

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

Judge Michael K. Browne
Case Type: Criminal

v.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
REGARDING DEFENDANT'S
COMPETENCY TO PROCEED**

Muad Abdulkadir,
Defendant.

Case File Numbers:
27-CR-23-3459,
27-CR- 23-3460

APPEARANCES

The above-entitled matter came before the Honorable Michael K. Browne, Judge of District Court, on May 10, 2023, for an evidentiary hearing upon the Defense's objection to the incompetency opinion rendered by John R. Anderson, Ph.D., L.P. of the Senior Clinical Forensic Psychologist – Fourth District Psychological Services dated March 10, 2023. The Court is chambered at the Hennepin County Government Center, 300 South Sixth Street, Minneapolis, Minnesota.

Thomas Prochazka, Assistant Hennepin County Attorney, appeared for the State. Douglas Biglow, Assistant Public Defender, appeared on behalf of the defendant. Mr. Abdulkadir (the Defendant) appeared in custody.

EVIDENCE IN THE PROCEEDING

The Court received three exhibits, to which the parties stipulated: Dr. John Anderson's Curriculum Vitae (Ex. 1), Dr. John Anderson's Report dated March 10, 2023 (Ex. 2), and Dr. Megan Paris' Report dated May 4, 2023, from case file number 27-MH-PR-23-402 (Ex. 3). The Court also took judicial notice of the underlying orders and reports in case file number 27-MH-PR-23-402. Mr. Abdulkadir (the Defendant) and Dr. John Anderson testified. After hearing arguments of counsel, the Court took the matter of Defendant's competency 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

The Defendant, Mr. Abdulkadir, is charged with one count of Aggravated Robbery-1st Degree arising from an incident alleged to have occurred on February 11, 2023, wherein he is accused of forcing himself into a neighbor's home, assaulting a man, brandishing a firearm, and leaving with money from the location in Bloomington, Minnesota (27-CR-23-3459). Mr. Abdulkadir is also charged with Assault-2nd Degree – Dangerous Weapon and Threats of Violence – Reckless Disregard Risk related to allegations that he threatened patrons in a store while carrying a handgun in Minneapolis, Minnesota, on February 12, 2023 (27-CR-23-3460).

On February 15, 2023, Mr. Abdulkadir made his first appearance in court, where the Court determined he did qualify for the services of a public defender. On February 16, 2023, Judge Caligiuri ordered Respondent for an Evaluation for Competency to Proceed (Rule 20.01). Judge Caligiuri found probable cause on all counts and ordered a Rule 20.01 evaluation to determine if Mr. Abdulkadir was competent to proceed.

John R. Anderson, Ph.D., L.P. of the Senior Clinical Forensic Psychologist – Fourth District Psychological Services was assigned to complete the evaluation of the Defendant. He filed his report on March 10, 2023. Dr. Anderson opined that Mr. Abdulkadir was incompetent and provided the diagnoses of Unspecified Bipolar and Related Disorder, Unspecified Schizophrenia Spectrum and other Psychotic Disorder, Alcohol Use Disorder, Cannabis Use Disorder, and Opioid Use Disorder. Additionally, he recommended that he be referred for evaluation for indefinite civil commitment as a Mentally Ill and Dangerous person.

The first hearing on competency was held on March 21, 2023, at which time Mr. Abdulkadir was unable to participate due to mental illness symptoms. Accordingly, the Court found that Defendant was incompetent to stand trial. The matter was referred to prepetition screening and an order for civil commitment was filed on April 7, 2023, in file 27-MH-PR-23-402. On April 4, 2023, Defendant was scheduled to appear for a bail hearing and refused to appear. On April 11, 2023, Defendant appeared for a bail hearing where a request for continuance was granted for defense counsel to discuss further options. On April 17, 2023, the Defendant filed a motion to vacate the March 21, 2023, incompetency finding. On April 18, 2023, the Court heard Defendant's motion to vacate the March 21, 2023, incompetency finding. All parties were present at this hearing. The Court denied Defendant's motion to vacate the incompetency findings and granted Respondent's motion for a contested hearing on the issue of competency.

On May 4, 2023, Dr. Megan Paris, Psy.D., LP, ABPP, submitted her Forensic Evaluation Report in file 27-MH-PR-23-402, pursuant to a petition for civil commitment as Mentally Ill and Dangerous. Dr. Paris diagnosed Defendant with Bipolar I Disorder, with mood-congruent psychotic features (most recent episode manic), Traits of Antisocial Personality Disorder, Alcohol Use Disorder (By History), Cannabis Use Disorder (By History), and Opioid Use Disorder (By History). Dr. Paris opined that Defendant meets criteria for civil commitment as an individual who is mentally ill and dangerous to the public.

The hearing on competency was held on May 10, 2023, at which time the Defense argued that the Court should find Mr. Abdulkadir competent to proceed with the criminal trial.

FINDINGS OF FACT

The Court's findings are based on the information and opinions provided by John R. Anderson, Ph.D., L.P. of the Senior Clinical Forensic Psychologist – Fourth District Psychological Services dated March 10, 2023 (Ex. 2), and Megan Paris, Psy.D., LP, ABPP, Forensic Evaluation Report in file 27-MH-PR-23-402 dated May 4, 2023 (Ex. 3.). The Court's opinion is also based on the findings of fact contained in its Order, dated March 22, 2023, finding Mr. Abdulkadir incompetent. Those findings are incorporated into the findings below.

