

45517

STATE OF MINNESOTA  
IN SUPREME COURT

ORDER PROMULGATING  
AMENDMENTS TO THE RULES  
OF CRIMINAL PROCEDURE

Whereas, the Supreme Court Advisory Committee on the Rules of Criminal Procedure has recommended certain amendments to the Rules of Criminal Procedure, and

Whereas, the Supreme Court held a hearing on the recommended amendments on February 17, 1977, and if fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED, that the annexed forms and amendments to the Rules of Criminal Procedure be, and the same hereby are prescribed and promulgated for the regulation of practice and procedure in criminal matters in the courts of the State of Minnesota.

IT IS FURTHER ORDERED, that these amendments to the Rules of Criminal Procedure shall govern all criminal actions commenced or arrests made after 12 o'clock midnight June 30, 1977.

IT IS FURTHER ORDERED, that under authority of Minnesota Statutes, Section 480.16, all Judges and judicial officers of a county court may hold court pursuant to The Rules of Criminal Procedure for cases where the alleged offense occurred outside their county court district if a Judge or judicial officer of the county of the alleged offense is not readily available;

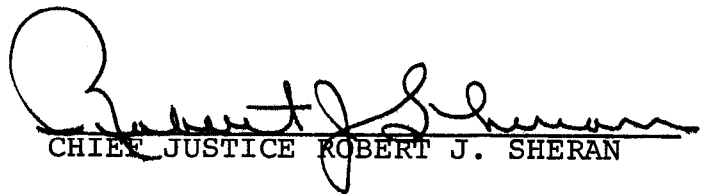
IT IS FURTHER ORDERED, that the orders of this court dated May 2, 1975 and May 13, 1976 are hereby rescinded.

IT IS FURTHER ORDERED, that the Advisory Committee continue to serve to monitor said rules and amendments and to hear and accept comments for further changes, to be submitted to the court from time to time.

At the present time the Court makes no change in the Rule establishing the order of final argument but reserves for further consideration the question of said procedure.

IT IS FURTHER ORDERED that true and correct copies of the Amendments to the Rules of Criminal Procedure be made available upon request to persons who have registered their names with the clerk of this Court for the purpose of receiving such copies and who have paid \$6.90 which is the specified fee to defray the expense of providing the copies.

BY THE COURT:

  
CHIEF JUSTICE ROBERT J. SHERAN

Dated: 3-31-77

AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

1. Rule 3.01 Issuance.

Amend the first sentence of the second paragraph to read:

"The warrant or summons shall be issued by such judge, judicial officer or justice of the peace as may be authorized by law to issue criminal process upon the offense charged in the complaint."

2. Rule 3.02, Subd. 2(3) Available Judge or Judicial Officer.

Amend the rule to read:

"(3) Available Judge or Judicial Officer.

If the county or municipal court specified in Rule 3.02, subd. 2(1) and (2) is not in session, that the defendant be brought before a judge or judicial officer of such court, without unnecessary delay, and in any event not later than 36 hours after the arrest exclusive of the day of arrest, or as soon thereafter as such judge or judicial officer is available."

3. Comments on Rule 3.02, Subd. 2(3).

Amend the comments by adding the following new paragraph just before the comment on Rule 3.02, subd. 3:

"In computing the 36-hour time limit in Rule 3.02, subd. 2(3), the

day of arrest is not to be counted. The 36 hours begins to run at midnight following the arrest. Also, Rule 34.01 expressly does not apply to Rule 3.02, subd. 2(3). Saturdays, Sundays, and legal holidays, therefore, are to be counted in computing the time limit under this rule."

4. Rule 4.02, Subd. 5(1) Before Whom and When.

Amend the second sentence of the rule as follows:

"He shall be brought before such judge or judicial officer without unnecessary delay, and in any event, not more than 36 hours after the arrest, exclusive of the day of arrest, Sundays, and legal holidays, or as soon thereafter as such judge or judicial officer is available."

5. Rule 4.02, Subd. 5(1) Before Whom and When.

Amend the last sentence to read:

"Provided, however, in misdemeanor cases, if the defendant is not brought before a judge or judicial officer within the 36-hour limit, he shall be released upon citation as provided in Rule 6.01, subd. 1."

