

SUPREME COURT OF GEORGIA

Atlanta October 5, 2005

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Rules 31.4 and 31.5 of the Uniform Superior Court Rules be hereby amended to read as follows:

Rule 31.4 Motion and Order for Evaluation Regarding Mental Incompetency to Stand Trial

(A) In pending superior court cases, except in proceedings for involuntary treatment under OCGA Title 37, or proceedings for the appointment of a guardian under Title 29, where the mental competency of an accused is brought into question, the judge may, upon a proper showing, exercise discretion and require a mental evaluation at public expense. A motion for mental evaluation may be filed in writing, setting out allegations and grounds for such motion, praying for a court-ordered evaluation. The judge may enter an order requiring a mental evaluation of the defendant for the purposes of evaluating competency to stand trial. The judge may direct the Department of Human Resources to perform the evaluation at a time and place to be set by the department in cooperation with the county sheriff. A copy of the order shall be forwarded to the department accompanied by a copy of the indictment, accusation or specification of charges, a copy of the police arrest report, where available, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Any other background information available to the court shall also be forwarded to the evaluating department to assist in performing adequately the requested services. Unless otherwise ordered by the court the department shall submit its report to the requesting judge, the defendant's attorney and the prosecuting attorney.

(B) Upon the filing of a Plea of Mental Incompetency to Stand Trial, the judge shall determine from the prosecuting attorney and the defense attorney whether a specially empaneled jury is required to determine the issue of mental incompetency to stand trial ahead of the trial of the case on the merits.

(C) Copies of suggested orders are attached as Specimen Order for Mental Evaluation Re: Competency to Stand Trial, and Specimen Judgment and Order of the Court on the Defendant's Plea of Mental Incompetency to Stand Trial.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA
V. _____

INDICTMENT NO.
CHARGE(S):

ORDER FOR MENTAL EVALUATION
re: COMPETENCY TO STAND TRIAL

WHEREAS the mental competency to stand trial of the above defendant has been called into question, and evidence presented in the matter, and this court has found that it is appropriate for evaluation to be conducted at public expense;

IT IS HEREBY ORDERED that the Department of Human Resources conduct an evaluation of said defendant, provide treatment of the defendant, if appropriate, and provide to this court, a report of diagnosis, prognosis and its findings, with respect to:

Competency to Stand Trial. Whether the accused is capable of understanding the nature and object of the proceedings; whether the accused comprehends his or her own condition in reference to such proceedings; and, whether the accused is capable of rendering to counsel assistance in providing a proper defense.

IT IS FURTHER ORDERED that the department arrange with the county sheriff, or the sheriff's lawful deputies, for the prompt evaluation of said defendant, either at the county jail or at a designated hospital, with transportation of the defendant to be provided by the sheriff, where necessary, with transportation costs to be borne by the county. Upon completion of the evaluation, the evaluating facility shall notify the sheriff, who shall promptly reassume custody of the defendant. Unless otherwise ordered by the court the department shall submit its report to the requesting judge, the defendant's attorney and the prosecuting attorney.

Observed behaviors that led to this request are: _____

Copies of documents supporting this request are attached hereto, as follows:

- Indictment/Accusation
- Summary of previous mental health treatment and prior mental health records
- Copy of arrest report
- Other _____

So ordered, this the _____ day of _____, 20__.

JUDGE, SUPERIOR COURT

JUDICIAL CIRCUIT, GEORGIA

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA
V. _____

INDICTMENT NO.
CHARGE(S):

JUDGMENT AND ORDER OF THE COURT
ON THE DEFENDANT'S PLEA OF
MENTAL INCOMPETENCY TO STAND TRIAL

The above stated case came on regularly before the undersigned for trial this date. The defendant was represented by counsel.

After a hearing on defendant's plea of mental incompetency and due consideration, the plea of Mental Incompetency to Stand Trial is sustained.

IT IS, THEREFORE, THE ORDER of this court that the defendant be now delivered to the sheriff of this County and that the defendant be delivered by the sheriff, or the sheriff's lawful deputy, to the Department of Human Resources, as provided by OCGA § 17-7-130.

IT IS FURTHER ORDERED that at such time as it is determined that the defendant is capable of understanding the nature and object of the proceedings, comprehends his or her own condition in reference to such proceedings, and is capable of rendering to counsel assistance in providing a proper defense, the defendant be delivered by the Department of Human Resources to the sheriff of this county, or the sheriff's lawful deputy, with transportation costs to be borne by the county.

