

State of West Virginia,
Plaintiff,

vs.)

Case No. CC-19-2020-F-9

IZZAC CHRISTOPHER WEISTER,
Defendant

On March 8, 2021, this matter came on for a competency hearing. The State appeared by Gregory K. Jones, Assistant Prosecuting Attorney for Jefferson County. The Defendant appeared along with his counsel Shawn McDermott, Esq. All parties appeared by video or audio connection due to the ongoing pandemic.

Upon review of the forensic reports submitted by the parties and considering the parties written stipulation on this issue filed on January 22, 2021, the Court finds the Defendant not competent to stand trial. The Court finds the Defendant does not exhibit a sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and a rational as well as a factual understanding of the proceedings against him. This Court further finds that the Defendant is not substantially likely to attain competency within the next ensuing three months. W.Va. Code §27-6A-3(c) & (e).

After consideration of the written memorandum and responses and oral argument submitted today, the Court finds that the indicted offenses, two counts of Solicitation of a Minor via a Computer, W.Va. Code §61-3C-14b, and one count of Use of Obscene Mater with Intent to Seduce a Minor, W.Va. Code §61-8A-4, are each a felony offenses involving an act of violence against a person. W.Va. Code §27-6A-3(h),

State v George K., 233 W.Va. 698 (2014). Objection of the Defendant to this ruling is noted.

This Court hereby orders the defendant be committed to William R. Sharpe Jr. Hospital, a mental health inpatient facility designated by the West Virginia Department of Health and Human Resources as the current least restrictive environment available to manage the defendant and allow for the protection to the public.

This Court finds that the Defendant could have been convicted of two counts of Solicitation of a Minor via a Computer, W.Va. Code §61-3C-14b, and one count of Use of Obscene Mater with Intent to Seduce a Minor, W.Va. Code §61-8A-4, each a felony offense, but for the determination that Defendant is not competent to stand trial. The Court finds the maximum sentence he could have received is twenty-five (25) years.

This Court further finds that it maintains jurisdiction over the Defendant for twenty-five (25) years, the maximum possible sentence Defendant would have received if he had been convicted of the crimes charged, or until the Defendant regains competency and the criminal charges reach resolution whichever is sooner. The end date of the maximum sentence period is March 7, 2046. The Court's jurisdiction is extended thereafter by 10 days to allow the prosecuting attorney to institute civil commitment proceedings under Article 5 of Chapter 27 of the West Virginia Code. Thereafter, the Defendant shall be released from the facility if not first civilly committed.

The Court orders a qualified forensic evaluator to conduct a dangerousness evaluation including dangerousness risk factors within thirty days of admission of the defendant to the mental health facility and to render a report to the Court within ten business days of completing the evaluation.

The medical director of the mental health facility shall submit an annual summary report of Defendant's condition during the time of the Court's jurisdiction. The attorney for the State is ordered to contact the Statewide Forensic Coordinator to coordinate

Defendant's arrival with the hospital's ability to admit Defendant.

The Court further orders that attorney for the State shall ensure the following information is sent with Defendant when he is admitted to the mental health facility:

(1) A copy of the warrant or indictment;

(2) Information pertaining to the alleged crime, including statements by the defendant made to the police, investigative reports and transcripts of preliminary hearings, if any;

(3) Any available psychiatric, psychological, medical or social records that are considered relevant; and

(4) A copy of the defendant's criminal record.

The Court further orders the Jefferson County Sheriff's Department transport the defendant to William R. Sharpe Jr. Hospital only after receipt of notification that it is able to admit defendant. The Sheriff shall ensure that Defendant's arrival at the facility takes place between the hours of 9:00 a.m. and 3:00 p.m. Monday through Friday.

If, upon notification of the date the Defendant should appear at William R. Sharpe Jr. Hospital, the defendant's family can transport him to that facility, the Defendant is permitted to arrive at the facility on the designated date between 9:00 a.m. and 3:00 p.m. This will relieve of the Jefferson County Sheriff's Department of its obligation to transport.

The Jefferson County Prosecutor's Office shall notify defense counsel of the date the Defendant is to report, so the means of transportation can be arranged.

Defendant requested a stay of the commitment so that he may appeal the Court's rulings to the West Virginia Supreme Court of Appeals. The request for a stay is denied but the Court grants Defendant leave to file a motion for a stay after the dangerousness assessment and report is complete.

The Clerk shall forward copies of this order to the attorneys of record, to the

Jefferson County Sheriff's Department, to the Statewide Forensic Coordinator, William R. Sharpe, Jr. Hospital, 936 Sharpe Hospital Road Weston, WV, 26452-8550 by fax at 304-269-1542.

It is so ORDERED.

Contact information of Counsel:

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/s/ David M. Hammer

Circuit Court Judge
23rd Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.