6. Rule 4.02, Subd. 5(3) Complaint or Tab Charge; Misdemeanor.

Amend the third sentence from the end to read:

"A complaint is valid when it (1) complies with the requirements of Rule 2, and (2) the judge has determined from the complaint and any supporting affidavits or supplemental sworn testimony that there is probable cause to believe that an offense has been committed and that the defendant committed it."

7. Comments on Rule 4.02, Subd. 5(1).

Amend the second sentence of the sixth paragraph to read:

"So there is no requirement that the defendant be brought promptly before the appropriate court after his arrest if the court is in session, but it is necessary under Rule 4.02, subd. 5(1) that the defendant be brought before such court without 'unnecessary delay'.

(Compare Rule 3.02, subd. 2.) The 36-hour period does not include the day of arrest, Sundays, or legal holidays."

8. Comments on Rule 4.

Amend the first sentence of the eighth paragraph to read:

"Under Rule 5.01 a defendant must be advised of his right to demand a complaint."

9. Comments on Rule 4.02, Subd. 5(3).

Amend the fourth paragraph from the end to read:

"Where the tab charge has been dismissed for failure to file a valid, timely complaint as required, the prosecutor must file a valid complaint within the time specified by Rule 17.06, subd. 4(3) or any further prosecution is barred if so ordered by the court."

10. Rule 5.01 Statement to the Defendant.

Amend the rule to read:

"5.01 Statement to the Defendant.

---

When a defendant arrested with or without a warrant or served with a summons or citation appears initially before a judge or judicial officer, he shall be advised of the nature of the charge against him. If the defendant has not previously received a copy of the complaint, if any, and supporting affidavits and the transcription of any supplementary testimony, he shall be provided with copies thereof. Upon motion of the prosecuting authority, the court shall require that the defendant be booked, photographed, and fingerprinted. In cases of felonies and gross misdemeanors, the defendant shall not be called upon to plead.

The judge, judicial officer, or other duly authorized personnel shall advise the defendant substantially as follows:

- (a) That he is not required to say anything or submit to interrogation and that anything he says may be used against him in this or in any subsequent proceedings;
- (b) That he has a right to counsel in all subsequent proceedings, including police line-ups and interrogations, and if he

appears without counsel and is financially unable to afford counsel, that counsel will forthwith be appointed without cost to him if he is charged with an offense punishable upon conviction by incarceration;

- (c) That he has a right to communicate with his counsel and that a continuance will be granted if necessary to enable defendant to obtain or speak to counsel;
- (d) That he has a right to a jury trial or a trial to the court;
- (e) That if the offense is a misdemeanor, he may either plead guilty or not guilty, or demand a complaint prior to entering a plea.

The judge, judicial officer, or other duly authorized personnel may advise a number of defendants at once of these rights, but each defendant shall be asked individually before he is arraigned whether he heard and understood these rights as explained earlier."

11. Rule 5.02, Subd. 2 Misdemeanors.

Amend the last sentence of the rule to read:

"Provided that for misdemeanor offenses not punishable upon conviction by incarceration, the court may appoint an attorney for a defendant financially unable to afford counsel when requested by the defendant or interested counsel or when such appointment appears advisable to the Court in the interests of justice to the parties."

12. Comments on Rule 5.02, Subd. 2.

Amend the first sentence of the tenth paragraph of the comments to read:

"For misdemeanors not punishable by incarceration, the court may, upon request of the defendant or interested counsel or upon the court's own motion when in the interests of justice to the parties, appoint an attorney to represent the defendant."

13. Rule 5.03 Date of Appearance in District Court.

Amend the first paragraph of the rule to read:

"If the defendant is charged with a felony or gross misdemeanor, the judge or judicial officer shall set a date for and order the appearance of the defendant before the district court having jurisdiction to try the offense charged in accordance with a schedule or other directive established by order of the district court, which appearance date shall be not later than fourteen (14) days after defendant's initial appearance before such judge or judicial officer."

14. Rule 5.04, Subd. 1 Entry of Plea.

Amend the rule to read:

"When a valid complaint has been made and filed, or a brief statement entered on the record as authorized under Rule 4.02, subd. 5(3), the defendant shall be called upon to plead or be given time to plead. The arraignment shall be conducted in open court. A defendant may appear by counsel and a corporation shall appear by counsel or by a duly authorized officer."

15. Rule 5.08 First Appearance in District Court.

Amend the rules by adding a new rule as follows:

"Rule 5.08 First Appearance in District Court.