Mr. Abdulkadir is 29 years old. He graduated from high school in the United States after immigrating from Somalia in 2005. He previously stated that he participated in special education services in the twelfth grade. He expressed a negative attitude towards school and acknowledged that he was expelled from high school at one point. His employment history includes work in retail, delivery, cashier work, working with the houseless (i.e., homeless), and his own courier service.

Mr. Abdulkadir has a significant mental health history. He was subject to civil commitment proceedings in 2019 (27-MH-PR-19-74). On November 29, 2018, he was transported to Acute Psychiatric Services from Hennepin County Adult Detention Center after he was noted to be naked, sweating, and agitated in his cell. Additionally, he was throwing water on himself and speaking rapidly and incoherently. He was placed on a 72-hour hold in the context of aggression, mania, delusional thought processes, and agitation requiring treatment with injectable medications. He was discharged after two days to his mother's care.

On January 15, 2019, Mr. Abdulkadir was released from jail and returned to his family's home. He became agitated and aggressive, his family called Hennepin County COPE, and he was transported to the Hennepin Healthcare / Hennepin County Medical Center (HCMC) emergency department. He was described as uncooperative, inappropriate, and vulgar. He was treated with multiple doses of antipsychotic and sedating medications. His mother described to HCMC providers chronic concerns for violence. Prepetition screening noted he tested positive for unspecified substances though he denied drug use. Mr. Abdulkadir focused on religious beliefs. Mr. Abdulkadir reportedly became agitated during the interview with prepetition screening and followed the screener through the unit demanding a copy of notes.

The Court-appointed examiner, Bruce Renken, Ph.D., LP ABPP, diagnosed Mr. Abdulkadir with unspecified bipolar and related disorder. Dr. Renken noted hypervocal speech, grandiose thoughts, irritability, shifting mood, agitation, and hostile statements. Dr. Renken also noted multiple threats to harm hospital staff necessitating seclusion and use of forced medications. Dr. Renken supported commitment as a person who poses a risk of harm due to a mental illness (MI) as well as the corresponding *Jarvis* petition.

Mr. Abdulkadir was subsequently committed as MI with the order for use of psychotropic medications. After his release from the hospital, case management described unsuccessful attempts to remain in contact with Mr. Abdulkadir.

Ann Marie Winkowski Psy.D., LP examined Mr. Abdulkadir related to his adjudicative competency and authored a report dated March 7, 2019. Dr. Winkowski wrote that Mr. Abdulkadir reported growing up in slums in Kenya and India before moving to the United States in 2005. He reported he graduated high school and worked as a cashier, retail worker, and delivery driver. He described a history of binge drinking and use of cannabis. Mr. Abdulkadir reported a history of at least five hospitalizations because he was “just too wild.” Dr. Winkowski described a history of hospitalizations since 2016 related to agitation, difficulty caring for himself, behavioral dysregulation. Symptoms were often described as consistent with mania.

Dr. Winkowski interviewed Mr. Abdulkadir at an HCMC inpatient unit. He denied any history of suicide attempts but endorsed passive suicidal thoughts in the past. Dr. Winkowski diagnosed Mr. Abdulkadir with bipolar disorder, current episode manic with psychosis; alcohol use disorder; and cannabis use disorder. She noted: “Mr. Abdulkadir indicated that the devil was consistently testing him, had a hand in some of the alleged incidents that substantiate the charges against him, and is influencing major players in a criminal court setting.” Dr. Winkowski opined that Mr. Abdulkadir’s decision making ability was influenced by delusional ideas related to the devil and God, though noted he demonstrated adequate understanding of relevant legal proceedings. Lastly, Dr. Winkowski noted that collateral records indicated Mr. Abdulkadir’s behavior remained unpredictable and aggressive in settings with high levels of structure and security, though he was emotionally and behaviorally regulated during the interview.

Dr. Winskowski reevaluated Mr. Abdulkadir and authored a report dated September 20, 2019. Dr. Winskowski wrote that Mr. Abdulkadir lived with his mother in Minneapolis, but had maintained very limited contact with civil commitment case management. He reported a subsequent hospitalization in February 2019 in the context of mania and psychosis. Mr. Abdulkadir reported he did not need psychiatric treatment following his release from the hospital in March 2019, though he also stated he continued taking prescribed medications (noting only negative side effects without helping his mental health) until his commitment ended in August 2019. Mr. Abdulkadir did not evidence symptoms of mental illness during the interview.

Dr. Winskowski again diagnosed Mr. Abdulkadir with bipolar disorder, most recent episode manic with psychosis; alcohol use disorder, in early remission, per client report; and cannabis use disorder, in early remission, per client report and noted: “Mr. Abdulkadir has a history of episodes where he has demonstrated a decreased need for sleep, pressured speech, agitation, grandiose delusion, dysregulated and hypersexual behavior. He has been hospitalized multiple times and civilly committed on the basis of this behavior.” Dr. Winskowski opined that Mr. Abdulkadir demonstrated adequate factual understanding of legal proceedings, that he was able to rationally describe his cases, and that he could participate in his defense.

