

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF HENNEPIN****FOURTH JUDICIAL DISTRICT**

State of Minnesota,

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**MEMORANDUM IN RESPONSE AND
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS PURSUANT TO
MINN. STAT. § 611.46 SUBD. 8(d)**

Plaintiff,

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vs.

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ADRIAN MICHAEL WESLEY,

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MNCIS No: 27-CR-17-1555

C.A. File No: 17A00708

Defendant.

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TO: THE HONORABLE DANIELLE MERCURIO, HENNEPIN COUNTY JUDICIAL
OFFICER; JULIUS NOLEN, ATTORNEY FOR DEFENDANT; AND DEFENDANT.

INTRODUCTION

Adrian Michael Wesley ("Defendant") is charged with one felony count of Criminal Sexual Conduct in the Second Degree, pursuant to Minn. Stat. § 609.343. Defendant has been deemed incompetent to proceed since February 17, 2017. Pursuant to the procedures in Minnesota Statute § 611.46, subd. 8(d), on January 31, 2024, Defendant brought a motion to dismiss in the interests of justice. This Memorandum is submitted in response and in opposition to Defendant's Motion.

STATEMENT OF FACTS

On January 15, 2017, officers were dispatched to a group home in Richfield on a report of a sexual assault. An adult female ("Victim") who was an employee of the group home was located across the street, covered only by a blanket. Victim is hearing impaired and communicated with officers by writing. Victim informed officers that Defendant, a resident of the group home, had pushed her into his room and onto his bed, and then Defendant, who

weighed approximately 300 pounds at the time, pinned her down by her neck when she tried to escape. Victim reported that Defendant threatened to kill her, and forcibly removed her pants and touched her anal region and her breasts. After Defendant was located by responding officers, he wrote that he raped a staff member because he was “horny too much.”

Following the charging of this offense, the court ordered a Rule 20.01 competency evaluation on January 20, 2017. Defendant was declared legally incompetent by the Court on February 17, 2017, and he was civilly committed thereafter. Six-month reviews were scheduled pursuant to Rule 20 to review whether Defendant had been restored to competency following the incompetency finding; in later years the reviews were held once annually. The State filed a timely notice of intent to prosecute when and if Defendant regained competency on February 23, 2017.

Since February 2017, and at each review hearing, the court has continued the incompetency finding, except for one report, dated October 1, 2019, in which the court opined that Defendant was found to have regained the capacity to proceed. The court held a contested competency hearing on February 10, 2020, and found that Defendant was not competent to proceed. For the following reasons, the State respectfully requests that the motions be denied.

ARGUMENT

The Interests of Justice are not Served by Dismissal of the Charges against Defendant.

A district court has the authority to dismiss a case in the interests of justice, as Defendant requests the court does here. Minnesota Statute § 611.46, Subd. 8(d) states, “Counsel for the defendant may bring a motion to dismiss the proceedings in the interest of justice at any stage of the proceedings.” Here, the interests of justice are not served by dismissal of the charges. Defendant argues that because he has repeatedly been found incompetent and there is no likelihood that he will be restored to competence, the charges should be dismissed. However, there was a report filed in 2019 opining that Defendant was competent to proceed, and it is

possible that another examiner could make the same finding again. Additionally, given that Defendant is in a secure setting indefinitely, no matter what happens in the criminal case, there is no discernable prejudice to Defendant to continue to have these charges pending. Indeed, the Victim in this case remains invested in the outcome, and desires to see accountability on behalf of Defendant for the traumatic harm she experienced as a result of Defendant's actions.

Furthermore, there is no requirement to dismiss this case pursuant to Minn. Stat. § 611.49, Subd. 2(d), which states, "if the court finds that there is not a substantial probability that the defendant will attain competency within the foreseeable future, the court must dismiss the case unless: (1) the person is charged with... a crime of violence." That is the case here, as Defendant's charges under Minn. Stat. § 609.343, Criminal Sexual Conduct in the Second Degree, clearly constitute a crime of violence.

Finally, the judicial and system resources expended once yearly is not great in light of the seriousness of this case and the continued risk Defendant poses to public safety. The State reasonably intends to prosecute Defendant for violently sexually assaulting a hearing-impaired woman at her place of employment. Defendant demonstrated behavior for which he should be held accountable; the length of his civil commitment does not diminish the egregiousness of the crime committed by Defendant. Therefore, the interests of justice dictate that these charges must not be dismissed.

CONCLUSION

For the foregoing reasons, the interests of justice are not served by dismissal of this case.

Thus, the State respectfully asks the court to deny Defendant's motion to dismiss in its entirety.

Respectfully submitted,

MARY F. MORIARTY
Hennepin County Attorney



By: _____
Amy Blagoev (0387619)
Assistant County Attorney
Attorney for Plaintiff
C2100 Government Center
Minneapolis, MN 55487
Telephone: (612) 543-1093

Dated: February 12, 2024

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JUDICIAL
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