

COMMONWEALTH OF KENTUCKY
PERRY DISTRICT COURT
CASE NO. 09-F-00361

COMMONWEALTH OF KENTUCKY PLAINTIF
VS. MOTION FOR COMPETENCY EVALUATION
JOHN CARLOS COMBS DEFENDANT

* * * * *

Comes the defendant, John Carlos Combs, by counsel, and moves this Court, pursuant to the Fourteenth, Fifth and Sixth Amendments to the United States Constitution; and RCr 8.06, KRS 441.047 and KRS 504.100 to have the defendant evaluated to determine his competency to stand trial and evaluate whether the defendant was criminally responsible for his actions, noting as follows:

1. The defendant has been charged with Murder, a capital offense.

2. Defense counsel asserts that interviews with the defendant's family have revealed that the defendant suffers from severe anxiety, with suicidal tendencies, and chronic pain. Counsel for the defendant has reason to believe that the defendant suffers from polysubstance abuse. Furthermore, conversations with family members of the defendant have revealed their belief that the defendant "needs help" and may be incompetent. At the time of the incident, the defendant may have been taking more medication than he should have, leading to

the charges against him outlined in paragraph 1 above. KRS 504.100 (1) provides that if "the court has reasonable grounds to believe the defendant is incompetent to stand trial, the court shall appoint at least one (1) psychologist or psychiatrist to examine, treat, and report on the defendant's mental condition." KRS 504.100 (2) provides that "the psychologist or psychiatrist shall state whether or not he finds the defendant incompetent to stand trial."

3. The defendant's past behavior demonstrates a history of severe anxiety, chronic pain, and addiction to narcotic medication. As an adult, the defendant has been diagnosed and treated for mental conditions requiring the use of psychotropic medications.

4. The United States Supreme Court has held that "the failure to observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial." Drops v. Missouri, 420 U.S. 162, 95 S. Ct. 896, 43 L. Ed. 2d 103, 113 (1975) (citing Pate v. Robinson, 383 U.S. 375, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966)).

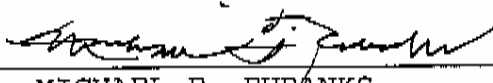
5. Kentucky law insures defendants due process by RCr 8.06 which states: "[where] there are reasonable grounds to believe that the defendant lacks the capacity to appreciate the nature and consequences of the proceedings against him, or to

participate rationally in his defense, all proceedings should be postponed." The facts noted above clearly meet the standard of RCr 8.06.

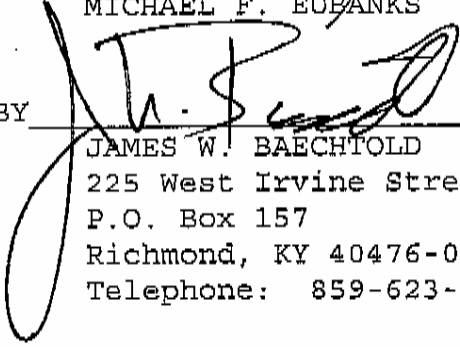
6. The defendant, John Carlos Combs, needs to be evaluated under the procedures of KRS 504.100. Mr. Combs should be transported to the Kentucky Correctional Psychiatric Center (KCPC) in order to receive complete psychological testing, a social history, a psychiatric evaluation, and any other services necessary to aid in his evaluation and treatment.

SHUMATE, FLAHERTY, EUBANKS
& BAECHTOLD, P.S.C.

BY


MICHAEL F. EUBANKS

BY


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Richmond, KY 40476-0157
Telephone: 859-623-3049

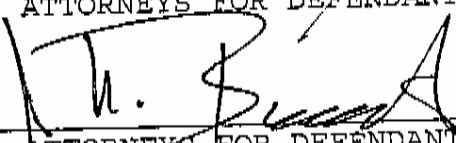
ATTORNEYS FOR DEFENDANT

NOTICE OF HEARING

NOTICE is hereby given that this MOTION will be brought on for hearing before the Court on Tuesday, December 15, 2009, at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard.

SHUMATE, FLAHERTY, EUBANKS
& BAECHTOLD, P.S.C.

BY 
ATTORNEYS FOR DEFENDANT

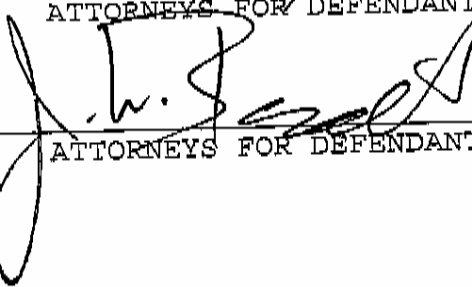
BY 
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned, Attorneys for Defendant, hereby certify that a true and correct copy of the foregoing MOTION was hand delivered to the Hon. John C. Shackelford, Perry County Attorney, 481 Main Street, Hazard, KY 41701, and the Hon. Teresa G. Combs Reed, Commonwealth Attorney, 481 Main Street, Hazard, KY 41701, in open court on the 15th day of December, 2009.

