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. On a former date, the Defendant was referred for a competency evaluation. The report of Dr. \_\_\_\_\_ dated \_\_\_\_\_ indicates the Defendant refused to/was unable to cooperate and for this reason, or other reason(s) the doctor was unable to render an opinion as to the Defendant’s competency

to stand trial. Therefore, and pursuant to R.C. 2945.371(C) the court orders the defendant to: Northcoast Behavioral Healthcare,  
*(Any center, program, or facility operated or certified by the Department of Mental Health or the Cuyahoga County Board of Developmental Disabilities)*

for a 20-day inpatient competency evaluation. \_\_\_\_\_  
*(Custodial police department or the appropriate transport agency)* is ordered to transport defendant to above-named program/facility upon notification by

\_\_\_\_\_ that a bed is available. Defendant is ordered remanded *(Center, program, facility mental health liaison)* to/detained by \_\_\_\_\_ until a bed becomes available.  
*(Custodial police dept./agency/county jail)*

Unless the evaluation is completed earlier, at the end of the 20-day period designated for evaluation, defendant is ordered returned to the \_\_\_\_\_ Jail by the above-named *(Custodial police dept.)* police department/transport agency.

Upon completion of the evaluation, the forensic examiner will provide a report to the court opining either (1) that the defendant is incompetent to stand trial and is therefore requesting that the defendant’s legal status be updated to incompetent to stand trial or (2) that the defendant is competent to stand trial and can be transported by the above named police agent/agency back to \_\_\_\_\_ Jail to await trial.

In the event that the forensic examiner opines that the defendant is competent to stand trial the above-named police dept./agency will transport the defendant back to \_\_\_\_\_ Jail to await trial upon notification by the designated agent or agency that the defendant is ready for return.

The \_\_\_\_\_ will notify the above- named police  
*(Designated agent or agency)*  
dept. /agency when the evaluation is completed and the defendant is available for transport.

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**JUDGE**