Bench Guide to Forensic Criminal Cases

By Alabama Dept. of Mental Health, Legal Division

Serve · Empower · Support

(July 2018)

The Legal Division of the Alabama Department of Mental Health compiled this bench guide to help guide Alabama judges in cases where criminal defendants require mental evaluations and for those defendants adjudicated incompetent or not guilty by reason of mental disease or defect.

The information in this bench guide is intended to be both practical and informative. As each case is different, this reference illustrates general guidelines, and does not seek to limit the Court's own best judgment in how to preside over mental health cases.

Table of Contents

Pre-Trial Considerations:

I. Pleas and Requests for Mental Evaluations …… 3

II. Bond vs. Incarceration …… 6

III. Diversionary Programs …… 7

IV. Orders for Incompetency and Mental State during Offense …… 8

V. Evaluation Procedures/Requirements …… 11

VI. Adjudication …… 14

Post-Adjudication Considerations:

I. Incompetent Defendants (unrestorable) …… 15

II. NGRI Defendants …… 17

III. ADMH Custody vs. Community Placement …… 18

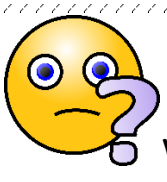
IV. Release and Conditional Release …… 20

V. Modification/Removal/Revocation of Conditional Release …… 23

Pre-Trial Considerations

Section I. Pleas and Requests for Mental Evaluations

Incompetency:
A defendant is incompetent to stand trial or to be sentenced for an offense if that defendant lacks sufficient *present ability* to assist in his or her defense by consulting with counsel with a *reasonable degree of rational understanding* of the facts and the legal proceedings against the defendant. Rule 11.1.



Why am I here? Who are you? Where am I? What's this all about?

- Majority view: Mere presence of a mental disorder or illness, whatever the severity, is not a sufficient basis for a finding of incompetency to stand trial.

- Competency hearings may take place *anytime* during the prosecution of the case, even during trial if the defendant's present competency is brought into question. *Drope v. Missouri*, 420 U.S. 162, 95 S.Ct. 896, 43 L.Ed.2d 103 (1975).

Not Guilty by Reason of Insanity:
An affirmative defense to a crime that, at the time of the commission of the crime, the defendant, as a result of severe mental disease or defect, was unable to appreciate the nature and quality or wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense. Section 13A-3-1, Code of Alabama 1975

Pleas:
Arraigned defendants in Circuit Court may enter pleas of *Not Guilty* and/or *Not Guilty by Reason of Mental Disease or Defect (NGRI)*. District and Municipal courts do not have jurisdiction to order mental evaluations, as incompetency and mental state at the time of the offense are jury questions. Rule 11.9 does not contemplate evaluations for misdemeanors or proceedings in district courts.

Q. Can a District Court order a mental evaluation?

A. No, not authorized by Rule 11.9. However, a defendant may appeal his or her case to Circuit Court and request an evaluation.

Q. What can a District Court do with a mentally ill defendant?

A. - Dismiss the case in consideration of a civil commitment through probate court;
- Conditionally order the defendant to receive mental health treatment with review at a later date; or
- Contact DMH Legal to research placement or treatment options.

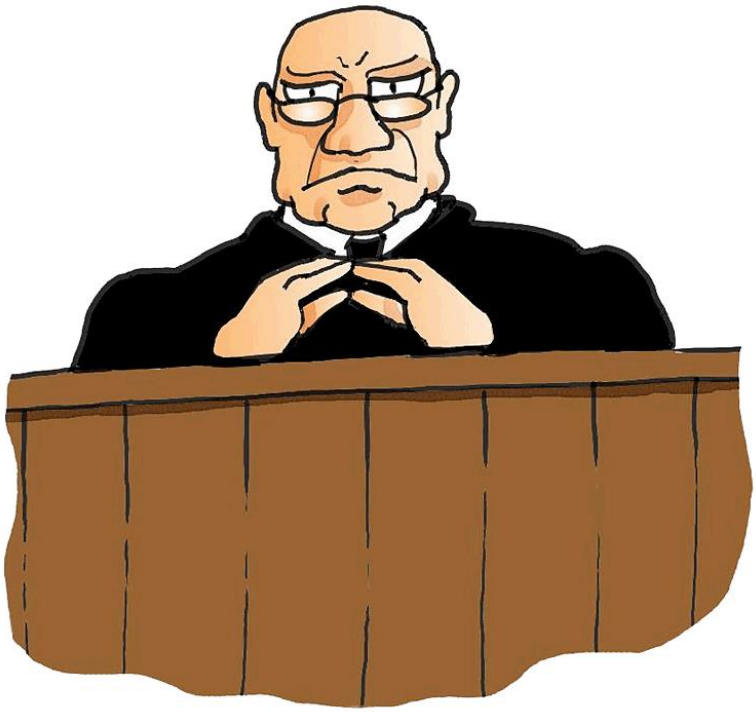
Motions for Mental Evaluations:

- The defendant, district attorney, or court may make motion for an evaluation as to a defendant's competency and/or as to a defendant's mental state at the time of the offense. Rule 11.2

- Defendants may have both types of evaluations ordered, but the order should make a clear distinction between the two purposes for evaluation to ensure that the correct legal criteria are applied.

Be an Effective Gatekeeper: Ordering a mental evaluation is **NOT** a ministerial act, but a discretionary one. A Circuit Court is authorized to deny a motion if there is no reasonable basis supported by evidence. Rule 11.2(c) requires a **factual** basis in support of the motion be included. Remember that mere presence of mental illness is not evidence that the offense was committed as a product of that illness. The Committee Comments to Rule 11.3 state:

> "Under this rule, ***the trial court continues to act as a "screening agent" for mental examination requests***, and the determination of whether a mental evaluation is required is left to the discretion of the trial court. *Reese v. State*, 549 So.2d 148 (Ala.Crim.App. 1989), overruled in part on other grounds, *Huntley v. State*, 627 So.2d 1013 (Ala. 1992).



Section II. Bond vs. Incarceration

Defendants on Bond: Defendants on bond shall be entitled to an outpatient mental examination with a forensic evaluator (either appointed by the court **OR** through ADMH). Rule 11.3

Incarcerated Defendants: Incarcerated defendants awaiting trial shall be entitled to an outpatient mental examination with a forensic evaluator (either appointed by the court **OR** through ADMH). Examinations may be conducted at jails or any other place authorized or ordered by the court. Rule 11.3

Q. What happens when a defendant (either bond or incarcerated) is determined incompetent by the forensic evaluator?

A. An incarcerated defendant is committed to ADMH for competency restoration treatment. A defendant on bond may be committed to ADMH for competency restoration treatment and ordered to be held in the jail pending transfer to Taylor Hardin state hospital for treatment.

Options to Consider for Incarcerated Defendants:
Evidence shows that mentally ill defendants tend to decompensate while in jail, as many do not have access to regular treatment or mental health medications. AMDH supports the bonding of defendants with mental health treatment as a condition, reportable to the court at regular status hearings. The advantages to placing a defendant on bond:

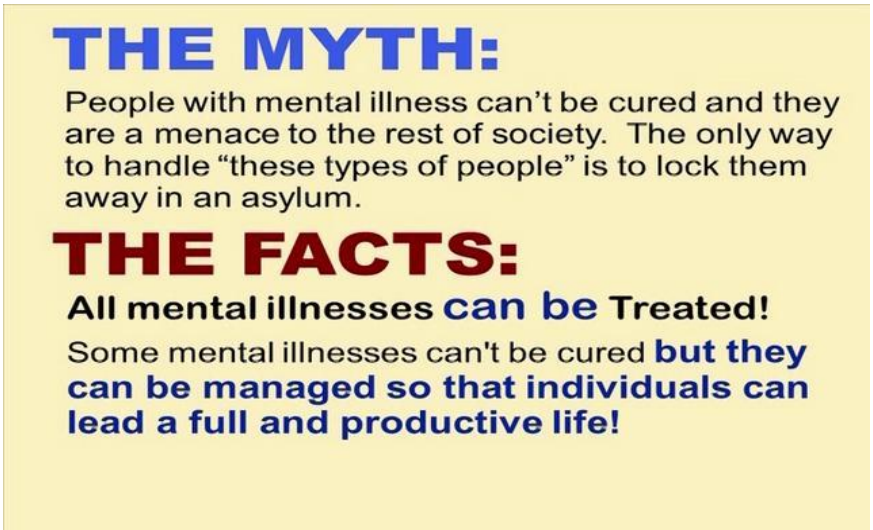
- ✓ The defendant is not a strain on county jailers;
- ✓ It is easier and faster to coordinate outpatient evaluation since defendants can make their own appointments;
- ✓ Defendants receive regular medications and psychiatric treatment;
- ✓ Defendants will create current treatment records that may be necessary to rebut the findings of another evaluation, if necessary;
- ✓ Lower incidence of incompetency findings.