Then, Mr. Abdulkadir was brought to the hospital by paramedics following an apparent opioid overdose in August 2020. He required a dose of Narcan (naloxone, opioid antagonist), and his oxygen levels were listed as very low. Contusions were noted on his eye and chest. Mr. Abdulkadir became agitated in the hospital.

Upon admission to Hennepin County Adult detention on February 12, 2023, Mr. Abdulkadir refused all medications. He was evaluated after uses of force (i.e., Taser deployment) by deputies on February 13, 2023, and February 24, 2023. Mr. Abdulkadir was described as aggressive, vocal, and not responding to the provider's verbal commands in recent records.

Additionally, the files indicate collateral records from Defendant's brother Mr. Musab Abdulkadir. Mr. Musab Abdulkadir described his brother experiencing two periods of mental illness including in 2019/2020 and one beginning more recently.

Mr. Musab Abdulkadir reported his brother had stopped taking psychotropic medications in 2020, and previously been psychiatrically stable since about 2021. He added his brother had worked and been active in religious and community groups including tutoring children until relatively recently. He said his brother's demeanor changed to the point that he carried weapons and threatened others including faith leaders or acquaintances on social media. Mr. Musab Abdulkadir described a recent instance in which his brother carried a firearm to a music venue where he said he was to perform; he said his brother threatened others who drew weapons, but Mr. Musab Abdulkadir was able to deescalate the situation.

Mr. Musab Abdulkadir also described an instance where Bloomington Police were called after his brother posed a threat of harm to himself, though he said his brother was not arrested or taken to treatment. He stated his brother stopped using alcohol and only used opioids once but uses cannabis "heavily." Mr. Musab Abdulkadir reported his brother has called him from jail and described revelations from God and that he believed he was a prophet.

On March 21, 2023, Mr. Abdulkadir was unable to participate in the court proceedings due to mental illness symptoms. Accordingly, the Court found that Defendant was incompetent to stand trial. The matter was referred to prepetition screening and an order for civil commitment was filed on April 7, 2023, in file 27-MH-PR-23-402.

John R. Anderson, Ph.D., L.P. of the Senior Clinical Forensic Psychologist – Fourth District Psychological Services completed a six-month competency review evaluation of the defendant. Dr. Anderson attempted to interviewed Mr. Abdulkadir, reviewed the following documents and information, and filed his report with the court on March 21, 2023:

1. Records from Hennepin County Adult Detention, dated February 12, 2019 to March 7, 2023
2. Records from Hennepin Healthcare / Hennepin County Medical Center (HCMC), dated August 6, 2020 to March 7, 2023
3. Criminal Complaints and Orders of Detention related to the current cases, each dated February 14, 2023
4. Evaluation reports and memos regarding Mr. Clinton's competency to proceed:
 - a. Psychological Evaluation to Determine Competence to Stand Trial (Rule 20.01) authored by Ann Marie Winskowski, Psy.D., LP on March 7, 2019
 - b. Psychological Evaluation to Determine Competence to Stand Trial (Rule 20.01) authored by Ann Marie Winskowski, Psy.D., LP on September 20, 2019
5. Minnesota Court Information System (MNCIS) records related to the current case, various dates
6. MNCIS Case History Summary dated February 17, 2023
7. Order to 4th Judicial District Psychological Services, issued by Judge Hilary Caligiuri on February 16, 2023
8. Records related to petition for civil commitment (27-MH-PR-19-74), various dates
9. Email correspondence with Judith L. Cole, Senior Hennepin County Attorney, on March 1, 2023
10. Telephone conversation with Mr. Abdulkadir's brother, Musab Abdulkadir, on March 8, 2023
11. Telephone conversation with Mr. Abdulkadir's attorney, Douglas Biglow, on March 8, 2023

Hennepin County Public Safety Facility records reviewed by Dr. Anderson stated that Mr. Abdulkadir's current detention is his first at the facility since 2019. Upon arriving at the jail on February 12, 2023, he was described as "not redirectable and verbally abusive." A "green leafy substance" was found in his property when he arrived. Hours later, he was described as nude and screaming at staff. The Special Response Team (SRT) was activated on February 12 and 13, 2023. He was described as saying, "See how small ya are and how big I am, that is because ya walk with the devil and I walk with Allah."

From the jail records, Dr. Anderson learned that the deputies deployed Tasers on Mr. Abdulkadir. Mr. Abdulkadir also threatened to kill staff and spit on windows. In addition, staff wrote that he stated, "I will smoke you when I see you outside, I will be out on Tuesday." Mr. Abdulkadir told staff to enter his cell to fight him, threw liquid at staff, and threatened to kill their family members. Mr. Abdulkadir refused to return to his cell following a court date. He was noted not to sleep much.

On February 17, 2023, Mr. Abdulkadir reported he was in a "holy war" against staff and threatened to kill staff, the mayor, and the governor. That same day, he made sexual comments directed at staff and stated his belief that one deputy was "evil" and that others were "heathens." Mr. Abdulkadir continued to make specific threats to physically or sexually assault or kill staff (sometimes by name) on most days throughout his detention. He was noted to demonstrate emotional lability as evidenced by apologizing to staff for his behavior before threatening them in the same interaction. Mr. Abdulkadir was described as showing "erratic mood swings." He was described as talking to himself on March 4, 2023, and he also accused staff of tampering with his water.

