



State of Florida  
Department of Children and Families

Rick Scott  
Governor

David E. Wilkins  
Secretary

February 17, 2012

Diane R. James  
Hospital Administrator

Honorable James B. Fensom  
Fourteenth Judicial Circuit  
Bay County  
300 E 4<sup>th</sup> St  
Panama City, FL 32401

RE: State vs. Randy Fowler 121 602  
Case Number: 11-2530H

Dear Judge Fensom:

Enclosed is the current competency evaluation on the above referenced individual, prepared by his recovery team at Florida State Hospital.

As indicated in the enclosed evaluation, the professional treatment staff at this facility are of the opinion that this resident is **competent to proceed** and **no longer meets criteria** for continued involuntary commitment. The resident is ready to be returned to your jurisdiction for a hearing within thirty days of receipt of this report, as required in Rule 3.212(c)(6), Florida Rules of Criminal Procedure.

For your convenience, I have also enclosed a proposed Order to Transport, directing the County Sheriff, or designee to transport and return the resident to your jurisdiction for further proceedings.

Hospital Attorney's Office  
Phone: 850 663-7323 Fax: 850 663-7635  
Florida State Hospital Post Office Box 1000 • Chattahoochee, Florida 32324-1000

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

If you require Americans with Disabilities Act accommodations to participate in an event at Florida State Hospital, please notify Human Resources at (850) 663-7585 at least seven (7) days prior to the event. Deaf or hard of hearing individuals may call 1-800-955-8771.



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Should you have any clinical questions in this matter, please do not hesitate to contact the Recovery Team through the Florida State Hospital Psychology Department at (850) 663-7706.

Sincerely,



Kathi L. Kilpatrick  
Institutional Counsel  
Florida State Hospital

KLK/tc

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RE: Randy Fowler 121 602

Copies to:

Megan Ford  
Assistant State Attorney  
PO Box 1040  
Panama City, FL 32402

Matthew Meredith  
Assistant Public Defender  
PO Box 580  
Panama City, FL 32402

Corrections Corporation of America  
5600 Nehi Rd  
Panama city, FL 32404-2049

Ronald J. Bordelon  
Life Management Center  
525 E 15th St  
Panama City, FL 32404

Paul Rowell  
Legal Counsel  
Department of Children and Families  
2383 Phillips Rd  
Tallahassee, FL 32308

**FORENSIC MENTAL HEALTH ASSESSMENT  
COMPETENCY EVALUATION REPORT TO THE COURT  
Chapter 916, Part II, Florida Statutes**

**I. IDENTIFYING DATA:**

**Defendant:** Randy Fowler, 121 602

**Gender:** Male

**Date of Birth:** January 12, 1951

**Marital Status:** Never Married

**Race/Ethnicity:** Caucasian

**Case Number(s):** 11-2530H

**Related Charges:** Dumping of Litter

**Original Commitment Date:** November 29, 2011

**II. REFERRAL AND SERVICE INFORMATION:**

Mr. Fowler was committed to the Department of Children and Families, as Incompetent to Proceed by the Honorable James B. Fensom, Circuit Court Judge of the Fourteenth Judicial Circuit, in and for Bay County, Florida on November 29, 2011. He was admitted to Florida State Hospital on December 12, 2011.

**Current Evaluator:** Nichole Livingston, Psy.D., Senior Psychologist

**Date of Report:** February 15, 2012

**III. GENERAL FINDINGS:**

**Current Competency Opinion:** Competent to Proceed

**Current Restorability Opinion:** Restored

**Recommended Setting:** Return to Court/County Jail

**IV. SOURCES OF INFORMATION AND EVALUATION PROCEDURES:**

Data and sources used in compiling this report include a formal interview conducted on February 6, 2012, for approximately one hour. A review of Mr. Fowler's medical record and ward chart was conducted. These records include court documents associated with the current commitment, an admission summary, social history, reports of treatment progress, and descriptions of current behavior. The purpose of this evaluation was to assess his mental status and competency to proceed as specified in section 916.12, Florida Statutes. The limits of confidentiality were explained to Mr. Fowler. He demonstrated his understanding of these limits by summarizing them in his own words.

**V. RELEVANT HISTORY:**

Historical information was obtained from Mr. Fowler's self-report and has not been corroborated via external sources. Mr. Fowler identifies as a "street-person" and

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described himself as an "orphan." He reported completing high school and qualified himself as a "poor student." He reported past employment as a dishwasher and has collected Social Security disability related to his mental illness. He denied history of head injury.

Records indicate that following the alleged offense, on October 12, 2011, Mr. Fowler was evaluated by Michael T. D'Errico, Ph.D., who observed Mr. Fowler to exhibit several symptoms (excessive and rapid speech; possible flight of ideas; perseveration) which precluded his competence to proceed. Dr. D'Errico recommended involuntary hospitalization given Mr. Fowler's limited likelihood of cooperating with outpatient treatment. Dr. D'Errico estimated Mr. Fowler could be restored to competency within six months.