Section III. Diversionary Programs and Alternatives

1. Plea agreements on lesser felonies where evaluations are ordered (i.e. vehicle burglary, possession cases, etc. that would result in probation under the guidelines).

2. Diversionary programs such as mental health court or pre-trial diversion with mental health treatment as a condition of completion.

3. Civil commitment in lieu of prosecution for lesser felonies (many probate judges will not civilly commit with pending charges, thus dismissal usually comes first).



Please enlist DMH for help on cases after adjudication of NGRI to find appropriate placement for defendant, such as a forensic group home provider versus Taylor Hardin.

In cases where the court may need some direction on the best options for a defendant, please contact us and let us provide direction, sample orders, etc. at any stage in the proceedings.

The Legal Division of Alabama Department of Mental Health is available to answer questions or help identify eligible resources. Please do not hesitate to contact the Legal Division about your NGRI cases: PH (334) 242-3038

Section IV. <u>Orders for Incompetency and Mental State during Time of Offense</u>

- The Court is authorized to appoint a forensic evaluator from ADMH or any other forensic evaluator (psychiatrist or psychologist) of its choosing. Rule 11.3

- *Ake v. Oklahoma*, 470 U.S. 68, 105 S.Ct. 1087, 84 L.Ed.2d 53 (1985): An indigent defendant is constitutionally entitled to a psychiatrist provided at State expense, is applicable only where the defendant demonstrates to the trial judge that a defendant's sanity (or insanity) at the time of the offense is to be a significant factor at trial or that the defendant's mental state is to be a significant factor. Where a defense consultant psychologist or psychiatrist is constitutionally required, such an expert may be appointed under Rule 1.3(a).

- Defendants may request *ex parte* funds for his or her own forensic evaluator. Rule 11.4

Incompetency:

- Commitment to ADMH for examination for a reasonable period of time to conduct an evaluation if:
  a. The defendant cannot be examined on an outpatient basis;
  b. An outpatient examination setting is unavailable; or
  c. The examiner reports that confinement is indispensable to a clinically valid diagnosis and report.

  Rule 11.3

- Competency restoration training includes a combination of therapy, education, and usually medication to return a defendant to competency to stand trial.

Mental State during Time of Offense (NGRI):

- A forensic evaluation that reconstructs a defendant's mental state at the time of the offense. Evaluators typically look to prior mental health history, familial and educational background, and facts of the offense to formulate an opinion.

- A defendant found NGRI does not deny commission of the offense, but could not formulate the requisite intent due to active symptoms of mental illness.

- Just because a defendant suffers from mental illness does not mean that a defendant could not formulate the requisite intent to commit a crime.

Atkins and IQ Testing:

- The Rules do not specifically authorize ADMH to perform Atkins and IQ testing. However, ADMH recognizes the need for forensic services in these cases. Atkins and IQ tests can be scheduled on a case-by-case basis and in special circumstances.

Factors to Consider Prior to Evaluation Order:

✓ Cases may take longer to resolve. A mentally incompetent defendant may remain with ADMH for months or years before being restored to competency. If a court finds a defendant is incompetent, the court shall make an order committing the defendant to the Department. *The defendant must remain until competency is restored. Only when competency is restored, may the prosecution be resumed*.

✓ Are there records/materials in existence that provide information about a defendant's mental health history? Rule 11.2 allows motions for competency and for mental states at the time of the offense to be made by the (1) defendant, (2) state, or (3) court on its own motion. Rule 11.2 further requires such motion shall **"*state facts upon which the mental examination is sought*."**

✓ If records/materials exist, can defense counsel obtain those records in a timely manner to provide to the forensic practitioner?