Because of reported safety concerns related to his behavior during the current detention, Hennepin County Sheriff's deputies elected to conduct a remote interview from Mr. Abdulkadir's cell door. Upon connecting, Dr. Anderson noted that the cell door window was smeared with an unknown white substance. Defendant was yelling and pacing around the cell without a shirt. Dr. Anderson attempted to provide him the forensic notification and describe the purpose of their meeting, though Mr. Abdulkadir was clearly agitated from the moment Dr. Anderson attempted to engage him.

When Dr. Anderson asked if he could hear him, he replied he could not. Mr. Abdulkadir recognized that Dr. Anderson identified himself as a psychologist working for the courts and referenced "mind games." He repeated several times that he did not consent to the interview and used profanities. Mr. Abdulkadir's speech was pressured. He was holding a book in his hands. Ultimately, Dr. Anderson was not able to provide him the forensic notification, and the attempted interview was discontinued. Hennepin County deputies facilitating the attempted meeting reported Mr. Abdulkadir's presentation had been consistent throughout his current detention and stated SRT had been activated to manage his behavior.

Dr. Anderson offered diagnoses of Unspecified Bipolar and Related Disorder, Unspecified Schizophrenia Spectrum and other Psychotic Disorder, Alcohol Use Disorder, Cannabis Use Disorder, and Opioid Use Disorder. He noted Mr. Abdulkadir's history of a psychotic disorder that has been characterized by grandiosity, hypersexuality, insomnia, pressured speech, irritability, aggression, potential response to hallucinations (as evidenced by talking to himself), and likely delusional paranoid and religious beliefs (e.g., that he is in a "holy war" or that deputies tampered with his water supply) may be attributed to mania and psychosis.

Dr. Anderson also noted that Defendant demonstrates disregard for and violation of the rights of others including failure to conform to social norms with respect to lawful behaviors, impulsivity, irritability and aggressiveness, and reckless disregard for safety of self and others.

Regarding competency, at the time of the interview with Dr. Anderson, Mr. Abdulkadir did not demonstrate an adequate understanding of courtroom personnel and court proceedings. Based upon his presentation in detention and during the attempted interview and a review of records, Mr. Abdulkadir's refusal to participate in the current evaluation was driven by his symptoms of mental illness and that it is more likely than not his competency-related abilities are currently impaired by his symptoms of mental illness. Specifically, his current/recent presentation including impaired thinking process, agitation, and likely delusional beliefs impaired his ability to meaningfully participate in the interview.

Mr. Abdulkadir appeared to understand Dr. Anderson's role but accused the court system of playing "mind games" and was not receptive to Dr. Anderson's attempts to engage him in the interview process. Lastly, it was Dr. Anderson's opinion that the totality of information described above (e.g., descriptions of likely psychotic thinking processes, mania, and ongoing agitation) indicates that Mr. Abdulkadir's lack of cooperation with the current evaluation is likely due to his current symptoms of mental illness. Dr. Anderson was of the opinion that it is likely his current presentation would impair his ability to participate in proceedings and consult with counsel. Notably, he has declined to meet with his attorney as well. Dr. Anderson concluded that it is possible, if not likely, that the symptoms also impair to some unknown degree his ability to consult with a reasonable degree of rational understanding with defense counsel as well as understand the criminal proceedings and participate in the defense.

Dr. Anderson did not examine Mr. Abdulkadir related to his functional abilities, and withheld an opinion about the impact of symptoms of mental illness on these abilities. Still, Dr. Anderson's evaluation indicates that while Mr. Abdulkadir does demonstrate an adequate factual understanding of courtroom personnel and court proceedings and he is unable to apply this understanding to the specifics of the case in a logical and rational manner. In addition, Mr. Abdulkadir is unable to discuss the specifics of his case or potential defense strategies with consideration of the potential evidence due to impaired thought processes such as disorganized thoughts and delusional beliefs.

Dr. Anderson also noted that that Mr. Abdulkadir's use of illicit or nonprescribed substances or alcohol could certainly contribute to changes in his mental status. Mr. Abdulkadir has previously demonstrated impaired competency-related abilities due to mental illness, but after a period of limited treatment in the community was able to demonstrate intact. As a result, Dr. Anderson opined that Mr. Abdulkadir does not have the ability to rationally assist defense counsel in the development of a defense strategy or to make informed and rational legal decisions.

On May 4, 2023, Dr. Megan Paris, Psy.D., LP, ABPP, submitted her report regarding Defendant's commitment case 27-MH-PR-23-402. Dr. Paris diagnosed Mr. Abdulkadir with a bipolar disorder with psychotic features, which is a substantial psychiatric disorder. Dr. Paris opined that his psychiatric condition impacts his thought (racing, grandiose, and paranoid beliefs) and mood (agitated and labile), which grossly impair his judgment and behavior; these impairments have been recently manifested through instances of grossly disturbed behavior, including reactive aggression precipitated by Mr. Abdulkadir's manic agitation, disinhibition, and grandiosity.