Notwithstanding any rule to the contrary, in felony and gross misdemeanor cases, if it has been mutually agreed between the district court and the county court or if ordered by the Supreme Court, or if a judge or judicial officer of the county court is not available, the first appearance in court of defendants pursuant to Rule 5 may be held before a judge of district court."

16. Comment on Rule 5.03.

Amend the second paragraph explaining the rule to read:

"The date fixed by the county court judge or judicial officer or municipal court judge (Rule 5.03) for the defendant's first appearance before the district court under Rule 8 shall be not more than 14 days after the defendant's initial appearance (Rule 5),

but the district court may extend the time for good cause (Rule 5.03). The county court judge or judicial officer or municipal court judge shall set the date in accordance with a time schedule or other order or directive previously furnished or made by the district court (Rule 5.03)."

17. Comments on Rule 5.

To conform the time table in the second paragraph from the end substitute "14 days" for "10 days" in number 3 and substitute "28 days" for "24" days in number 7.

18. Comments on Rule 5.08.

Amend the comments by adding the following paragraph at the end: "To provide flexibility in scheduling and thereby to assist the courts in meeting the time limits for the first appearance, Rule 5.08, under certain conditions, permits the first appearance to be held in district court rather than in county court. In such cases, the 36-hour time limit prescribed by Rules 3.02, subd. 2(3), and 4.02, subd. 5(1), for warrant and warrantless arrests, respectively, still govern as do all the other procedural rules that would apply if the appearance were in county court."

19. Comment on Rule 6.03, Subd. 3.

Amend the seventh paragraph from the end of the comments to read: "Rule 6.03 prescribes the procedures to be followed upon violation of conditions of release. The rule is substantially in accord with the ABA Standards, Pre-Trial Release, 5.6, 5.7, 5.8 (Approved Draft, 1968), except that by Rule 6.03, subd. 3, the court is not authorized to revoke the defendant's release without setting bail because such action is not permitted under Minn. Const. Art. 1, § 5. The Court must continue or revise the release conditions, governed by the considerations set forth in Rules 6.02, subd. 1 and 2. Under those rules, the court may increase the defendant's bail. If the defendant is unable to post the increased bail or to



meet alternative conditions of release, he may be kept in custody. Also, Rule 6.03 requires the issuance of a summons rather than a warrant and the issuance of a citation rather than an arrest under the same circumstances upon which they would be required under Rules 3.01 and 6.01, respectively. Rule 6.03, subd. 3 requires only an informal hearing and does not require a showing of willful default, but leaves it to the discretion of the court to determine under all of the circumstances whether to continue or revise the conditions of possible release."

20. Comment on Rule 6.03, Subd. 4.

Amend the second sentence in the fourth paragraph from the end to read:

"The rule provides for a review of release conditions when the defendant has been subsequently charged by complaint or indictment with a crime (other than that upon which he was initially released)."

21. Rule 7.01 Notice of Evidence and Identification Procedures.

"In any case where a jury trial is to be held, when the prosecution has (1) any evidence against the defendant obtained as a result of a search, search and seizure, wiretapping, or any form of electronic or mechanical eavesdropping; (2) any confessions, admissions or statements in the nature of confessions made by the defendant; (3) any evidence against the defendant discovered as a result of confessions, admissions or statements in the nature of confessions made by the defendant; or (4) when in the investigation of the case against the defendant, any identification procedures were followed, including but not limited to lineups or other observations of the defendant and the exhibition of photographs of the defendant or of any other persons, the prosecuting attorney shall notify the defendant or his counsel of such evidence and identification procedures. In felony and gross misdemeanor cases notice shall be given in writing on or before the date set for the defendant's initial appearance in the district court as pro-

vided by Rule 5.02. In misdemeanor cases, notice shall be given either in writing or orally on the record in court on or before the date set for the defendant's pretrial conference if one is scheduled or seven (7) days before trial if no pretrial conference is to be held.

Such written notice may be given either personally or by ordinary mail to the defendant's or his counsel's last known residential or business address or by leaving it at such address with a person of suitable age and discretion then residing or working there."