✓ Is the offense minor? Courts maintain quarterly contact over an NGRI defendant for an indefinite period. A defendant adjudicated NGRI will likely remain on court-ordered conditions for years, possibly as a result of a practical flaw in the Alabama Rules of Criminal Procedure.

The Case of P.W.

P.W. was found NGRI in 2001 for a minor property offense. She was released from all of her court-ordered conditions in 2017. Had P.W. pleaded guilty initially, she would have likely been released from her sentence well before 2017. While she escaped a felony conviction on her record, she was under the court's jurisdiction for about 16 years. P.W., if granted probation, would have likely received mental health treatment as part of her conditions. (The Department agrees there may be a need for ethical consideration in determining whether or not to request evaluation or plead a defendant NGRI).

Section V. Evaluation Procedures and Requirements

Hunter, et al v. Beshear (Alabama Dept. of Mental Health)

Class Members: Persons charged with a crime, detained in jail, awaiting mental evaluation or competency restoration (a) committed to DMH for inpatient evaluation; or (b) ordered to competency restoration if found incompetent.

Timeline for Evaluations per Consent Decree:

Outpatient Evaluations for Incarcerated Defendants

- 12 months after settlement approval, DMH shall have 45 days from receipt of order to perform evaluation.
- Forensic evaluators shall have an additional 45 days from evaluation to submit report to court.

- 24 months after settlement approval, DMH shall have 30 days from receipt of order to perform evaluation.
- Forensic evaluators shall have an additional 30 days from evaluation to submit report to court.

Inpatient Evaluations for Incarcerated Defendants (Defendants going to Taylor Hardin Secure Medical Facility for Evaluation or Competency Restoration Training)

- 12 months after settlement approval, DMH shall have 45 days from receipt of order to perform evaluation (or admit a defendant to Taylor Hardin for competency restoration).
- Forensic evaluators shall have an additional 45 days from evaluation to submit report to court.
- 24 months after settlement approval, DMH shall have 30 days from receipt of order to perform evaluation (or admit a defendant to Taylor Hardin for competency restoration).
- Forensic evaluators shall have 30 days from evaluation to submit report to court.

Additional Forensic Beds:

Hospital-Like Forensic Beds (49 total)

- 24 additional beds within 12 months of settlement approval (completed 2017).
- 25 additional beds within 24 months of settlement approval.

Community Forensic Beds (52 total)

- Comprised of group homes with no more than 16 beds each.
- 25 additional beds within 12 months of settlement approval (to include 5 that will accommodate registered sex offenders).
- 32 additional beds within 24 months of settlement approval.

Revised Current Procedures regarding Mental Health Evaluations:

1. The Circuit Clerk shall forward the order for mental evaluation to DMH's Forensic Outpatient Program (FOP). FOP will log in the order for internal tracking.

2. FOP shall send information requests to the District Attorney and to the defense attorney.

3. The District Attorney sends case information and discovery to FOP.

4. The defense attorney sends a completed Defense Attorney Packet to FOP.

5. The defense attorney obtains records releases from defendant and is responsible for sending records requests to defendant's treatment providers.

6. Once the defendant's requested records are received, the defense attorney shall forward the records to FOP.

7. FOP shall electronically scan and transmit the file to Jefferson Blount St. Clair Mental Health Authority (JBS) for assignment to a forensic evaluator.

8. Forensic evaluators shall schedule outpatient evaluations according to each evaluator's caseload, travel schedule, and availability.

9. Completed evaluation reports are returned to FOP for dissemination to the Court and parties.

Section VI. Adjudication

Incompetency:

- Within 42 days of receipt of the evaluation, the Court shall set a hearing on competency. Rule 11.6

- Defendant shall be represented by counsel and has the right to testify, cross-examine witnesses, and may produce witnesses on his or her own behalf.

- The parties may stipulate to the forensic evaluation findings in lieu of hearing. However, disputed finding must be made in writing no less than 14 days prior to hearing.

- Within 14 days after hearing, the Court shall make an adjudication of competency.