It is Dr. Paris' opinion that while Mr. Abdulkadir's patterns of reactivity and lack of self-restraint are amplified by his antisocial traits, his clinical presentation is not exclusively accounted for by a personality disorder. She also noted that quite similarly, substance use appears to be an amplifying factor to his symptoms; however, his presentation cannot be exclusively accounted for solely by substance use.

Dr. Paris interviewed Mr. Abdulkadir and found the following: his speech was of quickened pace, loud volume, and typical cadence. His vocabulary appeared advanced. Mr. Abdulkadir regularly derailed into tangential asides that failed to answer the question at hand. He required redirection and repetition of interview questions yet continued to provide minimally useful or purposefully deflective responses. Regarding the latter, even when Mr. Abdulkadir was directly addressing the topic inquired about, he regularly responded with purposefully vague responses, or posed the question back to myself. To this end, he presented as interpersonally intrusive and defensive.

Additionally, Mr. Abdulkadir's mood was expansive (i.e., lack of restraint in expressing emotions/intense affect, with an over-inflated sense of importance). He presented as irritated by Dr. Paris' insistence on him answering questions and setting boundaries in response to his intrusive nature; however, he remained in behavioral control and did not exhibit yelling, swearing, or displays of physical aggression. Mr. Abdulkadir's thought process was tangential (i.e., excessively detailed asides that detract from one's ability to address the main point). Mr. Abdulkadir's thought content was significant for themes of grandiosity (e.g., believing he has a divine fate), persecution (e.g., believing correctional officers are aligned purposefully against him), and ideas of reference (e.g., assigning special meaning to coincidences).

Moreover, subtle themes of religious preoccupation were also observed, such as Mr. Abdulkadir presenting with a Koran for the interview; however, his statements and behaviors did not clearly rise to a degree constituting religious delusions. Mr. Abdulkadir also exhibited substantial antiauthority attitudes, evidenced by his deflective approach to the examination, his manner of interacting with authority figures (e.g., his own attorney), and attempts to control the interview to be able to discuss topics at his discretion. Mr. Abdulkadir did not exhibit any behaviors suggestive of hallucinations during the examination. Mr. Abdulkadir was alert, and was oriented to his identity, the date, his location, and circumstance of meeting.

On May 10, 2023, Mr. Abdulkadir testified before the Court. He testified that he was here to contest the incompetency finding. He testified that he completed high school. He testified that he believes he is competent because he is competent. He testified that he has had the competency process occur in court, but he was never present for it. He testified that he was found incompetent in 2019, and then later that year in August 2019, he was restored to competency and found competent by the courts. He testified that he restored himself to competency by traveling to Somalia and visit with his long-lost family. He testified that his father is the Colonel of the North Somali Army, so he lacks restriction when he is there. He testified that his father just had a baby and that this trip made him feel affirmed, heard, safe, and free. He testified that jail is a vacation too, but it is a “staycation.” He testified that his faith has kept him going, which is also being sure of a destiny, whether good or bad and trusting the process.

Mr. Abdulkadir testified that he has too many jobs to count and that he operated his own courier service called the “Happy Journey Express Corporation,” but he put a hold on this in December 2022 to work in the community for his brother Mussad Abdulkadir as a “housing access coordinator.” Mr. Abdulkadir testified that he had a contract with Street Fleet and NAPA for his courier service and had to talk with the community to get business (here, Mr. Abdulkadir testified that a “closed mouth does not get fed”). Mr. Abdulkadir testified that as a housing access coordinator, he worked with the houseless population and would take them to different areas to get them any help that they needed. He testified that some these included 1800 Chicago and Endeavors. He testified that the people in the housing camps were there due to the “luck of the draw.”

Mr. Abdulkadir testified that he liked to take directions and follow directions. He testified that many of the houseless people suffered from substance abuse issues and testified that they have to want to help themselves to be helped. He testified that he had gotten into verbal bouts while working, but never physical bouts.

Regarding medication, Mr. Abdulkadir testified that he takes Naproxen for sleep; Vistaril for anxiety; all of which was prescribed to him by Dr. Silva. He testified that he does not believe the medications are working. He testified that he believes in eastern medicine, like “congeal visits” with his wife and fresh air. He testified that Naproxen is a placebo. Mr. Abdulkadir testified that at home, he uses medicine like melatonin and then to wake up coffee. He testified that Vistaril is for anxiety, and testified that “we all have it” (anxiety), so he does not have it no more than every other human being. He testified that everyone has anxiety in the jail.

Mr. Abdulkadir testified that he does not think the medications are helping but keeps taking them because he like to take direction. He testified that he took the following “consensual” medications: marijuana; Alprazolam for anxiety (but the DEA cracked down and it is hard to get); Oxycodone for physical ailments and muscle relaxers because his body tightened up. He also testified that he has been forced to take medications.