22. Rule 7.02 Notice of Additional Offenses.

Amend the rule to read:

"The prosecuting attorney shall notify the defendant or his counsel in writing of any additional offenses, the evidence of which may be offered at the trial under any exceptions to the general exclusionary rule. In cases of felonies and gross misdemeanors, the notice shall be given at the Omnibus Hearing under Rule 11 or as soon thereafter as the offenses become known to the prosecuting attorney. In misdemeanor cases, the notice shall be given at or before the pretrial conference under Rule 12 if held or as soon thereafter as the offense becomes known to the prosecuting attorney. If no pretrial conference is held, then the notice shall be given at least seven (7) days before trial or as soon thereafter as known to the prosecuting attorney. Such additional offenses shall be described with sufficient particularity to enable the defendant to prepare for trial. The notice need not include offenses for which he has been previously prosecuted or those that may be offered in rebuttal of the defendant's character witnesses or as a part of the occurrence or episode out of which the offense charged against defendant arose.

23. Comment on Rule 7.01.

Amend the third paragraph of the comments to read:

"The notice required by Rule 7.01 must be in writing in felony and

gross misdemeanor cases and may be either in writing or oral on the record in misdemeanor cases. Any written notice may be delivered either personally or by ordinary mail to the defendant's or his counsel's last known residential or business address or by leaving it at such address with a person of suitable age and discretion then residing or working there. If the notice is not actually received, the court may grant a continuance to prevent any prejudice due to surprise."

24. Rule 8.01 Arraignment.

Amend the rule to read:

"RULE 8 DEFENDANT'S INITIAL APPEARANCE BEFORE THE DISTRICT COURT FOLLOWING THE COMPLAINT IN FELONY AND GROSS MISDEMEANOR CASES.

The defendant's initial appearance under this rule shall be held in the district court of the judicial district where the alleged offense was committed. If it has been mutually agreed between the district court and the county court, or if ordered by the Supreme Court, the appearance may be referred to the county court of the county where the alleged offense was committed. Except as otherwise provided by Rule 8.02, the procedures upon an initial appearance in county court shall be the same as in district court. At a defendant's initial appearance before the court following the complaint, the procedure shall be as follows:"

25. Rule 8.02 Plea of Guilty.

Amend this rule to read:

"At an initial appearance in county court, the defendant may not enter a plea of guilty to a felony or gross misdemeanor, but may enter a plea of guilty to a misdemeanor in lieu of the offenses charged in the complaint unless the prosecuting attorney objects. If, at an initial appearance in county court, the defendant requests permission to enter a guilty plea to a felony or gross misdemeanor, the judge or judicial officer shall set a time for the defendant's

appearance in district court at the earliest available date, which appearance date, in any event, shall be not later than fourteen (14) days after the initial appearance. If he enters a plea of guilty, the pre-sentencing and sentencing procedures provided by these rules shall be followed."

26. Comments on Rule 8.

Substitute "14 days" for "10 days" in the first sentence of the comments.

27. Comments on Rule 9.

Substitute "28 days" for "24 days" in the second paragraph of the comments.

28. Comments on Rule 9.02, Subd. 1(3)(a). Notice of Defense.

Amend the comments by adding the following paragraph just before the comment on Rule 9.02, subd. 1(3)(d):

"In addition to Rule 9.02, subd. 1(3)(a), case law may establish notice requirements with which a defendant must comply in order to raise certain defenses. In State v. Grilli, \_\_\_ Minn. \_\_\_, 230 N. W. 2d 445 (1975), the Court established the requirement that a defendant raising the defense of entrapment must notify the trial court and the prosecutor of the basis for the defense in reasonable detail and whether he elects to have the issue of entrapment tried to the court or to a jury."

29. Rule 10.02 . Motions Attacking Jurisdiction of the Court in Misdemeanor Cases.

Amend the second sentence of this rule to read:

"Such notice shall be given no more than seven (7) days after entry of the not guilty plea or any challenge to the personal jurisdiction of the Court is waived unless the court for good cause shown grants relief from the waiver."

30. Rule 10.04, Subd. 1 Service.

Amend the second paragraph of the rule to read:

"In misdemeanor cases, except as otherwise permitted by Rule 10.04, subd. 2, motions shall be made in writing and along with any supporting affidavits shall be served upon opposing counsel at least three (3) days before they are to be heard and no more than thirty (30) days after the arraignment unless the court for good cause shown permits the motion to be made and served at a later time."

