

FILED

2009 AUG 26 AM 9:23

IN THE IOWA DISTRICT COURT FOR BUTLER COUNTY

CLERK OF DISTRICT COURT
BUTLER COUNTY, IOWA

STATE OF IOWA (99AG45000)

vs.

MARK DARYL BECKER,

Defendant.

NO. FECR 008809

RESPONSE TO APPLICATION TO

DETERMINE COMPETENCY

COMES NOW the State of Iowa and responds to the defendant's Application to Determine Competency and in support thereof states as follows:

1. The defendant is currently charged with Murder in the First Degree. Trial is scheduled to begin September 15, 2009 in Butler County District Court.
2. The defense filed an application with the Court requesting a finding of probable cause regarding the competency of the defendant. The defense relies on a report submitted to the defense by Dr. Dan Rogers who claims Becker is incompetent to stand trial.
3. Based upon the defendant's application alleging specific facts showing the defendant is suffering from a mental disorder that prevents the defendant from appreciating the charge, understanding the proceedings and assisting effectively in his defense, the Court must suspend proceedings to determine if probable cause exists. The defendant has the burden of establishing probable cause. Iowa Code Section 812.3(1).
4. Given the specific allegations made in the defendant's application, the State

has no resistance to the Court suspending proceedings to determine probable cause.

5. There is a strong presumption that a defendant is competent to stand trial. State v. Rieke, 542 N.W.2d 577, 580 (Iowa Ct.App.1995). As a general rule, a competency hearing is required if the record contains information from which a reasonable person would believe a substantial question of the defendant's competency exists. State v. Kempf, 382 N.W.2d 704, 706(Iowa 1979).

6. A hearing or further evidence is required to establish probable cause.

7. The State has had no opportunity to have the defendant evaluated by a separate psychiatrist.

8. Pursuant to Iowa Code Section 812.3(2) the State requests the Court authorize the State to obtain a separate psychiatric evaluation of the defendant. The State has made arrangements for the defendant to be evaluated by Dr. Michael Taylor, M.D. on Friday, August 28, 2009, at 10:00 a.m.

9. If the Court finds probable cause sustaining the allegations, a hearing to determine the defendant's competence to stand trial should be set. Iowa Code Section 812.4(1) and 812.5.

10. The State requests a hearing date on the issue of competency be set September 8 or 9, 2009.

WHEREFORE the State of Iowa requests the Court enter an appropriate order setting further proceedings in this case and issue an order to transport the defendant to the office of Dr. Michael Taylor for evaluation.

Respectfully Submitted,



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I certify that on August 26th, 2009, a copy of this document was mailed by first-class mail to each attorney listed above.