Mr. Abdulkadir testified that from November 2018 to March 2019 there was a *Jarvis* order, and he was deemed mentally ill.¹ He testified that Dr. Bruce Renken diagnosed him with bipolar disorder. He testified that to take the medicine he would get restrained, stripped naked, physically harmed, and shot to the neck with Lithium. He testified that he thinks that the shot gave him PTSD. He then proceeded to start crying on the witness stand. He testified that he did not regularly see a psychologist. He testified that he tried anything that works to forget about it. He testified that he is voluntarily seeking treatment. Mr. Abdulkadir testified that he has no diagnosis, only a self-diagnosis. He testified that he is not prescribed any medication and the psychologist was just “bleeding” him for his money.

Mr. Abdulkadir testified that he currently does not think he is experiencing mental health issues. He testified that he could consult with others. He testified that he was deemed incompetent by two different examiners. He testified that Drs. John Anderson and Megan Paris are the examiners. He testified that on February 16, 2023, he declined to meet with Dr. Anderson. He testified that on that day he was “cruisin’ for a bruising” and he “got whooped.” Mr. Abdulkadir testified that a deputy brought the tablet to him to attend the exam, and he declined. He testified that he did not think that it would make a difference if he attended the exam. He testified that he did not believe that the outcome of the examination would be different.

¹ Mr. Abdulkadir testified that a *Jarvis* order is a petition filed while under commitment and if you refuse to take the medication, the county has the right to make sure you take it.

Mr. Abdulkadir testified that he is in jail for the following charges: Bloomington, Minnesota Aggravated Robbery – Felony, Minneapolis., Assault 2nd degree– Felony, and Bloomington Dangerous Weapon – Felony. He testified that there are penalties with them. He testified that if he was successful at the competency hearing, it would get rid of the mental health court and proceed with the criminal.

As for the roles of the courtroom participants, Mr. Abdulkadir testified that Mr. Prochazka is “doing the opposite of Mr. Biglow” and is not his “helper, but his hinderer.” He testified that the judge’s role to be in between the two of them. He testified that Mr. Biglow is his lawyer and his confidant. He testified that Dr. Anderson was the first to examine him. He testified that he tried to test Defendant and Defendant declined, but he came up with findings anyway. He testified that he declined to meet with Dr. Anderson because Defendant had the prerogative to meet with whoever he so please and he had no reason to meet with him. Importantly, Mr. Abdulkadir testified that he thinks that the court examiner is on Mr. Prochazka’s side.

Mr. Abdulkadir testified about his mind games comment. He testified that Dr. Anne Marie Winskowski found in March to August that he was not competent. He testified that Dr. Renken diagnosed him as bipolar and unspecified. He testified that whether he met with them or not, he believed that they were going to find him incompetent. He testified that this is not “a conspiracy theory as it is a conspiracy fact.” He testified that the decision was set in stone. He testified that this was based on previous experiences as his conversation and freewill was used against. He testified that therefore he would not meet with Dr. Anderson.

Regarding previous court appearances, Mr. Abdulkadir testified that on March 21, 2023, he did not go to court, and it was “not his call.” He testified that was antagonized by a deputy then was locked up. He testified that he gets one hour to shower and make phone calls and was not told Ramadan was happening. He testified that Zoom was brought to him, and he was naked. He testified that the cell is his home, and he dresses how he likes. He testified that he was un-clothed on the Zoom session and does not recall anything else about it.

Mr. Abdulkadir testified that on April 4, 2023, he did not attend court that day. He testified that the deputy said that he needed to get ready for court while he was sitting on the toilet. He testified that he did not get time to get dressed. He testified that he cannot consult with his attorney if not at court. He testified that it was “not of his doing.”

Mr. Abdulkadir testified to his past physical altercations. He testified that these were in self-defense. He testified that self-defense is when somebody offensively tries to harm you and you defend yourself. He testified that there are limits of self-defense and that Minnesota is not a stand your ground state. He testified that you have to escape first, and it is fight or flight.

Mr. Abdulkadir testified that during his trip to Somalia he was not taking prescription medications, but he was smoking cannabis. He testified that he was prescribed Haldol, Risperidone, and Olanzapine at the time. He testified that Somalia is war ridden county and did not find any of those medication. He also testified that at this time he had a *Jarvis* order and would follow instructions.

Mr. Abdulkadir testified about various comments he made. He made a comment in 2019 to Dr. Winskowski, where he told her “the devil is always testing” him. He testified that “the devil” comes in many forms, and he was very young when he made those comments. Mr. Abdulkadir also made a comment stating that he was in a “holy war” against the correctional officers. Mr. Abdulkadir testified that he speaks in metaphors, and it was misconstrued.

Mr. Abdulkadir testified that he does not remember saying everyone around him in jail “walked with the devil” and he “walked with Allah.” He testified that the devil is not actually directing his actions in the past. He testified that he was denied religious artifacts in the jail and was not told that Ramadan has started. He testified that the restrictions that were put on him were the deputies “taking the easy route.” He testified that he was following the rules. He testified that he was not put on restrictions. He was noted to say that there is nothing wrong with him, but something wrong with the world. He testified that he is outspoken and speaking in metaphors.

Mr. Abdulkadir testified that he has a self-diagnosis of PTSD. He testified that he has no other mental illnesses. He testified that anxiety is not a mental illness, and he has no more than the average person. He testified that he would defer to the doctors and professionals. He testified that he does not defer to Dr. Anderson’s diagnoses of bipolar, schizophrenia, use disorder, as he believes that there are “too many diagnoses” in his body. He testified that Dr. Paris gave him too many diagnoses to count. He testified that he does not believe that need in services voluntarily, still, Mr. Abdulkadir testified that stopped taking the medication in the past.