### **VI. OBSERVATIONS, COURSE OF TREATMENT, AND CURRENT MENTAL STATUS:**

**Observations Upon Admission and During Treatment.** On admission to Florida State Hospital, Mr. Fowler was interviewed by members of his recovery team. Sterling Corry, ARNP, psychiatric Advanced Registered Nurse Practitioner, noted Mr. Fowler's mood to be "euthymic to elevated" with "somewhat pressured" speech. Mr. Corry observed paranoia regarding Bay County Law Enforcement and "disorganized, tangential, and circumstantial" thought processes. He noted Mr. Fowler to be difficult to redirect in conversation.

Mr. Fowler has not demonstrated maladaptive behaviors since his admission that would suggest an inability to behave appropriately in the courtroom. He is cooperative with staff and complies with the general rules of his living environment.

**Symptoms and Medications Related to Mental Disorder.** Mr. Fowler is not currently prescribed psychotropic medications.

**Current Mental Status (February 6, 2012).** Mr. Fowler met with the undersigned for a competency evaluation and was cooperative and appropriate for the duration of the process. Dress and grooming was appropriate to the situation. Mr. Fowler was alert and fully oriented to person, place, time, and situation. His speech was within normal limits with regard to rate, tone, and volume. His answers to mental status probes suggested no cognitive impairments, likely average intelligence, and no signs of thought disorganization. He was able to correctly interpret two common proverbs, identify the similarity between two items, remember three words after a delay, perform simple calculations, and spell WORLD backwards. He did not display any bizarre thought content suggestive of paranoia. When probed regarding some statements he had made in the past that have been interpreted as paranoia, Mr. Fowler was able to state that such issues bear no relevance to the case at hand and indicated he would not deviate

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to these topics in a hearing. Furthermore, he discussed these opinions in a calm, moderate, and reasoned or thoughtful manner.

**Current DSM-IV Diagnostic Impressions.** Mr. Fowler is diagnosed with the following per attending psychiatric nurse practitioner, Aileen Humphrey, ARNP. Inclusion of a DSM-IV diagnosis in this report "does not imply that the condition meets legal or other non-medical criteria for what constitutes mental disease, mental disorders, or mental disability. The clinical and scientific considerations involved in categorization of these conditions as mental disorder may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, disability determination, and competency" (Desk Reference to the Diagnostic Criteria From DSM – IV™, 1994, page xi).

**Axis I:** Delusional Disorder, Not Otherwise Specified  
**Axis II:** Antisocial Personality Disorder  
**Axis III:** None Relevant to Competence  
**Axis IV:** Legal Charges; Homeless  
**Axis V:** Current Global Assessment of Functioning = 45

### **VII. COMPETENCY ASSESSMENT:**

**Description of Criminal Allegations.** Police documents allege that Mr. Fowler maintained an illegal campsite which over time accumulated a large amount of rubbish and debris. He was issued several warnings in reference to his illegal dumping and hoarding. He was charged with the instant offense on August 3, 2011.

**Capacity to Appreciate Legal Charges – Acceptable:** Mr. Fowler acknowledged the allegations against him and provided rational details. He identified his charge as "Felony Littering" and described this allegation to mean "willfully dumped 500 pounds of trash in Panama City, Florida off of 231 on or about August 2, 2011...they said that I accumulated it." He identified his charge as a felony which he defined as "five years in jail, more severe." He differentiated this with a misdemeanor which "carries a year in jail, up to."

**Capacity to Appreciate Possible Penalties - Acceptable:** Mr. Fowler correctly identified the four plea options and provided coherent and correct definitions of the guilty, not guilty, and no contest pleas. His knowledge regarding the Not Guilty by Reason of Insanity plea was deficient but he responded to education about this plea, its meaning, and potential outcomes. He provided several possible penalties or estimated sentencing options given the facts of his case. His definition of probation was "report on a regular basis, may have to stay in the state, may have to pay a fine, can't associate with criminals, can't use any intoxicants."

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**Capacity to Appreciate the Adversarial Nature of the Legal Process - Acceptable:** Mr. Fowler demonstrated adequate appreciation of the adversarial nature of the legal process as he provided factually correct definitions of major court figures' roles and allegiances. He stated the judge and jury are "impartial" whereas the public defender "puts up a strong defense for the accused" and described the state attorney as "doing their best to get you the most time."

**Capacity to Disclose Pertinent Facts to his Attorney - Acceptable:** Mr. Fowler reported feeling "great" about working with his attorney and expressed willingness to cooperate with and trust his attorney. His account of events is consistent with arrest or charging documents. He did not produce statements which would interfere with his ability to disclose relevant details to his attorney. During the present evaluation, his speech was of normal rate and amount and there were no communication difficulties. He describe the plea bargaining process as "to avoid the cost and expense of trial, defendant gets less sentence, punishment but give up the right to be innocent, no trial and no re-trial. The prosecution gets a victory and the court system gets justice served."

