IN THE CIRCUIT COURT OF THE 18th JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA

vs. **CASE NO.: 052015CF022671AXXXXX**

KENNETH E. CROWDER,
Defendant.

ORDER ADJUDGING DEFENDANT NOT GUILTY BY REASON OF INSANITY AND PLACING DEFENDANT ON CONDITIONAL RELEASE

THIS CAUSE having come to be heard before the Court for a Non-Jury Trial on February 28, 2019, and the questions of the sanity of the Defendant in this cause at the time of the offense having been raised in accordance with the provisions of Rule 3.217 Fla. R. Crim. P., and §§ 775.027 and 916.17, Fla. Stat, the Court finds as follows: On or about July 21, 2015, September 15, 2015 and May 16, 2016, Dr. Eric L. Mings examined the Defendant and reported to the Court on whether the Defendant was sane at the time of the offense, and if not, what he recommended as treatment upon a verdict of Not Guilty by Reason of Insanity. Additionally, Dr. Mings evaluated the Defendant regarding competency to proceed to trial in the instant case and determined that he was competent to proceed to trial, but that he did meet the criteria to be found not guilty by reason of insanity by this Court.

The Court has received:

_____ the written reports
_____ the oral testimony
__X__ both written reports and oral testimony

of Dr. Eric Mings in relation to the issue of the Defendant's sanity at the time of the offense and competency to proceed and any need for commitment. The Court hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACTS

1. During the Non-Jury Trial, witness [redacted] testified that she encountered the Defendant on April 10, 2015, as he appeared "under the influence" and was

yelling that he was "God" and "Thor" and culminating with him "crabwalking" on a neighbor's driveway with his zipper unzipped and his penis exposed. [redacted] testified further that the Defendant appeared to be rubbing his penis on a palm tree in the neighbor's yard, whereupon she called the police for assistance.

2. Melbourne Police Department Officers responded to the scene and were ultimately able to detain the Defendant only after a physical struggle ensued causing physical injury to Officer Brett Self.

3. As a result of the events that occurred on April 10, 2015, the Defendant was charged with Resisting an Officer with Violence, Battery Upon a Law Enforcement Officer, Assault on a Law Enforcement Officer, Exposure of Sexual Organs, and Disorderly Conduct.

4. After denial of the Motion for Judgment of Acquittal made by the Defense, Defense Counsel called Dr. Eric Mings to testify regarding the sanity of the Defendant at the time of the offense.

5. Dr. Eric Mings's diagnostic opinion of the Defendant is that he suffers from Schizoaffective Disorder, and Minor Neurocognitive Disorder due to a traumatic brain injury.

6. Dr. Mings testified that at the time of the allegations in the instant case, the Defendant appeared to have been experiencing a "grossly psychotic episode" which caused him to be delusional.

7. Dr. Mings opined that within a reasonable degree of psychological certainty, that the Defendant lacked the capacity to appreciate the wrongful nature and consequences of his actions at the time of the arrest.

8. Dr. Mings further testified that while the Defendant did not currently meet criteria for involuntary commitment, he would benefit from being ordered to complete a psychological evaluation at Circles of Care or comparable entity and following any recommended treatment.

CONCLUSIONS OF LAW

A. It is an affirmative defense to a criminal prosecution that at the time of the commission of the acts constituting the offense, the Defendant was insane. Fla. Stat. § 775.027.

B. Having heard the testimony of eyewitnesses on scene at the time of the alleged offense and Dr. Mings, the Court finds the Defendant is not guilty of all charges by reason of insanity as defined in Rule 3.217 Fla. R. Crim. P., and § 775.027.

C. The Defendant suffers from Schizoaffective Disorder and because of this condition, on April 10, 2015, he did not know what he was doing or its consequences.

Based upon the findings of facts and conclusions of law, it is ORDERED AND ADJUDGED that:

1. At the present time, the defendant does not meet the criteria for commitment to a treatment facility as provided in § 916.15, Fla. Stat., but is in need of outpatient treatment as a condition of Conditional Release pursuant to § 916.17, Fla. Stat.

2. Accordingly, the defendant is hereby released, pursuant to § 916.17, Fla. Stat. and Florida Rule of Criminal Procedure 3.217 on the following release conditions.

(a) The defendant will remain in outpatient treatment during his conditional release period unless the criteria for involuntary commitment is met in the future, and will report to Circles of Care to be evaluated by a Doctor and will participate in any therapy sessions as recommended by his treatment professionals.

(b) The defendant will take psychotropic medication(s) as prescribed by his attending physician.

(c) The defendant shall not drink alcohol or use illegal substances of any kind and may be required to undergo periodic drug screening as directed by the Court.

(d) The defendant will not possess or use any firearms or other weapons of any kind.

3. ***No later than 6 months after the date of placement on conditional release***, the defendant's status shall be reevaluated under the supervision of the Circles of Care Forensic Case Manager who shall report to the committing Court, with copies to the attorney for the state and defense on the issue of the need for continued conditional release as provided in Florida Rule of Criminal Procedure 3.217 and 916.17, Fla. Stat., and on an annual basis thereafter.

4. In the event the defendant has failed to comply with all conditions of his conditional release or that the defendant's condition has deteriorated to the point that inpatient care is required, or that the release conditions should be modified, the treatment professional shall immediately file an affidavit or statement under oath to that effect. The court will thereafter conduct a hearing to determine if the release conditions need to be modified.

5. The Court hereby retains jurisdiction in this cause, pursuant to s.916.16, Fla. Stat. for the entry of such Order as may be necessary or appropriate.

DONE AND ORDERED at City, County, Florida, this 12 day of March, 2019.

NANCY MALONEY
CIRCUIT JUDGE

Copies furnished to:

State Attorney
Attorney for the Defendant

Circles of Care and/or Department of Children and Families