Mr. Abdulkadir testified to comments made by his brother Musab Abdulkadir. His brother said that he had a history of mental illness. He testified that his brother has never been to jail, to hospitals, or mental illness courts. He testified that his brother is not a doctor but has experience working with him closely. He testified that his brother is one of the best friends and familiar with him as a person; however, they never lived together so he would not know what is going on with his mental health. He testified to the comments he made to his brother in a phone call from jail where he stated he had revelations from God and that he is a prophet. He testified that it was a metaphor. He testified that we all have freewill unless we are incarcerated. He testified that no one imposes will.

The Court appreciates Mr. Abdulkadir's testimony; however, Mr. Abdulkadir was not an accurate historian, appeared confused at times, had rapid speech, and was very tangential. For those reasons, the Court gives Mr. Abdulkadir's testimony less weight.

On May 10, 2023, Dr. John Anderson testified before the Court. Dr. Anderson credibly testified that he is a court examiner for the Court and has been for 2 years and 9 months. Dr. Anderson credibly testified that the majority of his job is forensic treatment for criminal and civil matters. Dr. Anderson credibly testified that he has done 110 to 115 evaluations for competency. He credibly testified that in those cases, he finds defendants incompetent 56% of the time. He credibly testified that the purpose if the Rule 20.01 evaluation is to make a determination on a defendant's ability to proceed. He credibly testified that the criminal proceeding stops and is referred. He credibly testified that the legal standard is whether defendant has the ability to consult with counsel and participate in the defense.

Dr. Anderson credibly testified that during this process he searches for relevant records, jail records, treatment records, prior evaluations. He also testified that it is important to meet with the person who is the subject of the evaluation. Dr. Anderson credibly testified that it is a semi-structured interview process. He credibly testified that he generally questions if symptoms impair their ability to proceed with the defense. He credibly testified that he considers background, current presentation, diagnosis if any, testing if any, opinion related to competency.

Dr. Anderson credibly testified that he conducted the Rule 20.01 – March 10, 2023, report for Defendant. He credibly testified that he tried to meet with him on February 22, 2023. He credibly testified that he did not successfully interview Defendant. He credibly testified that this was because Defendant did not want to meet with him, and Defendant appeared to be experiencing symptoms of mental illness that would render the interview of diminishing return.

Dr. Anderson credibly testified that the Defendant’s symptoms included mania, agitation, pacing, and not wearing a shirt. He credibly testified that Defendant stated that “mind games” were being done by the court. He credibly testified that Defendant’s presentation was similar to past reports. He credibly testified that Defendant’s inability to participate was driven by mental illness and he would not improve competency. He credibly testified that his conclusions were based on jail and other previous records.

Dr. Anderson credibly testified that he reviewed updated jail logs after he submitted his report. He credibly testified that the jail records indicated presentation effect of liable. He credibly testified that Defendant’s emotional expression goes back and forth, has agitation, has threats to jail staff, and his presentation was not meaningfully different. He credibly testified that he reviewed Jail records for 3-21-23. He credibly testified that the deputies wrote that Defendant was nude, not wearing pants, and turned to the Zoom camera to “moon” the Zoom.

Dr. Anderson credibly testified that he reviewed Dr. Megan Paris' psychological report. He credibly testified that Dr. Paris' interview was shorter than intended because of his presentation. Dr. Anderson credibly testified that Dr. Paris noted continued symptoms of mania. Dr. Anderson credibly testified that the Defendant's symptoms are consistent, but there would still be impairment. Dr. Anderson credibly testified that based on this information there would be no changes to his report. He credibly testified that seeing him in Court did not change his conclusion either. Dr. Anderson credibly testified that Respondent is not able to rationally consult.

Dr. Anderson credibly testified that Defendant's mental health is cyclical in nature as he suffers from mania or psychosis more on other days than on May 11, 2023 (the date of the contested hearing). Dr. Anderson credibly testified that being under duress or being incarcerated would not be the sole cause of Defendant's symptoms. He noted that Defendant continues to exhibit psychotic symptoms even after being incarcerated for an extended period with limited access to drugs as well. The Court found Dr. Anderson to be a credible witness.

CONCLUSIONS OF LAW

"A defendant has a due process right not to be tried or convicted of a criminal charge if he or she is legally incompetent." *Bonga v. State*, 797 N.W.2d 712, 718 (Minn. 2011). Rule 20.01 of the Minnesota Rules of Criminal Procedure requires the court to find a defendant not competent unless the greater weight of the evidence shows that the defendant is competent to proceed. 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. Moreover, factfinders, including district courts, are not required to accept an expert's testimony or recommendations. In a criminal case involving a mental-illness defense, the Minnesota Supreme Court noted that "the factfinder is not bound by expert psychiatric testimony and may reject it entirely, even when the only experts who testify support the defendant's assertion of a mental-illness defense." *State v. Roberts*, 876 N.W.2d 863, 868 (Minn. 2016).

