

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CRIMINAL JUSTICE DIVISION**

**STATE OF FLORIDA**

**CASE NUMBER: 17CF007587A**

**v.**

**DEVON RYAN ARTHURS**

**DIVISION: G**

**DEFENDANT'S MEMORANDUM OF DEFENDANT'S HISTORY OF  
INCOMPETENCY TO PROCEED DUE TO MENTAL ILLNESS**

The Defendant, Devon Ryan Arthurs ("Mr. Arthurs"), suffers from a complex diagnosis of intertwining psychiatric mental illnesses and neurodevelopmental disorders. Due to this diagnosis, Mr. Arthur's mental health and competency is at issue in this cause. This memorandum is intended to provide the Court a brief summary of Mr. Arthur's history of incompetency. In February of 2018, the Court found Mr. Arthurs incompetent to proceed and committed him to the care and treatment of the Department of Children and Families pursuant to Sections 916.106 and 916.13, Florida Statutes (2020). Mr. Arthurs was returned to Hillsborough County Jail in April of 2019. On April 5, 2019, the Court ordered the re-evaluation of Mr. Arthurs to determine the issue of his competency. With regards to that issue, every doctor has found Mr. Arthurs incompetent to proceed and recommended that he be recommitted to a secure hospital setting.

**List of Expert Evaluators**

The below lists include the doctors that have been appointed and retained to evaluate Mr. Arthurs during the course of his legal proceedings.

The court appointed evaluators in this cause have found as follows:

1. Yolanda Leon, PsyD
  - a. Incompetent – report dated January 29, 2018.
  - b. Incompetent – report dated May 25, 2019.
  - c. Incompetent – report dated December 18, 2020.

2. Daniel Patz, PsyD
  - a. Incompetent – report dated February 27, 2018.
  - b. Competent – report dated May 19, 2019.
  - c. Incompetent – report dated January 10, 2020.

Mr. Arthurs has been consistently found to be incompetent by:

1. Valerie McClain, PsyD
2. Debra Barnett, MD
3. Michael Maher, MD
4. Joseph Blich, PhD

Mr. Arthurs has been evaluated by the following Florida State Hospital employees:

1. Dr. Jennifer Slusarz
2. Jared Speroni
  - a. Mr. Speroni is a doctoral intern pursuing a Ph.D program.

### **Brief Procedural History**

1. On May 21, 2017, the Office of the Public Defender was appointed to this cause.
2. On June 12, 2017, Mr. Arthurs entered a plea of not guilty at an arraignment hearing.
3. On November 21, 2017, Mr. Arthur’s defense counsel raised competency by filing “Motion to Determine Competency for Examination to Proceed.”
4. On December 4, 2017, the Court appointed Dr. Christopher Iler to evaluate Mr. Thurs.
5. On December 11, 2017, the defense counsel filed “Motion for Appointment of Alternate Expert for Examination to Determine Competency to Proceed” on the grounds that Dr. Iler’s wife works for the Office of the State Attorney. This motion was granted on December 12, 2017.
6. On December 12, 2017, the Court appointed Dr. Alessandra Marotti to evaluate Mr.

Arthurs.

7. On December 18, 2017, the defense counsel filed “Motion for Appointment of Alternate Expert for Examination to Determine Competency to Proceed” on the grounds that Dr. Marroti’s resignation from her place of employment, the Neuropsychiatrist Institute, was pending. This motion was granted on December 20, 2017.
8. On December 20, 2017, the Court appointed Dr. George Northrup to evaluate Mr. Arthurs.
9. On December 18, 2017, the defense counsel filed “Motion for Appointment of Alternate Expert for Examination to Determine Competency to Proceed” on the grounds that Dr. Northrup would be unable to complete the evaluation before the return date. This motion was granted on January 4, 2018.
10. On January 5, 2018, the Court entered an order appointing Dr. Yolanda Leon to evaluate Mr. Arthurs.
11. On February 6, 2018, the Court entered an order appointing Dr. Daniel Patz to evaluate Mr. Arthurs.
12. On February 28, 2018, the State and the Defense stipulated to the Court’s considerations of the doctors’ findings of incompetency.
13. On March 6, 2018, the Court entered an order finding Mr. Arthur’s incompetent to proceed and committed him to the Department of Children and Families.
14. On April 3, 2019, the Court entered an order to transport Mr. Arthurs back into the custody of the Hillsborough County Sheriff’s Office.
15. On April 5, 2019, the Court entered an order re-appointing Dr. Leon and Dr. Patz to re-

