

State of Minnesota

District Court

County of Hennepin

Fourth Judicial District

State of Minnesota,
Plaintiff,Judge Lisa K. Janzen
Case Type: Criminal

v.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
REGARDING DEFENDANT'S
COMPETENCY TO PROCEED**Ifrah Abdull Hassan,
Defendant.Case Numbers: 27-CR-18-19274
27CR-20-423

The above-entitled matter came before Lisa K. Janzen, Judge of District Court, on August 6, 2020, for an evidentiary hearing upon the Defense's objection to the competency opinion rendered by Dr. Jason Lewis of State Forensic Services and filed with the court on April 13, 2020. Andrew Johnson, Assistant Hennepin County Attorney, appeared for the State. Lisa Skrzeczkoski, appeared on behalf of the Defendant, Ifrah Hassan, who was personally present. Jason Lewis, PhD, LP, of State Operated Forensic Services testified and the court received his report dated April 13, 2020 and his Curriculum Vitae as exhibits. The court also received, as Exhibit 1, a packet of 105 pages of documents, reports and evaluations reviewed by Dr. Lewis in completing his report. The court took the matter under advisement. Based upon the arguments presented and all the files and records herein, the Court orders as follows:

1. Defendant is **INCOMPETENT** to proceed.

PROCEDURAL HISTORY AND FINDINGS OF FACT

In file number 27-CR-18-19274 Ms. Hassan is charged with one count of Threats of Violence arising from an incident alleged to have occurred on June 27, 2018. On 8/28/18 the court found Ms. Hassan incompetent to stand trial. Ms. Hassan was subsequently committed as Mentally Ill and Chemically Dependent. Findings of incompetency based on subsequent evaluations were also entered on this file in February 2019 and October of 2019.

Subsequently, Ms. Hassan was charged in file 27-CR-20-423 with 2nd Degree Aggravated Robbery from an incident alleged to have occurred on January 3, 2020. On January 7, 2020 probable cause was found and a Rule 20.01 evaluation was ordered. Dr. Shannon Garrity completed a 20.01 evaluation of the defendant which was filed February 12, 2020, opining that Ms. Hassan was not competent. Dr. Garrity noted previous diagnoses of Schizophrenia and Schizoaffective Disorder, as well as prior civil commitments, numerous hospitalizations and facility placements. Dr. Garrity noted that during the interview Ms. Hassan demonstrated unusual behaviors. While she appeared to understand basic aspects of her charges and courtroom proceedings, her disorganization of thought and difficulty tracking the content of the interview were of sufficient severity to render her incompetent to proceed. This finding was entered on February 18, 2020.

Ms. Hassan was again civilly committed and admitted to the State Forensic Mental Health Program (formerly Competency Restoration) on February 26th. Ms. Hassan responded favorably to psychotropic medication and participation in treatment groups during her hospitalization. Her psychiatric provider noted in late March that Ms. Hassan was psychiatrically stable and did not appear to be experiencing symptoms of psychosis or delusional ideation.

Dr. Lewis met with Ms. Hassan on April 7, 2020 at Forensic Mental Health Program. Due to the Pandemic, interpreter services were only available via a telephonic service. Over a two day period Dr. Lewis was unable to connect with this service. Ms. Hassan requested that the interview proceed without the services of an interpreter. During the interview Ms. Hassan's memory functioning appeared grossly intact and she did not present with impairment of attention or concentration. She did not demonstrate

difficulty tracking the discussion. Ms. Hassan acknowledged a history of auditory and visual hallucination and paranoid ideation but acknowledged that her symptoms of psychosis stopped when she began taking her medication. Dr. Lewis noted that she did not present with symptoms of psychosis, disorganized thought or delusional ideation. Dr. Lewis provided diagnoses of Schizoaffective Disorder and Substance Use Disorders. Dr. Lewis indicated Ms. Hassan demonstrated adequate factual understanding of the legal system and the charge against her. She also demonstrated an ability to rationally consult with her attorney. She was aware of the roles of courtroom personnel, trial procedures and her rights in the criminal justice system. She was unable to adequately define a plea bargain. She expressed a willingness to work with defense counsel. Dr. Lewis noted that her presentation during the April 2020 interview and his interview with her in September of 2019 was night and day. He noted he previously opined her incompetent in September of 2019. On April 13, 2020, Dr. Lewis filed a report with the court opining that Ms. Hassan had regained the capacity to proceed. He noted her competency is contingent upon continued compliance with psychotropic medication and abstinence from alcohol and drugs. He noted her history of absconding after being discharged into the community.

Subsequently DHS provisionally discharged Ms. Hassan to the community. Ms. Hassan's mental health decompensated rapidly after her release and she was re-hospitalized at Forensic Mental Health. After achieving psychiatric stability she was again discharged to the community and subsequently re-hospitalized. Believing that Ms. Hassan was no longer competent to proceed, defense counsel requested a contested hearing. The matter was set for a hearing on June 8th. However, this hearing was delayed due to the Pandemic, as Forensic Mental Health was unable to allow transport of Ms. Hassan to the Hennepin County Government Center for a hearing. Ms. Hassan was subsequently released to the community and a hearing was held on August 6, 2020.

During the hearing defense counsel, Lisa Skrzeczkoski, testified that since her release from Forensic Mental Health Ms. Hassan has been unable to remember conversations with her from the day before and overall has been unable to have rational discussion about her case. Ms. Skrzeczkoski testified that on the day of the hearing, in discussions with defense counsel, Ms. Hassan did not understand what

a witness was nor was she able to communicate what counsel had explained to her just minutes earlier. She testified the only thing Ms. Hassan can say when discussing her case is that her charge is “Aggravated Robbery with a maximum of 15 years and a \$30,000 fine.”

LEGAL CONCLUSIONS

Rule 20.01 of the Minnesota Rules of Criminal Procedure requires the court to find that the defendant is not competent unless the greater weight of the evidence shows that the defendant is competent. Minn.R.Crim.P. Rule 20.01, subd. 5 (c). A defendant is not competent if, due to mental illness or cognitive impairment he is unable to “(a) rationally consult with counsel or (b) understand the proceedings or participate in the defense.” *Id.*, subd. 2. The determination of whether a defendant is able to rationally consult with the defense attorney or understand and participate in the proceedings turns on the facts of each particular case.

The court concurs with Dr. Lewis that at the time his report was filed in April of 2020 Ms. Hassan likely was competent to proceed. However, since that time Ms. Hassan’s mental health has significantly decompensated such that she is presently not competent to proceed. Ms. Hassan was found incompetent by the courts over ten times between the years 2009 and 2016. Additionally since 2018 at least 4 competency evaluations have opined incompetent. She has been civilly committed multiple times, but historically has only been stabilized over short periods of time and rapidly decompensates once discharged into the community. Once in the community she is not compliant with her medication and resumes chemical use. Competency is fluid. It appears that since the filing of Dr. Lewis’s opinion in April of 2020 Ms. Hassan has not been compliant with psychotropic medication and has been re-hospitalized on multiple occasions. Additionally, the court finds defense counsel’s testimony persuasive that her client currently lacks the ability to rationally consult with her attorney and understand the legal proceedings.

Based on the totality of the above noted facts, the court finds that the State has not proven by the greater weight of the evidence that Ms. Hassan is competent. Rather, the court finds the greater weight of

the evidence demonstrates Ms. Hassan is not able to rationally consult with counsel or participate in her defense. Therefore the court finds that the defendant, Ms. Hassan, is **NOT COMPETENT**.

By the Court,

Dated: 9/4/2020



Lisa K. Janzen
Judge of District Court



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