Not Guilty by Reason of Mental Disease or Defect (NGRI):

- Upon a finding that a defendant is NGRI, the court shall adjudicate the defendant and SHALL determine if temporary involuntary commitment is required, by way of a probable cause hearing. Rule 25.2

- Determination for commitment must be made at hearing within 7 days of a finding of probable cause, not to exceed 30 days for good cause shown. Rule 25.3

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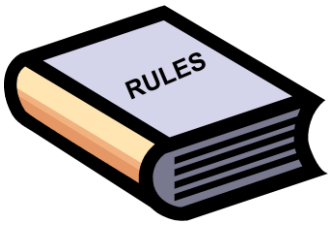


Post-Adjudication Considerations

Section I. Incompetent Defendants (Restorable and Unrestorable)

After a finding of incompetency, the court has three options (**Rule 11.6(c)**):

Option 1: The defendant is found competent to stand trial.

Prosecution commences

Option 2: The defendant is incompetent and there is **no substantial probability of competency within a reasonable time**:

A.

If there is no threat of substantial harm by the defendant being in the community, then defendant shall be released and the charges dismissed.

B.

If there is a threat of substantial harm by defendant being in the community, and if the defendant's condition will continue to suffer without treatment, the Court may:

Commit the defendant to ADMH for a period not to exceed 6 months.

Allow the defendant to remain in the community under ongoing supervised medical treatment or therapy with conditions of release.

<u>Option 3</u>: The defendant is incompetent but there **is a substantial likelihood of competency restoration within a reasonable time**:

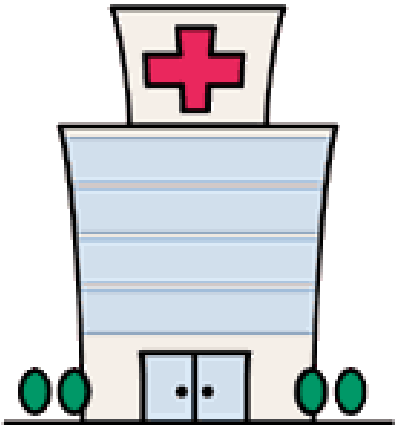
A.

If there is a threat of substantial harm by defendant being in the community, and if the defendant's condition will continue to suffer without treatment, the Court may commit the defendant to ADMH for treatment for a period not to exceed 6 months or until earlier restoration

B.

If there is no threat of substantial harm by defendant being in the community, allow the defendant to remain in the community under ongoing supervised medical treatment or therapy with conditions until competency is restored.

- Rule 11.6 further sets forth the requirements for review, modification, reports, and release. A defendant cannot be released unless authorized by the court.



Section II. <u>NGRI Defendants</u>

Procedure to have the defendant involuntarily committed when defendant found NGRI:

- The court shall hold a hearing to determine if probable cause exists to involuntarily commit the defendant. Rule 25.2

- Determination for commitment must be made at hearing within 7 days of a finding of probable cause, not to exceed 30 days for good cause shown. Rule 25.3

Probable cause hearing (Rule 25.2):

<u>Option 1</u>: If a defendant is mentally ill and a **danger to self or others** as a consequence of the illness (see also Rule 25.6):

A.

The court may involuntarily commit the defendant to ADMH.

B.

The court may conditionally release the defendant to another mental health provider.

Please contact ADMH Legal Division to research all available alternatives prior to determination of involuntary commitment or conditional release. ADMH Legal can offer guidance in drafting orders, working with providers, and appearances at hearings.

<u>Option 2</u>: If a defendant is mentally ill, but **not a danger to self or others**, the defendant **shall be released from custody**. Rule 25.2, Rule 25.6

Section III. <u>ADMH Custody vs. Community Placement</u>

- ✓ Rule 25.4 provides for the court to order additional or other psychological testing as deemed necessary. The defendant need not be committed to ADMH in order to complete additional tests.

- ✓ APAR evaluations (risk assessments) may be completed in both outpatient and inpatient settings. These assessments can identify factors that determine whether inpatient placement or community placement is best for a defendant.

- ✓ When deciding whether to commit a defendant to ADMH, please consider alternative community placement options and whether the defendant would benefit from treatment in another facility.