SHUMATE, FLAHERTY, EUBANKS
& BAECHTOLD, P.S.C.

BY 
ATTORNEYS FOR DEFENDANT

BY 
ATTORNEYS FOR DEFENDANT

FERRY

Judge HON. LEIGH ANNE STEPHENS

Run Date: 12/14/2009 4:45:48P
Prep Info: 60000040089 12/14/2009 4
12/15/2009

- 3
- OFFICE OF PUBLIC ADVOCACY
- SANDLIN, GARY SCOTT, DET-KSP.
- COMBS, JOHN CAR
- COMBS, RANDY, DET-KSP.
- STAMPER, CLAYTON - DET-KSP.

COMMONWEALTH VS. COMBS, JOHN CAR

ATTORNEY-PUBLIC ADVOCATE
COMPLAINING WITNESS
DEFENDANT / RESPONDENT
WITNESS
WITNESS

OPA
KSP735G.

KSP686RC
KSP780CS

PD granted motia to withdraw

Def has hired private attys.
Com reserves right to request
repayment of funds paid
erroneously from by Finance Cabir

Motion for competency evaluation - taken under adv
set for Dec 2
1:00

Clerks to send
notice to atty.
Com Atty Teresa
ordered to appeal

PRELIMINARY HEARING

PRELIMINA

SUMMONS

DI 01-T-0167

() Costs Waived due to indigence

() Installment / Deferred Payment

12/08/2009

9J6888642-1

0091500

507020

Murder (F) (A)

Def waived pre hearing

4 DI 09-M-01179
FELTNER, KEVIN C

COMMONWEALTH VS. FELTNER, KEVIN C

- 1988 M W
- FIELDS, BRUCE, PTL-HPD.
- FELTNER, KEVIN C

**475415
COMPLAINING WITNESS
DEFENDANT / RESPONDENT



Bail Set:

Dec 21, 09
Status 1:00

Posted:

Probable revocation hearing set
for Jan 5, 00 9:30
Def violated probation with
new arrest.
Notice served on def by

ARRAIGNMENT

Sch Memo: RESET FROM 12-14-09

() Costs Waived due to indigence

() Installment / Deferred Payment

12/11/2009

917430322-1

0023030

525100

PUBLIC INTOXICATION CONTROLLED SUBS
(EXCLUDES ALCO (M) (B))

12/15/2009

M/G
09:00 AM

FED

Jan 26, 010

WAIVER OF EXAMINING TRIAL

COMMONWEALTH OF KENTUCKY
PERRY DISTRICT COURT
CASE NO. 09-F-00361
09-F-00367

COMMONWEALTH OF KENTUCKY

PLANTIFF

VS:

John C. Combs

DEFENDANT

COMES NOW THE DEFENDANT HEREIN, AND SAYS THAT He
HAS BEEN FULLY ADVISED OF His RIGHTS TO HAVE AN EXAMINING
TRIAL ON THE CHARGES IN THE ABOVE STYLED ACTION THAT He
HEREBY WAIVES THE RIGHT TO SUCH EXAMINING TRIAL AND WAIVES
THE SAID CHARGE TO THE PERRY COUNTY GRAND JURY.

DATE: 12-15-09

On behalf of John C. Combs

DEFENDANT

[Signature]
ATT FOR DEFENDANT
[Signature]

ORDER

THE DEFENDANT, HAVING FILED THE ABOVE WAIVER OF
EXAMINING TRIAL WITH THE COURT, THE SAME IS HEREBY ACCEPTED
AND IT IS HEREBY ORDERED THAT THE SAID CHARGE IS HEREBY WAIVED
TO THE PERRY COUNTY GRAND JURY.

DATE: 12-15-09

[Signature]
JUDGE, PERRY COUNTY COURT

Yes

Start of docket 1

1 DI 09-F-00367 COMMONWEALTH VS. COMBS, JOHN C

COMBS, JOHN C

1963 M W ***-**-4367



- HICKMAN, DAMON,
- COMBS, JOHN C
- PATRICK, MARTY

COMPLAINING WITNESS
 DEFENDANT / RESPONDENT
 WITNESS

PCDCDH

M.

Bail Set:

Posted:

Jim
Michael Subaats Private attys

ARRAIGNMENT

*Motion for competency evaluation
 set for Dec 21, 09 1:00
 Clerk to send notice to*

() Costs Waived due to indigence () Installment / Deferred Payment

1 12/13/2009 9K7975482-1 0131140 508025 ASSAULT-3RD DEGREE-INMATE ASSAULT ON
 CORRECTIONS E (F) (D)

n/g *Def* *Waived to GT* *atlys - Com Atty Teresa*
Rec'd ordered to appear.

2 12/13/2009 9K7975482-2 0131140 508025 ASSAULT-3RD DEGREE-INMATE ASSAULT ON
 CORRECTIONS E (F) (D)

3 12/13/2009 9K7975482-3 0008030 508050 MENACING (M) (B)

4 12/13/2009 9K7975482-4 0008030 508050 MENACING (M) (B)

Leigh Anne Stephens