IT IS FURTHER ORDERED that, should it be determined in light of present day medical knowledge that recovery of the defendant's legal mental competency to stand trial is not expected at any time in the foreseeable future, the defendant shall be dealt with by the Department of Human Resources as provided in OCGA § 17-7-130.

SO ORDERED, this the _____ day of _____, 20__.

JUDGE, SUPERIOR COURT

JUDICIAL CIRCUIT, GEORGIA

SPECIMEN ORDER ON THE DEFENDANT'S PLEA OF
MENTAL INCOMPETENCY TO STAND TRIAL

Rule 31.5 Notice of Intention of Defense to Raise Issue of Insanity, Mental Illness or Mental Retardation at the Time of the Act

(A) If, in any criminal proceeding, the defense intends to raise the issue that the defendant or accused was insane, mentally ill or mentally retarded at the time of the act or acts charged against the accused, such intention must be stated, in writing, in a pleading denominated as “Notice of Intent of Defense to Raise Issue of Insanity, Mental Illness or Mental Retardation.” This notice shall be filed and served upon the prosecuting attorney in accordance with section 31.1 of these rules. Upon the filing of such notice, the judge shall determine from the prosecuting attorney and the defense attorney whether such issue requires any further mental examination of the accused *or* any further non-jury hearing relative to this issue.

Upon defense motion, the judge may enter an order requiring a mental evaluation of the defendant for the purposes of evaluating the degree of criminal responsibility or insanity at the time of the act in question. The judge may direct the Department of Human Resources to perform the evaluation at a time and place to be set by the department in cooperation with the county sheriff. A copy of the order shall be forwarded to the department accompanied by a copy of the indictment, accusation or specification of charges, a copy of the police arrest report, where available, a copy of the defendant’s Notice of Intent to Raise Issue of Insanity if filed, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Any other background information available to the court shall also be forwarded to the evaluating department to assist in performing adequately the requested services. Unless otherwise ordered by the court the department shall submit its report to the requesting judge and the defendant’s attorney. Contemporaneous with filing the Notice of Intent of Defense to Raise Issue of Insanity, defendant’s attorney shall provide a copy of the Report to the prosecuting attorney and shall so certify in writing attached to the Notice of Intent of Defense to Raise Issue of Insanity.

(B) Except for good cause shown, the issue of insanity shall not be raised in the trial on the merits unless notice has been filed and served ahead of trial as provided in these rules.

(C) A copy of a suggested order is attached as Specimen Order for Mental Evaluation re: Degree of Criminal Responsibility or Insanity at the Time of the Act.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA
V. _____

INDICTMENT NO.
CHARGE(S):

ORDER FOR MENTAL EVALUATION
re: DEGREE OF CRIMINAL RESPONSIBILITY OR INSANITY
AT THE TIME OF THE ACT

WHEREAS, the defendant's sanity at the time of the act has been called into question, and evidence presented in the matter, and this court has found that it is appropriate for an evaluation to be conducted at public expense;

IT IS HEREBY ORDERED that the Department of Human Resources conduct an evaluation of the defendant, provide treatment of the defendant, if appropriate, and provide to this court a report of diagnosis, prognosis and its findings, with respect to:

Degree of Criminal Responsibility or Insanity at the Time of the Act. Whether or not the accused had the mental capacity to distinguish right from wrong in relation to the alleged act; whether or not the presence of a delusional compulsion overmastered the accused's will to resist committing the alleged act.

IT IS FURTHER ORDERED that the department arrange with the county sheriff, or the sheriff's lawful deputies, for the prompt evaluation of said defendant, either at the county jail or at a specified hospital, with transportation costs to be borne by the county. Upon completion of the evaluation, the evaluating facility shall notify the sheriff, who shall promptly reassume custody of the accused. The department shall submit its report to the requesting judge and the defendant's attorney. Contemporaneous with filing the Notice of Intent of Defense to Raise Issue of Insanity, defendant's attorney shall provide a copy of the Report to the prosecuting attorney and shall so certify in writing attached to the Notice of Intent of Defense to Raise Issue of Insanity.

Copies of documents supporting this request are attached hereto, as follows:

- Indictment/Accusation
- Summary of previous mental health treatment and prior mental health records
- Copy of arrest report
- Other _____

So ordered, this the _____ day of _____, 20__.

JUDGE, SUPERIOR COURT

JUDICIAL CIRCUIT, GEORGIA

SPECIMEN ORDER FOR MENTAL EVALUATION RE: DEGREE OF CRIMINAL
RESPONSIBILITY OR INSANITY AT THE TIME OF THE ACT