- ✓ *Wyatt v. Stickney* paved the way for deinstitutionalization of Alabama's mental health system. As a result, ADMH closed all but three of its psychiatric institutions. The net result of *Wyatt* was that forensic defendants need to seek community placements as the least restrictive means for treatment, whenever possible.

- ✓ Later, in *Olmstead v. L.C.*, the court held that public entities must provide community-based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

- ✓ The *Olmstead* court made two major findings: (1) that institutional placements for persons who can benefit from community settings perpetuates the stigma that mentally ill persons cannot participate in community life; and (2) confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.

Alabama currently has **140 inpatient beds** available at Taylor Hardin;

60 specialized forensic community beds;

and **0 sex offender beds**.

The majority of forensic defendants reside in ordinary group homes and apartments

- ✓ Community beds are operated by regional mental health authorities and include:

  - Multi-bed inpatient facilities
  - Transitional homes
  - Group homes
  - Residential care homes
  - Intermittently supervised apartments (or MOMS apartments)

- ✓ These beds may operate under different levels of supervision and security. Where a defendant falls on his or her continuum of care dictates the most appropriate (and least restrictive) placement available.

Section IV. Release and Conditional Release

- Rule 25.8 sets forth the procedure for conditional release of an NGRI defendant.

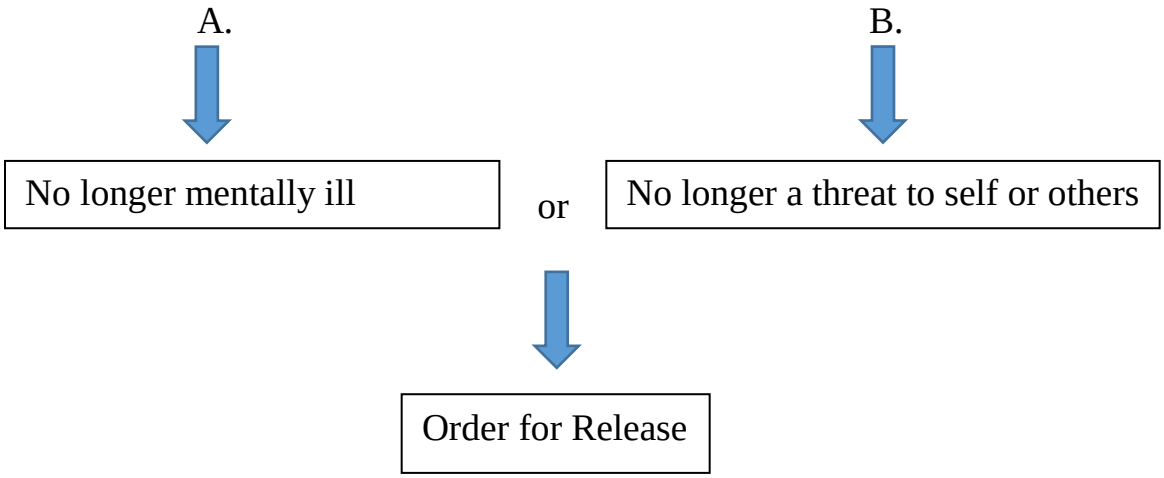
- If the defendant is committed to ADMH, ADMH may not release the defendant unless authorized by the court.

- By ADMH Motion:
  ADMH may motion for a defendant's release if that defendant:
  a. No longer mentally ill; or
  b. No longer poses a real and present threat to self or others; or
  c. No longer poses a real and present threat to self or others if conditions are imposed upon release.

- The motion must be made with an affidavit from a mental health expert and hearing must be scheduled within 30 days. Rule 25.8(d)

- If hearing is not held within 60 days (unless for good cause shown), the defendant shall be released. 25.8(e)

Option 1: After hearing, the defendant is found:



<u>Option 2</u>: If the defendant is found no longer a threat to self or others by being at large with certain conditions, then conditional release is required.