Foremost, throughout the criminal proceedings the trial court must be mindful of its protective duty to ensure that a defendant is competent to proceed. *See State v. Bauer*, 245 N.W.2d 848, 852 (Minn. 1976) (ruling that the court should have conducted further inquiry into the important matter of defendant's competency). The defendant bears the burden of proof in a contested competency proceeding under MINN. R. CRIM. P. 20.01 when the defendant asserts their own competence. *See State v. Thompson*, 988 N.W.2d 149, 158 (Minn. 2023).

The first step in the Court's competency analysis is to determine whether Mr. Abdulkadir suffers from a mental illness or cognitive deficit. This Court concludes the greater weight of the evidence establishes that Mr. Abdulkadir does suffer from specified Bipolar and Related Disorder, Unspecified Schizophrenia Spectrum and other Psychotic Disorder, Alcohol Use Disorder, Cannabis Use Disorder, and Opioid Use Disorder. These diagnoses have been provided numerous times by multiple mental health professionals since his first hospitalization in 2019. Also, Mr. Abdulkadir has a significant history of psychiatric hospitalizations, including stayed civil commitment based on a diagnosis of unspecified bipolar and related disorder in 2018.

Importantly, Mr. Abdulkadir has demonstrated serious and persistent symptoms of his diagnoses in recent years, including delusions, paranoia, mania, impaired reality contact, erratic behavior, and aggression and violence. In the most recent competency evaluation, Dr. Anderson provided diagnoses of Bipolar and Related Disorder, Unspecified Schizophrenia Spectrum and other Psychotic Disorder, Alcohol Use Disorder, Cannabis Use Disorder, and Opioid Use Disorder. Dr. Anderson was not able to meet with Mr. Abdulkadir as he refused the interview.

Additionally, in preparation of a commitment hearing Dr. Paris provided diagnoses Bipolar I Disorder, with mood-congruent psychotic features (most recent episode manic), Traits of Antisocial Personality Disorder, Alcohol Use Disorder (By History), Cannabis Use Disorder (By History), and Opioid Use Disorder (By History). Dr. Paris opined that Defendant meets criteria for civil commitment as an individual who is mentally ill and dangerous to the public.

As it relates to competency, the Court must determine whether he presently is exhibiting these symptoms. The Court finds Dr. Anderson's opinion in this regard persuasive and concludes that Mr. Abdulkadir continues to exhibit symptoms of his diagnoses since being incarcerated. It is important to note that he historically has responded positively to anti-psychotic medications.

The Court must next analyze whether Mr. Abdulkadir's diagnoses render him incapable of consulting with defense counsel with a reasonable degree of rational understanding and/or to understand the proceedings or participate in his defense. The Court concludes, while Mr. Abdulkadir has a rational understanding of the proceedings, he continues to lack the ability to rationally consult with counsel or participate in his defense given that his psychiatric symptoms are preventing him from even recognizing that he suffers from a mental illness.

Mr. Abdulkadir demonstrated that he generally has the ability to rationally understand the proceedings. He understands the charges and potential sentence, and the role of the attorneys, judge, and jury (it was not clear that he understood the role of the court examiner).

Mr. Abdulkadir, however, does not have the ability to participate in his defense with a reasonable degree of understanding or to rationally participate in his defense. His psychotic thinking currently results in impairment in judgment, reasoning, and decision making. Additionally, Mr. Abdulkadir continues to evidence the hallmark symptom of lack of insight into his mental illness and belief that psychotropic medication is harmful to him. During his testimony, Respondent endorsed delusional beliefs while discussing his previous examinations that impaired his ability to engage in rational discussion and that because he could not set these beliefs aside, he is likely to rely on these delusional beliefs in formulating his defense.

Additionally, based on previous records, Dr. Anderson opined that he does not have the ability to rationally assist defense counsel in the development of a defense strategy or to make informed and rational legal decisions. Dr. Anderson also credibly testified that after observing Mr. Abdulkadir's testimony that it did not change his opinion. As a result, the Court finds Dr. Anderson's opinion persuasive.

It is important to emphasize that the Court's finding of incompetency is not due to Mr. Abdulkadir's refusal to discuss or assert a mental illness defense or due to his desire to proceed *pro se*. Mr. Abdulkadir is incompetent due to his inability to recognize that he suffers from a mental illness and thus, he is unable to rationally consider whether to raise such a defense.

If restored to competency, Mr. Abdulkadir may have a recognition of his mental illness and some insight into the extent to which his illness results in delusions, hallucinations, and paranoid thinking. If competent, he will have the ability to rationally consult with an attorney, rationally make a decision about whether to proceed *pro se*, and to decide whether he wishes to raise a defense of not guilty by reason of mental illness. A competent defendant with a plausible defense of mental illness certainly may choose not to raise this affirmative defense and may also make a valid waiver of counsel.

Based on the totality of the information before the Court, the Court finds that the greater weight of the evidence demonstrates Mr. Abdulkadir presently does not have the ability to rationally consult with counsel and participate in his defense. Under *Anderson*, the Defense has not met its burden of proving, by a greater weight of the evidence, that Mr. Abdulkadir is competent. Therefore, the Court finds that the defendant, Mr. Abdulkadir, is **INCOMPETENT**.

IT IS SO ORDERED.

BY THE COURT