31. Comments on Rules 10.02 and 10.04, Subd. 1.

Amend the seventh paragraph to read:

"To initiate the challenge to the court's personal jurisdiction, notice must be given that a motion to dismiss for want of personal jurisdiction will be made. This notice must be given no more than 7 days after entry of the not guilty plea or the challenge is waived unless the court for good cause shown grants relief from the waiver. The notice may be given either orally in court or in writing directly to the prosecution. The challenge then proceeds as in any other motion to dismiss under Rule 10.04. Therefore, under Rule 10.04, subd. 1, a written motion together with any necessary affidavits must be served at least three days before the motion is to be heard and no more than 30 days after the arraignment. Under Rule 10.04, subd. 2 if a pretrial is held, the motion is normally heard there based on affidavits if available. If it is necessary to hear testimony on the matter, or for other good cause, the motion need not be heard at the pretrial. If the motion is not heard at the pretrial it will be heard immediately prior to trial when any necessary witnesses will most likely be present."

32. Rule 11.08, Subd. 1 Reporter.

Amend this rule to read:

"Subd. 1 Recording. The proceedings shall be on the record."

33. Comments on Rule 11.05.

Amend the comment on Rule 11.05 to read:

"By Rule 11.05 the complaint may be amended at the Omnibus Hearing as provided by Rule 17.05. (See also Rules 3.04, subd. 2; 17.06, subd. 4.)"

34. Comments on Rule 11.08, Subd. 1.

Amend the comment on this rule to read:

"Rule 11.08, subd. 1, requires that a record of the Omnibus Hearing shall be made, and Rule 11.08, subd. 2 prescribes the circumstances in which a transcript may be furnished to the parties."

35. Comments on Rule 13.

Amend the second sentence of the first paragraph by substituting "14 days" for "10 days".

36. Rule 14 Pleas.

Add a new Rule 14.03, as follows:

"Rule 14.03 Time of Plea.

At any time during the proceedings, except as provided by Rule 8.01, a defendant may appear before the court to enter a plea of guilty to the offense charged or to some other offense pursuant to a plea agreement reached under Rule 15.04. To schedule such an appearance, the defendant shall file a written request with the clerk of court indicating the offense to which he wishes to plead guilty. Upon receiving such a request, the clerk shall schedule an appearance before the court at the earliest available date, which date, in any event, shall be not later than fourteen days after the filing of the request. The clerk shall then notify the defendant and the prosecuting attorney of the time and place of such court appearance."

37. Rule 15.08 Plea to Different Offense.

Amend the first sentence to read:

"With the consent of the prosecuting attorney and the defendant, the defendant may enter a plea of guilty to a different offense than that charged in the original tab charge, indictment, or complaint."

38. Rule 16 District Court Misdemeanor Jurisdiction.

Amend Rule 16 to read:

"The district court shall try any misdemeanor offense prosecuted by indictment or which is joined with a felony or a gross misdemeanor prosecution pursuant to Minn. Stat. § 609.035. Any such prosecutions shall be governed by these rules. In misdemeanor cases prosecuted by indictment, to the extent that Rule 19 conflicts with other rules, Rule 19 shall govern."

39. Rule 17.06, Subd. 4(3) Dismissal for Curable Defect.

Amend Rule 17.06, subd. 4(3) by adding the following sentence at the end:

"In misdemeanor cases dismissed for failure to file a timely complaint with the thirty (30) day time limit pursuant to Rule 4.02, subd. 5(3), further prosecution shall not be barred unless additionally a judge or judicial officer of the county court has so ordered.

40. Comments on Rule 17.06, Subd. 4(3).

Amend the last paragraph of the comments to read:

"During the time for such a motion and during any continuance, dismissal of the charge is stayed, but in a misdemeanor case, the defendant may not be kept in custody based on that charge. If the defendant cannot post bail in a misdemeanor case, he must be released subject to such non-monetary conditions as the court deems appropriate under Rule 6.02, subd. 1. If no motion is made or if no new or amended complaint or indictment is filed within