Conditions of release include, but are not required, and in not limited to the following:

a. That the Defendant will participate in all clinics, programs, and day treatment activities recommended or arranged for him by the staff of the mental health authority;

b. The mental health authority is authorized to treat the defendant in a clinically appropriate manner, and he/she will submit to this treatment. The Defendant will reside in a facility owned, operated, or supervised by the mental health authority. Such facilities may include inpatient facilities, transitional homes, group homes, residential care homes, intermittently supervised apartments, or foster homes as clinically appropriate to the Defendant's progress in treatment. The Defendant will at all times remain under the care and treatment of the mental health authority while living in any of such facilities;

c. The mental health authority shall have the ability to move the Defendant from one mental health authority owned, operated, or supervised facility to another mental health authority owned, operated, or supervised facility, within the mental health authority network, as recommended by Defendant's treatment plan, without advance leave of Court.

d. That the Defendant will take all medication prescribed for him/her;

e. That the Defendant will not own or possess a firearm or any other weapon or any item which may be construed to be a weapon;

f. That the Defendant will not use illicit drugs or alcohol;

g. That the Defendant will participate in all substance abuse programs recommended by the mental health authority and will report for random drug and alcohol screenings as recommended by said agency;

h. That the Defendant not engage in violent behavior;

i. That if the Defendant's mental health begins to deteriorate, he/she should be able to seek voluntary admission to a psychiatric hospital for the purpose of treatment. Any such hospitalizations shall not be considered a violation of this conditional release;

j. That this Court retain jurisdiction to decide if the Defendant should be released from the residential programs and supervision of the mental health authority. If the mental health authority or the Defendant are of the opinion that such release is appropriate, they shall make application to this Court to authorize such;

k. That, if during the period of his conditional release, the Defendant does not comply with the terms and conditions of release, or if it is determined that the Defendant can no longer be successfully treated in an out-patient program, the Court and ADMH should be so notified of such by the mental health authority. In its notification to the Court and ADMH, the mental health authority shall provide each entity with specific information concerning the Defendant's failure to comply with the terms and conditions of release. Following said notifications, the Court will schedule a hearing to determine whether or not the Defendant should be recommitted to the custody of ADMH, and his conditional release revoked, or the conditions of release modified;

l. The mental health authority be required to submit quarterly reports to the Court regarding the Defendant's compliance with the conditions of release and his progress and mental condition, with copies being sent to the District Attorney, the defense attorney, and to the facility from which the Defendant is released (Taylor Hardin Secure Medical Facility).

- The court is not limited by the above proposed conditions. The Rules authorize any condition as required to ensure the threat of harm to self or others is abated while receiving the necessary level of treatment.

Section V. Modification/Removal/Revocation of Conditional Release

The court, upon motion from the parties or upon its own motion, may modify, remove, or revoke conditional release. Rule 25.8

Modification of Conditional Release:
If at any time it appears the defendant requires modification of conditions, the court may schedule a hearing after notice to ADMH and the parties. Modifications are guided by the standard of whether such modification is necessary to ensure the threat of harm to self or others is abated. Rule 25.8(h)

Removal of Conditions:
If at any time it appears the defendant requires removal of conditions, the court may schedule hearing after notice to ADMH and the parties. After hearing, the court has three options:

Option 1: The court shall remove the unnecessary conditions if the defendant does not pose a present threat of harm to self or others;

Option 2: The court shall remove all conditions and terminate jurisdiction if the defendant does not pose a present threat of harm to self or others;

Option 3: The court may modify or continue conditions of release.

Revocation of Conditional Release:
If it appears that the defendant is noncompliant with conditions of release or is a present harm to self or others, the court may revoke the conditional release and commit the defendant to ADMH. ADMH may again petition for conditional release upon stabilization and by filing a motion as prescribed by Rule 25.8.

- Defendants shall remain in custody in county jails pending transfer and admission to Taylor Hardin. As Taylor Hardin operates a waitlist, defendants must continue with mental health treatment in jails. Some circuits order the county jailer/sheriff as follows:
  a. Continue to provide mental health treatment while pending admission to Taylor Hardin;
  b. Ensure prescription medication is provided;

c. Provide Taylor Hardin with all mental health records and prescription records upon transfer. This allows ADMH staff to continue treatment and adjust prescription levels more efficiently.

Please enlist ADMH for help on cases after adjudication of NGRI to find appropriate placement for defendant, such as a forensic group home provider versus Taylor Hardin.

In cases where the court may need some direction on the best options for a defendant, please contact us and let us provide direction, sample orders, etc. at any stage in the proceedings.

