

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

23-03157-CF

Division K

UCN 522023CF003157000APC

STATE OF FLORIDA

vs.

THOMAS ISAAH MOSLEY

PID: 3322179

ORDER DIRECTING EXAMINATION FOR COMPETENCE TO PROCEED

THIS CAUSE COMING on to be heard in the above-styled case upon the:

- Court's own motion
- Motion of the Attorney for the Defendant
- Motion of the Self-Represented Defendant
- Motion of the State

to determine the mental condition of the Defendant regarding competence to proceed. The Court being fully advised, it is hereby

ORDERED:

1. That said motion is granted.
2. This cause is scheduled for a status check hearing to proceed at 8:30 am on the 17TH day of March, 2025. *See* Fla. R. Crim. P. 3.210(b), requiring the court to schedule a status hearing within 20 days of the motion to determine competency of the Defendant. The final hearing will be scheduled no later than 45 days from the date of the motion, on a date to be determined at the status hearing. *Id.*, requiring the court to conduct a final hearing no later than 45 days from the motion, absent good cause.
3. The expert must submit to this Court a written report on the Defendant's competence to proceed and mental condition or, in the case of a social service professional, social and developmental history, and provide copies to defense counsel and the State Attorney, prior to the hearing.
4. If the expert cannot timely complete the evaluation and report within the timeframes specified herein, the expert must notify the parties. The parties must communicate any reset hearing dates to the appointed expert.

PART I. APPOINTMENT OF EXPERT FOR EXAMINATION OF DEFENDANT; SCHEDULING

5. Pursuant to Florida Rule of Criminal Procedure 3.210, the Court appoints:

DR. OHIANA TORREALDAY, PH.D., an expert under contract with the Court, to examine the Defendant for purposes of competence to proceed AND

DR. MICHAEL G. RAILEY, PH.D., an expert under contract with the Court, to examine the Defendant for purposes of competence to proceed.

As of this date, the Defendant is:

Not in Custody. The expert must contact defense counsel for scheduling.

In the Pinellas County Jail. The expert must notify defense counsel when they are available to coordinate examination of the Defendant.

The expert must provide defense counsel and the State Attorney advance notice of any scheduled examination of the Defendant.

6. That the appropriate jail authority shall permit the above-named expert to enter the Pinellas County Jail as necessary to conduct the foregoing evaluation of the Defendant upon presentment of this Order.

7. Attorneys for the State and Defendant may be present for the expert's examination.

8. That a copy of the Order serves as authorization for the expert to inspect and copy any discoverable information relating to the Defendant maintained by the Clerk of the Circuit Court, State Attorney's Office, any hospital, doctor, or any health care provider, therapist, psychiatrist, psychologist, counselor, or any mental health provider, or other social or human services agency without the necessity of written consent by Defendant.

PART II. EXPERT'S WRITTEN REPORT

ALL REPORTS ON DEFENDANT'S COMPETENCE TO PROCEED

9. **All experts must examine the Defendant and provide a written report evaluating whether the Defendant is competent to proceed.** Specifically, the expert must report on whether the Defendant has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the Defendant has rational, as well as factual, understanding of the pending proceedings.

10. In considering whether the Defendant is competent to proceed, the expert must consider and include in their report the Defendant's capacity to:

- (a) Appreciate the charges or allegations against them;
- (b) Appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against them;
- (c) Understand the adversary nature of the legal process;
- (d) Disclose to counsel facts pertinent to the proceedings at issue;
- (e) Manifest appropriate courtroom behavior; and
- (f) Testify relevantly.

The expert must also consider and include in their report any other factor deemed relevant by the expert. *See Fla. R. Crim. P. 3.211(a)(2).*

11. All information contained in the motion to determine competence of the Defendant or in any report submitted under this order that relates solely to the issues of competence to proceed, treatment, or commitment of the Defendant, must be used only in determining the mental competence to proceed, treatment, or commitment of the Defendant. *See Fla. R. Crim. P. 3.211(d).*
12. **All written reports submitted by an expert must:**
 - (a) Identify the specific matters referred for evaluation;
 - (b) Describe the evaluative procedures, techniques, and tests used in the examination and purpose(s) for each;
 - (c) State the expert's clinical observations, findings, and opinions on each issue referred for evaluation by the Court; and indicate specifically those issues, if any, on which the expert could not give an opinion;
 - (d) Identify the sources of information used by the expert and a presentation of the factual basis for the expert's clinical findings and opinions; and
 - (e) Include a full and detailed explanation regarding why the alternative treatment options referenced in the evaluation are insufficient to meet the needs of the defendant. Fla. R. Crim. P. 3.211(c).
13. If the expert determines that the Defendant is not competent to proceed, the expert must report on any recommended treatment for the Defendant to attain competence to proceed.
14. In cases where the Defendant's incompetence to proceed is due to mental illness, intellectual disability, or autism, the expert will **additionally** report as follows:

Mental Illness

1. Report on any recommended treatment for the Defendant to attain competence to proceed. § 916.12(4) Fla. Stat.; Fla. R. Crim. P. 3.211(b).