the times allowed, the defendant must be discharged and any further prosecution is barred unless the prosecution has appealed or unless the murder case exception applies. However, in misdemeanor cases dismissed for failure to file a timely complaint within thirty (30) days pursuant to Rule 4.02, subd. 5(3), further prosecution is not automatically barred, but is barred only if so ordered by the court. If a misdemeanor case is dismissed for failure to issue a complaint, but the 30-day time limit established by Rule 4.02, subd. 5(3), has not yet run, the prosecutor may still issue the complaint within that 30-day time limit even without bringing a motion under Rule 17.06, subd. 4(3). The court is not authorized under Rule 17.06, subd. 4(3), to bar further prosecution before the 30-day time limit has run. Before this time limit has run, however, the court may order that further prosecution shall be barred if a valid complaint is not issued within the 30-day time limit. If no complaint is then issued within the 30 days, prosecution is barred without the necessity of further motions, court appearances, or orders. Rule 17.06, subd. 4(3), does not govern dismissals for defects that could not be cured at the time of dismissal by a new or amended complaint or indictment. Therefore, when a complaint or indictment has been dismissed because of insufficient evidence to establish probable cause, the prosecutor may re-prosecute if further evidence is later discovered to establish probable cause. The prosecutor may not reinstitute the charge by a tab charge under Rule 4.02, subd. 5(3) even for a misdemeanor. Also under Rule 4.02, subd. 5(3), even if prosecution is reinstated within the specified period after having been dismissed for failure to file a timely complaint, a summons rather than a warrant must be issued to secure the appearance of the defendant in court."

41. Rule 18.06, Subd. 1 Admissibility of Evidence.

Amend the rule to read:



"Subd. 1 Admissibility of Evidence.

"An indictment shall be based on evidence that would be admissible at trial, with the following exceptions:

(1) . . ."

42. Rule 20.01, Subd. 2 Proceedings.

Amend this rule to read:

"Subd. 2 Proceedings.

If during the pending proceedings, the court in which a criminal case is pending determines upon motion of the prosecuting attorney, defense counsel, or on its own motion that there is reason to doubt the defendant's competency as defined by this rule, the court shall suspend the criminal proceedings and shall proceed as follows:

(1) . . ."

43. Rule 20.01, Subd. 5 Continuing Supervision of the Court.

Amend the title to read:

"Continuing Supervision by the Court in Felony and Gross Misdemeanor Cases."

44. Rule 20.02, Subd. 1 Authority of Court to Order Examination.

Amend the rule to read:

"Subd. 1 Authority of Court to Order Examination.

The court having trial jurisdiction over the offense charged may order a mental examination of the defendant when the defense has notified the prosecuting attorney pursuant to Rule 9.02, subd. 1(3)(a) of an intention to assert a defense of mental illness or deficiency, when the defendant in a misdemeanor case pleads not guilty by reason of mental illness or mental deficiency, or when at the trial of the case, the defendant offers evidence of such mental condition."

45. Rule 20.02, Subd. 6(1) Notice by Defendant of Sole Defense of Mental Condition.

Amend this rule to read:

"(1) Notice by Defendant of Sole Defense of Mental Condition.

If a defendant notifies the prosecuting attorney under Rule 9.02, subd. 1(3)(a) of his intention to rely solely on the defense of mental illness or deficiency or if the defendant in a misdemeanor case relies solely on the plea of not guilty by reason of mental illness or mental deficiency pursuant to Rule 14.01(c), statements made by the defendant for the purpose of the mental examination and evidence obtained as a result of the statements shall be admissible at the trial upon that issue."

46. Rule 20.02, Subd. 6(2) Defendant's Election.

Amend this rule to read:

"(2) Defendant's Election.

If a defendant notifies the prosecuting attorney under Rule 9.02, subd. 1(3)(a) of his intention to rely on the defense of mental illness or mental deficiency together with a defense of not guilty, or if the defendant in a misdemeanor case pleads both not guilty and not guilty by reason of mental illness or mental deficiency the defendant shall elect:

(1) Whether there shall be a separation of the two defenses with a sequential order of proof before the court or jury in a continuous trial in which the defense of not guilty shall be heard and determined first, and then the defense of the defendant's mental illness or deficiency;

or

(2) Whether the two defenses shall be tried and submitted together to the court or jury.

In felony and gross misdemeanor cases, the defendant's election shall be made at the Omnibus Hearing under Rule 11. In misdemeanor

cases, the defendant's election shall be made at the pretrial conference under Rule 12 if held and otherwise shall be made immediately prior to trial."