The Legal Division of Alabama Department of Mental Health is available to answer questions or help identify eligible resources. Please do not hesitate to contact the Legal Division about your NGRI cases: PH (334) 242-3038

Common Terms

IST	…	Incompetent to stand trial
NGRI	…	Not guilty by reason of insanity
CRT	…	Competency restoration therapy
MSO	…	Mental state at the time of the offense
MI	…	Mental illness / mentally ill
ID	…	Intellectually disabled (low IQ)
MOMs Apartment	…	Meals, Observation, and Medication oversight in apartment setting
Group Home	…	Multi-resident home with staffing as required
Forensic Group Home	…	Multi-resident home focused on forensic defendants Only

NOTES:

SAMPLE ORDER FOR CONDITIONAL RELEASE

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA	**)**	
	)	
vs.	**)**	**Case No.**
	)	
JOE DEFENDANT	**)**	

ORDER TO RELEASE WITH CONDITIONS

The matter of proposed release of the Defendant from the custody of the Alabama Department of Mental Health (ADMH) was presented to this Court on the Notice of Proposal to Release with Conditions filed pursuant to Rule 25.8, *Alabama Rules of Criminal Procedure*. The Court has reviewed the evidence presented and has determined that the Defendant has received maximum benefit from treatment by ADMH and that it is the opinion of the clinical professionals of ADMH that the Defendant would no longer pose a real and present threat of substantial harm to himself or others if released with the following conditions:

a. That the Defendant will participate in all clinics, programs, and day treatment activities recommended or arranged for him by the staff of Montgomery Area Mental Health Authority (MAMHA);

b. That MAMHA is authorized to treat the Defendant in a clinically appropriate manner, and he will submit to this treatment. The Defendant will reside in a facility owned, operated, or supervised by MAMHA. Such facilities may include inpatient facilities, transitional homes, group homes, residential care homes, intermittently supervised apartments, or foster homes as clinically appropriate to the Defendant's progress in treatment. The Defendant will at all times remain under the care and treatment of MAMHA while living in any of such facilities;

c. MAMHA shall have the ability to move the Defendant from one MAMHA owned, operated, or supervised facility to another MAMHA owned, operated, or supervised facility, within the MAMHA network, as recommended by Defendant's treatment plan, without advance leave of Court.

d. That the Defendant will take all medication prescribed for him;

e. That the Defendant will not own or possess a firearm or any other weapon or any item which may be construed to be a weapon;

f. That the Defendant will not use illicit drugs or alcohol;

g. That the Defendant will participate in all substance abuse programs recommended by MAMHA and will report for random drug and alcohol screenings as recommended by said agency;

h. That the Defendant not engage in violent behavior;

ADMH proposes the following additional provisions be included in any order entered authorizing the Defendant's conditional release:

i. That if the Defendant's mental health begins to deteriorate, he should be able to seek voluntary admission to a psychiatric hospital for the purpose of treatment. Any such hospitalizations shall not be considered a violation of this conditional release;

j. That this Court retain jurisdiction to decide if the Defendant should be released from the residential programs and supervision of MAMHA. If MAMHA or the Defendant are of the opinion that such release is appropriate, they shall make application to this Court to authorize such;

k. That, if during the period of his conditional release, the Defendant does not comply with the terms and conditions of release, or if it is determined that the Defendant can no longer be successfully treated in an out-patient program, the Court and ADMH should be so notified of such by MAMHA. In its notification to the Court and ADMH, MAMHA shall provide each entity with specific information concerning the Defendant's failure to comply with the terms and conditions of release. Following said notifications, the Court will schedule a hearing to determine whether or not the Defendant should be recommitted to the custody of ADMH, and his conditional release revoked, or the conditions of release modified;

l. That MAMHA be required to submit quarterly reports to the Court regarding the Defendant's compliance with the conditions of release and his progress and mental condition, with copies being sent to the District Attorney, the defense attorney, and to the facility from which the Defendant is released (Taylor Hardin Secure Medical Facility).

IT IS THEREFORE, ORDERED, ADJUDGED and **DECREED** by this Court that ADMH is authorized to release the Defendant with the foregoing conditions imposed on his release.

DONE this the _____ day of _____ 2018.

_____

CIRCUIT JUDGE