evaluate Mr. Arthurs.

16. On December 19, 2019, a competency hearing was finally commenced but was ultimately bifurcated. The second hearing date was set for January 10, 2020. The competency hearing was never concluded.

### **Summary of Competency Hearing**

The below is a brief summary of the testimony offered during the competency hearing on December 19, 2019. Time stamps that correlate with the audio recording of the hearing have been provided at pertinent points:

1. During the December 12, 2019 competency hearing, the Defense called Dr. Maher, Dr. McClain, and Dr. Leon. The Defense intended to call Dr. Barnett, but the competency hearing was bifurcated before the Defense was able to do so. The State called Dr. Patz and Dr. Slusarz.
2. Dr. Maher, Dr. McClain, and Dr. Leon all testified that Mr. Arthurs was suffered from mental illness, incompetent, and should be placed in a secure hospital environment. Dr. Leon further testified that Mr. Arthurs was non-restorable. [01:06:00].
3. Dr. Patz testified that Mr. Arthurs suffered from mental illness but was competent to proceed based upon his evaluation on May 19, 2019.
4. In an evaluation conducted on January 10, 2020, Dr. Patz found Mr. Arthurs incompetent to proceed.
5. Several topics were of special note during Mr. Arthur's competency hearing. Those topics were related to autism, self-injurious behavior, and malingering.
6. On the issue of Mr. Arthur's diagnosis of autism spectrum disorder:
  - a. Dr. Maher testified that Mr. Arthurs's behavior was consistent with autism. This

was especially true of the peculiar nature of how his relations formed.  
[00:20:30].

- b. Dr. Leon testified that Mr. Arthurs was incorrectly diagnosed with ADHD, as opposed to autism, in the 5<sup>th</sup> or 6<sup>th</sup> grade. [00:46:00].
- c. Dr. Leon testified that there are three levels of autism, and that Mr. Arthurs falls in the highest functioning level, which was formally known as Asperger's.
- d. Due to this autism, Mr. Arthurs does not have the ability to communicate normally. He had a difficulty understanding abstract concepts and social interactions. Due to his inability to communicate, he's not able to consider or think rationally about his defense strategies or confronting witnesses.  
[00:54:00]

7. On the issue of Mr. Arthur's self-injurious behavior:

- a. Dr. Maher testified that Mr. Arthurs engaged in self-injurious behavior in a consistent, aggressive basis. [00:11:23]. During each interview, Mr. Arthurs would choke himself out approximately every two minutes. Dr. Maher testified that this was clearly a product of his illness and not a rational behavior. It is a pattern of behavior which is engaged in response to internal psychiatric distress.
- b. Dr. Maher noted that Mr. Arthurs has abrasions and callouses on his neck due to the choking.
- c. Dr. Maher further testified that this behavior cannot be re-directed without external force. When asked to stop, Mr. Arthurs could delay the impulse but ultimately cannot resist. Dr. Maher explained that it was similar to holding one's breath.