In considering the issues relating to treatment, the expert must specifically report on:

- (a) The mental illness causing the incompetence;
- (b) The completion of a clinical assessment by approved mental health experts trained by the department to ensure safety of the patient and the community;
- (c) The treatment or treatments appropriate for the mental illness or intellectual disability of the Defendant and an explanation of each of the possible treatment alternatives, including, at a minimum, mental health services, treatment services, rehabilitative services, support services, and case management services as described in s. 394.67, Fla. Stat., which may be provided by or within multi-disciplinary community treatment teams;
- (d) The availability of acceptable treatment and, if treatment is available in the community, the expert must so state in the report; and
- (e) The likelihood of the Defendant attaining competence under the recommended treatment, an assessment of the probable duration of the treatment required to restore competence, and the probability that the Defendant will attain competence to proceed in the foreseeable future.

2. Determine whether the Defendant meets the criteria for involuntary commitment. § 916.13(1), Fla. Stat.; Fla. R. Crim. P. 3.212(c).

In evaluating the Defendant to determine whether the Defendant may be involuntarily committed, the appointed expert must determine and report on whether:

- (a) The Defendant has a mental illness and because of the mental illness:
 - i. The Defendant is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and without treatment, the Defendant is likely to suffer from neglect or refuse to care for themselves and such neglect or refusal poses a real and present threat of substantial harm to the Defendant's well-being; or
 - ii. There is a substantial likelihood that in the near future the Defendant will inflict serious bodily harm on themselves or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;
- (b) All available, less restrictive treatment alternatives, including treatment in community residential facilities or community inpatient or outpatient settings, which would offer an opportunity for improvement of the Defendant's condition have been judged to be inappropriate; and
- (c) There is a substantial probability that the mental illness causing the Defendant's incompetence will respond to treatment and the Defendant will regain competency to proceed in the reasonably foreseeable future.

Intellectual Disability or Autism

1. Report on any recommended training for the Defendant to attain competence to proceed.
§ 916.3012(4), Fla. Stat.; Fla. R. Crim. P. 3.211(b).

In considering the issues relating to training, the examining expert must specifically report on the following:

- (a) The intellectual disability or autism causing the incompetence;
- (b) The training appropriate for the intellectual disability or autism of the Defendant and an explanation of each of the possible training alternatives in order of choices;
- (c) The availability of acceptable training and, if training is available in the community, the expert must so state in the report; and
- (d) The likelihood of the Defendant's attaining competence under the training recommended, an assessment of the probable duration of the training required to restore competence, and the probability that the Defendant will attain competence to proceed in the foreseeable future.

2. Determine whether the Defendant meets the criteria for involuntary commitment.
§ 916.302, Fla. Stat.; Fla. R. Crim. P. 3.212(c).

In evaluating the Defendant to determine whether the Defendant may be involuntarily committed, the appointed expert must determine whether:

- (a) The defendant has an intellectual disability or autism;
- (b) There is a substantial likelihood that in the near future the Defendant will inflict serious bodily harm on themselves or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;
- (c) All available, less restrictive alternatives, including services provided in community residential facilities or other community settings, which would offer an opportunity for improvement of the condition have been judged to be inappropriate; and

- (d) There is a substantial probability that the intellectual disability or autism causing the Defendant's incompetence will respond to training and the Defendant will regain competence to proceed in the reasonably foreseeable future.

PART III. PAYMENT OF EXPERT

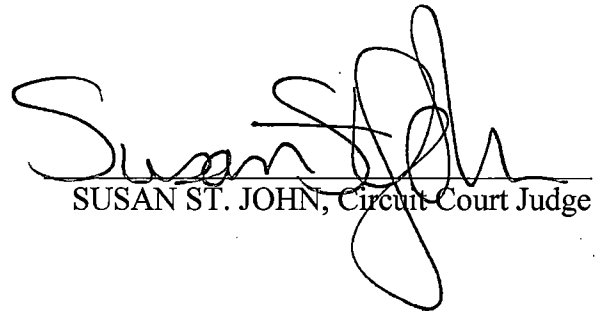
The expert will be paid in accordance with the current Administrative Order regarding payment of appointed experts and the terms of their contract with the Sixth Judicial Circuit.

The expert must submit their appropriate invoice with an attached copy of this Order Directing Examination for Competence to Proceed to:

Court Administration
Administrative Office of the Courts, Fiscal Office
7530 Little Road
New Port Richey, FL 34654

If the expert also examined the Defendant for sanity, then the expert must submit the portion of their bill concerning sanity to defense counsel.

DONE AND ORDERED in chambers at Clearwater, Pinellas County, Florida, this 4th day of March, 2025.


SUSAN ST. JOHN, Circuit Court Judge

cc:

Dr. Ohiana Torrealday, Ph.D. , Expert for the Court
Dr. Michael G. Railey, Phd. , Expert for the Court
Courtney Sullivan, Assistant State Attorney
Julia Seifer-Smith, Assistant Public Defender
LS Blätter, Court Administration