47. Comments on Rule 20.02, Subd. 1.

Amend the first two sentences of the twenty-second paragraph to read:

"By Rule 20.02, subd. 1 an order for compulsory mental examination is triggered by a defense notice under Rule 9.02, subd. 1(3)(a) of an intention to rely on the defense of mental illness or mental deficiency, by the defendant in a misdemeanor case pleading not guilty by reason of mental illness or mental deficiency, or when the defendant offers evidence of mental illness or mental deficiency at trial. Under Rule 9.02, subd. 1(3)(a), in felony and gross misdemeanor cases, if he also intends to rely on the defense of not guilty of the elements of the offense charged he must at the same time so notify the prosecution."

48. Comments on Rule 21.06.

Amend the comments by adding the following new paragraph after the twelfth paragraph:

"Rule 21.06 establishes the circumstances under which a deposition can be used during a trial or hearing if a deposition exists. The right to obtain a deposition from a prospective witness, however, is governed by Rule 21.01 and under that rule a deposition can be ordered by the court only if there is a reasonable probability that the prospective witness will be unavailable for the trial or hearing for any of the reasons specified in subdivision 1 of Rule 21.06."

49. Rule 23.03, Subd. 3 Written Plea of Guilty.

Amend the rule to read:

"Subd. 3 Fine Payment.

A defendant shall be advised in writing before paying a fine

to a violations bureau that such a payment constitutes a plea of guilty to the misdemeanor designated and an admission that he understands that he has the rights which he voluntarily waives:

- a. to a trial to the court or to a jury;
- b. to be represented by counsel;
- c. to be presumed innocent until proven guilty beyond a reasonable doubt;
- d. to confront and cross-examine all witnesses against him; and
- e. to either remain silent or to testify in his own behalf.

50. Comments on Rule 23.

Amend the comments by adding the following new paragraph after the present second paragraph:

"These rules do not specify any procedures or sanctions for enforcing payment of fines in petty misdemeanor cases. Existing law, however, does permit some enforcement methods. The court may delay acceptance of a plea agreement until the defendant has the money to pay the agreed fine. If a defendant is unable to pay a fine when imposed, the court may set a date by which the defendant must either pay the fine or reappear in court. If the fine is not paid by the date set and the defendant does not reappear as ordered to explain why it has not been paid, the court may issue a bench warrant for the defendant's arrest and set bail in the amount of the fine. Any bail collected could then be used under Minn. Stat. § 629.53 to pay the fine. Contempt procedures under Minn. Stat. Ch. 588 can also be used to enforce payment of a fine when the defendant has willfully refused payment. The prosecuting attorney may refuse to reduce an offense to a petty misdemeanor if the defendant has failed to pay any past fines. The possibility of an administrative sanction exists if the defendant has failed to pay a fine imposed upon conviction of violating a law regulating

the operation or parking of motor vehicles. In such cases, the commissioner of public safety is required under Minn. Stat. § 171.16, subd. 3, to suspend the defendant's license for 30 days or until the fine is paid if the court determines that the defendant has the ability to pay the unpaid fine. Similar sanctions for non-traffic offenses might prove effective, but would require legislative action."

51. Comments on Rule 23.02, Subd. 3.

Amend the seventh and eighth paragraphs of the comments to read: "Rule 23.03, subd. 3 provides that a defendant must be advised in writing that payment of a fine through a violations bureau constitutes a plea of guilty to the designated offense and an admission that the defendant understands and waives those rights specified in the rule.

The written advice required by Rule 23.03, subd. 3 could be included upon the citation issued for the offense. This citation could be set forth in the form of an envelope for mailing the fine to the bureau. In such suitable form, the fine schedule should be included to advise the defendant of the fine for the particular offense with which he is charged. This rule does not require a defendant to sign a written plea of guilty."

52. Rule 23.05, Subd. 2 Right to Appointed Counsel

Amend the rule to read:

"Right to Appointed Counsel. If a defendant is financially unable to afford counsel, the Court shall, unless waived, appoint counsel to represent him if he is charged with a misdemeanor which by operation of Rule 23.04 is to be treated as a petty misdemeanor and which also involves moral turpitude."

53. Rule 23.05, Subd. 2.

The last two sentences of the fifth paragraph from the end of the comments on Rule 23 are amended to read:

"Also, under Rule 23.05, subd. 2, the defendant financially unable to afford counsel will not automatically have counsel appointed on request as he would otherwise be entitled to under Rule 5.02 unless the certified petty misdemeanor involves moral turpitude. See also Rule 5.02 as to the appointment of counsel upon request of the defendant or interested counsel or upon the court's own motion when the prosecution is for a misdemeanor not punishable by incarceration and moral turpitude is not involved."

