

12-16-09  
Mandy Fields DFC  
P.001/003

COMMONWEALTH OF KENTUCKY  
PERRY DISTRICT COURT  
CRIMINAL CASES NOS: 09-F-00361  
09-F-00367

COMMONWEALTH OF KENTUCKY PLAINIFF

VS.

JOHN CARLES COMBS DEFENDANT

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**ORDER DENYING MOTION FOR COMPETENCY EVALUATION**

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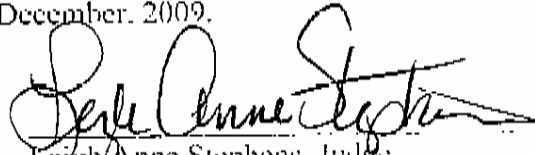
THIS MATTER having come before the Court upon Defendant's motion for competency evaluation and the Court having been sufficiently advised, the Court hereby finds and orders as follows:

- (1) "The District Court has exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, except (a) offenses denominated by statutes as felonies or capital offenses and (b) offenses punishable by death or imprisonment in the penitentiary." KRS 24A.110(1)
- (2) The District court also has jurisdiction to *examine* any charge of a public offense denominated as a felony or capital offense or which may be punishable by death or imprisonment in the penitentiary and to commit the defendant to jail or hold him to bail or other form of pretrial release. KRS 24A.110(3).
- (3) Gabbard v. Commonwealth 887 S.W.2d 547 (Ky. 1994) states that KRS 504.100 requires the *trial* court, if it has reasonable grounds to believe a defendant is incompetent to stand trial, to appoint a psychiatrist or psychologist to report on the defendant's competency.

Based on the foregoing, the court finds that the district court is not the district court is not the trial court and has no statutory authority or jurisdiction to order a competency evaluation in felony or capital murder offenses, therefore, defendant's motion for a competency evaluation is hereby denied.

Furthermore, the hearing previously scheduled for 1:00 p.m. on December 21, 2009 is hereby canceled.

So ordered this the 16<sup>th</sup> day of December, 2009.

  
Leigh Anne Stephens, Judge  
Perry District Court

Distribution:

Commonwealth Attorney  
Honorable Teresa Reed

Perry County Attorney  
Honorable John C. Shackelford

Attorneys for Defendant  
Honorable Michael F. Eubanks  
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*12-16-09  
Mary Sue D/C*

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

PLAINTIFF

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ORDER

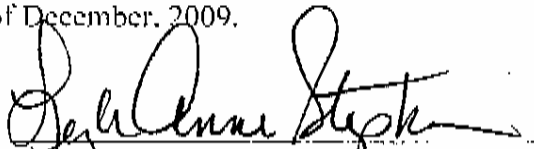
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This matter having come before the court and the court being advised that the defendant has hired private attorneys.

It is hereby ordered that the Office of Public Advocacy is granted its oral motion to withdraw.

Furthermore, the defendant's retention of private counsel being an indication that the defendant is no longer or is not indigent, the Order granting funds for expert assistance of a forensic psychologist pursuant to KRS 31.110(1)(b) and KRS 31.185 is hereby set aside.

So ordered this the 16<sup>th</sup> day of December, 2009.

  
Leigh Anne Stephens, Judge  
Perry District Court

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Honorable Teresa Reed

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