- d. Dr. Leon testified that this repetitive self-choking cannot be controlled. [00:55:00]. During her May evaluation, it occurred once every 5 to 6 minutes. In her December 2019 evaluation, it occurred once a minute. Medication sometimes help but it does not control it like a muscle spasm can be controlled. [00:58:00].
  - e. Dr. McClain testified that Mr. Arthurs is unable to refrain from doing so. A review of the jail records also reveal that the choking has resulted in difficulties swallowing and other issues with his throat. [01:48:00].
8. On the issue of malingering:
- a. Dr. Maher testified that Mr. Arthurs is “desperate and confused.” Even if Mr. Arthurs thinks he’s exaggeration his symptoms, those exaggerations still fall within a psychotic pattern. [00:27:00].
  - b. When asked if she believed if Mr. Arthurs was malingering, Dr. Leon responded with a firm: “absolutely not.” [01:01:00]. Dr. Leon further testified that she was aware that FSH evaluators thought he was malingering. Dr. Leon explained that she believed this was because “they only diagnosed him with a psychiatric disorder, there was no recognition of his autism spectrum disorder.” The Miller Forensic Assessment of Symptoms Test (“MFAST”) has to be interrupted through the lens of autism. [01:11:00]
  - c. Dr. McClain did not find Mr. Arthurs to be malingering. [01:59:00]. Multiple psychotic issues can elevate the results of the test that was used, but it does not necessarily mean he’s faking. [2:01:00].
9. In addition to addressing Mr. Arthur’s autism and self-injurious behaviors, Dr. Maher

testified to the following:

- a. Dr. Maher met with Mr. Arthurs on four occasions.
- b. It was Dr. Maher's conclusion that Mr. Arthurs was not competent. Moreover, Dr. Maher testified that he has always found Mr. Arthur's to be lacking capacity. [00:08:24].
- c. Dr. Maher diagnosed Mr. Arthurs with schizoaffective disorder. It is a complex diagnosis of autism, bipolar disorder, and schizophrenia.
- d. Dr. Maher further explained that these diagnoses are mutually compatible. None of these diagnoses necessarily contradict an alternative diagnosis. All of these include psychotic symptoms which put him out of reality.
- e. Dr. Maher noted that Mr. Arthurs very quickly becomes occupied with information that was unintelligible or irrelevant when asked an open-ended question. [00:10:30].
- f. Regarding Mr. Arthur's hallucination, Dr. Maher observed that Mr. Arthurs was distracted during the interview. Mr. Arthurs believed that he felt things, possibly smelled things, that were related to the shootings but believed they were happening right then and there in the interview room. [00:14:12]
- g. Regarding the statutory criteria, Dr. Maher does not believe that Mr. Arthurs has the ability to assist defense counsel or to testify relevantly. Specifically, Dr. Maher noted that Mr. Arthurs has some ability to listen to information and consider information but not in an adequate manner.
- h. Moreover, Mr. Arthurs has some suspicion that his attorneys may be working against him, and his understanding of the legal system is impaired. [00:18:00].

- i. Mr. Arthurs has the capacity to understand that he is charged with murder and that he might be incarcerated for a long time. However, Mr. Arthurs seems to believe that those penalties can be imposed on him for some reason other than committing a murder. As opposed to the punishments being part of the judicial process, he may believe that there are underlying forces operating in the background.
- j. During cross-examination, Dr. Maher explained that a person would not understand the nature of possible penalties if they believed that the devil was sentencing to FSP, even if they understood they were going to be sentenced for life. [00:33:00]

10. In addition to addressing Mr. Arthur's autism and self-injurious behaviors, Dr. McClain testified to the following:

- a. Dr. McClain met with Mr. Arthurs on four separate occasions.
- b. Dr. McClain diagnosed Mr. Arthurs with Autism Spectrum Disorder, Schizoaffective [Bipolar Type], and PTSD. [01:42:00].
- c. Mr. Arthurs communicates with the dead at night. This occurs while he is awake and Dr. McClain identified this as a psychotic behavior. [01:45:00].
- d. Regarding the statutory criteria, Dr. McClain does not believe his is able to testify relevantly or work with his defense counsel. His ability to communicate is marginal to unacceptable because he derails and talks about the victims and religion. [01:52:00].