**Capacity for Appropriate Courtroom Behavior – Acceptable:** Mr. Fowler's behavior since his admission has indicated he is capable of comporting himself appropriately in the courtroom. Although he appears to have a tendency to fixate on a few topics it appears this proclivity is better attributed to personality characteristics than psychotic processes such as flight of ideas, perseveration, or delusional thinking. He is responsive to clear feedback regarding and verbal redirection. Mr. Fowler demonstrated a factually correct understanding of how one should behave in the courtroom ("stay quiet, alert, write note to attorney if need to"). He also demonstrated a factually correct understanding of possible consequences for inappropriate behavior ("contempt charge for disturbing the court, possible sentence").

**Capacity to Testify Relevantly – Acceptable:** Mr. Fowler defined perjury as "lying under oath" and identified a possible consequence as a "five-year prison sentence." He defined the Fifth Amendment as "the right to not say anything that could incriminate oneself." His answers to queries on the topic of cross-examination demonstrated a meaningful understanding of the process as he discussed taking the stand as "opening your self up." Currently, Mr. Fowler does not display active symptoms of a major mental illness that would bar him from discussing his case in a thoughtful or reasoned manner.

### **VIII. CONCLUSIONS:**

- a. It is the opinion of the undersigned that Mr. Fowler currently exhibits the cognitive, emotional, and behavioral capacities to understand and participate effectively as a defendant in the legal process.

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b. It is recommended that Mr. Fowler be returned to Bay County for a judicial determination of his competency to proceed, given he no longer appears to meet the criteria for involuntary hospitalization pursuant to Section 916.13, F.S.

c. Continued supervision is recommended while Mr. Fowler is detained prior to the disposition of his pending charges. An aftercare form will accompany Mr. Fowler upon his discharge to detail to jail medical officials his current mental status.

Continued supervision is recommended wherever Mr. Fowler is placed following the disposition of his pending criminal charges.

Should the Court need more information about Mr. Fowler's status and/or treatment during this period of hospitalization, members of his recovery team can be reached through the Psychology Department at (850) 663-7706.

Respectfully submitted by,



Nichole Livingston, Psy.D.  
Senior Psychologist-F/C  
Forensic Admissions  
Florida License PY8314  
Florida State Hospital

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IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY,  
FLORIDA

STATE OF FLORIDA

Plaintiff

vs.

Case No.(s): 11-2530H

Randy Fowler 121 602

Division:

Defendant

\_\_\_\_\_ /

ORDER TO TRANSPORT AND NOTICE OF HEARING

THIS COURT having been advised by the Department of Children and Families, by and through the Administrator of Florida State Hospital, the facility in which the Defendant is currently being treated, the above named Defendant no longer meets the criteria for continued commitment under the provisions of Chapter 916, Florida Statutes, and requesting a hearing on the issues raised in the report as provided in applicable statutes and rules of criminal procedure, it is hereby

ORDERED AND ADJUDGED as follows:

1. Upon receipt of this Order, the Sheriff of Bay County, Florida, or designee, shall forthwith resume custody of and deliver the Defendant to the appropriate detention facility under the jurisdiction of this Court within 7 days of receipt of this order; and, further, shall present the Defendant before this Court for a hearing on the issues raised in the Administrator's report at \_\_\_\_\_ o'clock, \_\_\_m., \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

2. If continued medication of this Defendant is required, provided or prescribed by the treatment facility for the Defendant herein, appropriate officials of the detention



facility where the Defendant is to be held shall administer, or cause to be administered, said medication in accordance with the instructions of the treatment facility, continuing unless and until modified or eliminated by authorized medical authority.

3. Two (2) certified copies of this Order shall be delivered forthwith to the Sheriff of Bay County, Florida, or designee - one for their files and one to be presented to the treatment facility at the time the Sheriff, or designee, takes custody of the Defendant.

4. The Sheriff of Bay County, Florida, or designee, shall, prior to the execution of this Order, give a minimum of twenty-four (24) hours notice unto the Department of Children and Families facility named above by calling the facility and advising them of their intent to resume custody of the Defendant in the above-styled cause.

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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CIRCUIT JUDGE

**Copies furnished to:**

**Florida State Hospital (Certified and Hand  
Delivered at time of pickup by Sheriff or  
Designee)**

**Ms. Sally Cunningham  
1317 Winewood Blvd  
Building 6, Room 224  
Tallahassee, FL 32399-0700**

**Paul Rowell  
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**Bay County Jail  
5700 Star Lane  
Panama city, FL 32404**