11. In addition to addressing Mr. Arthur's autism and self-injurious behaviors, Dr. Leon testified to the following:



- a. Dr. Leon met with Mr. Arthurs on three occasions.
  - i. May 2019
  - ii. December 2019
- b. “On all three occasions, it is my opinion that he does not meet the criteria to be found competent. He is incompetent.” [00:45:00].
- c. Dr. Leon diagnosed Mr. Arthurs with both psychiatric mental illnesses and a neurodevelopmental disorder. Dr. Leon believes that his primary diagnosis is the neurodevelopmental disorder, and that it is this neurodevelopmental disorder that is responsible for his incompetency. [00:46:00].
- d. Regarding the statutory criteria, Dr. Leon stated that Mr. Arthurs does not have the ability to consult with his attorneys and that he does not have a rational understanding of the proceedings.
- e. Dr. Leon reached this conclusion because Mr. Arthurs does not have the ability to appreciate or consider facts and variables relevant to his charges, his possible penalties, or his defense strategy and without that ability, he cannot be found competent to proceed. [00:49:00].
- f. Dr. Leon testified that she does not believe that Mr. Arthurs understands plea negotiations. He can parrot the appropriate language but cannot explain it. [01:23:00].
- g. Mr. Arthurs is able to hold a back and forth conversation, and he understands how to answer most questions, but he does not grasp abstract understanding of concepts. [01:28:00].

12. During the course of his testimony, Dr. Patz acknowledged that his report could be

stale. [2:17:46] Dr. Patz had not seen Mr. Arthurs since May of 2018. Dr. Patz also acknowledged that it was possible for Mr. Arthurs to be incompetent.

13. At the conclusion of the competency hearing, Dr. Patz was re-appointed to evaluate Mr. Arthurs. In his report dated January 10, 2020, Dr. Patz opined that Mr. Arthurs was incompetent to proceed.

14. Dr. Slusarz testified that Mr. Arthurs was found to continue to be incompetent during his monthly evaluations at Florida State Hospital on:

- a. May 19, 2018;
- b. June 5, 2018;
- c. June 7, 2018;
- d. June 13, 2018;
- e. July 18, 2018;
- f. August 10, 2018;
- g. September 26, 2018;
- h. October 24, 2018;
- i. October 29, 2018;
- j. November 5, 2018.

15. During Dr. Slusarz testimony, the Court decided to bifurcate the hearing. The Defense was unable to finish questioning Dr. Slusarz.

16. Dr. Patz was re-appointed by the Court for an updated evaluation which was the basis for the “Motion to Disqualify” filed in this cause.

17. In that evaluation, Dr. Patz found Mr. Arthurs to be mentally ill, incompetent, and in need of hospitalization in a secure setting.

I HEREBY CERTIFY that a copy of the foregoing motion has been furnished to Ronald Gale via e-mail to [mailprocessingstaff@SAO13th.com](mailto:mailprocessingstaff@SAO13th.com), Assistant State Attorney, Office of the State Attorney of the Thirteenth Judicial Circuit, on this 25<sup>th</sup> day of February, 2020.

Respectfully submitted,  
LAW OFFICE OF JULIANNE M. HOLT  
PUBLIC DEFENDER

/s/ MIKE PEACOCK

Florida Bar # 0303682

peacockm@pd13.state.fl.us

/s/ ELIZABETH BEARDSLEY

Florida Bar # 0542199

beardsleye@pd13.state.fl.us

/s/ MARIA DUNKER

Florida Bar # 084891

dunkerm@pd13.state.fl.us

/s/ KELSEY GREENFIELD

Florida Bar #1010981

greenfieldk@pd13.state.fl.us

Post Office Box 172910

Tampa, Florida 33672-0910

(813) 272-5980

(813) 388-4267 (fax)

Attorneys for Devon Ryan Arthurs