54. Rule 24.02, Subd. 10 Fair Campaign Practices.

Amend the rule to read:

"Subd. 10 Fair Campaign Practices.

Violations of Minn. Stat. § 210A.34 (1975) prohibiting corporate contributions to political campaigns may be prosecuted and tried in the county where such payment or contribution is made or services rendered or in any county wherein such money has been paid or distributed."

55. Comments on Rule 24.02, Subd. 10.

Amend the comment on that rule to read:

"Rule 24.02, subd. 10 (Fair Campaign Practices) from Minn. Stat. §§ 210A.34, 210A.36 (1975);"

56. Rule 26.01, Subd. 2 Trial Without a Jury.

Amend this rule to read:

"Subd. 2 Trial Without a Jury.

In a case tried without a jury, the court, within 7 days after the completion of the trial, shall make a general finding of guilty, not guilty, or if such pleas have been made, a general finding of not guilty by reason of mental illness or mental deficiency, double jeopardy, or that prosecution is barred by Minn. Stat. § 609.035 (1971), if appropriate. The court, within 7 days after the general finding in felony and gross misdemeanor case, shall in addition specifically find the essential facts in

writing on the record. In misdemeanor and petty misdemeanor cases, such findings shall be made within 7 days after the filing of the notice of appeal. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear therein. If the court omits a finding on any issue of fact essential to sustain the general finding, it shall be deemed to have made a finding consistent with the general finding."

57. Rule 26.03, Subd. 1(3) Presence Not Required.

Amend the rule to read:

"(3) Presence Not Required.

A defendant need not be present in the following situations:

1. a corporation may appear by counsel for all purposes;
2. in the case of felonies and gross misdemeanors, on defendant's motion, the court may excuse the defendant from attendance at any proceeding except arraignment, plea, trial, and imposition of sentence; and
3. in prosecutions for misdemeanors, the court shall permit arraignment and plea in the defendant's absence if the court is satisfied that the defendant has knowingly and voluntarily waived his right to be present. The court with the written consent of the defendant, or his oral consent in open court, may permit trial, and imposition of sentence in the defendant's absence."

58. Rule 26.03, Subd. 17(1) Motion Before Submission to Jury.

Amend this rule to read:

"(1) Motions Before Submission to Jury.

Motions for directed verdict are abolished and motions for judgment of acquittal shall be used in their place. After the evidence on either side is closed, the court on motion of a defendant or on its own motion shall order the entry of a judgment of acquittal of one or more offenses charged in the tab charge,

indictment or complaint if the evidence is insufficient to sustain a conviction of such offense or offenses."

59. Rule 27.03, subd. 3.

Amend the rule to read:

"Subd. 3. Statements at Time of Sentencing.

Before pronouncing sentence, the Court shall give the prosecutor and defense counsel an opportunity to make a statement with respect to any matter relevant to the question of sentence including a recommendation as to sentence only if requested by the court. The Court shall also address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information before sentence. The Court shall not accept any communication relative to sentencing that is not on the record without disclosing the contents to the defense and to the prosecution."

60. Rule 28.07, Subd. 3 District Court Panel.

Amend the rule to read:

"Subd. 3 District Court Panel.

An appeal on the record shall be heard and determined by one or more district court judges as determined by the chief judge of the district court or by court rule."

61. Rule 28.08, Subd. 3(1) Stay.

Amend the rule to read:

"(1) Stay.

Upon oral notice that the prosecuting authority intends to appeal to the district court, the county court shall order a stay of proceedings of five days to allow time to perfect the appeal."

62. Rule 29.03, Subd. 2(2)(b) Contents of Petition; Time for Filing Petition.

Amend part "(i)" of this rule to read:



"(i) following the district court's decision of an appeal on the record, within ten (10) days after service of notice upon the prosecuting authority that the decision of the district court has been filed as required by Rule 28.02, subd. 5;"

63. Rule 30.01 By Prosecuting Attorney.

Amend this rule to read:

"30.01 By Prosecuting Attorney.

The prosecuting attorney may in writing or on the record, stating the reasons therefore, including the satisfactory completion of a pretrial diversion program, dismiss a complaint or tab charge without leave of court and an indictment with leave of court. In felony and gross misdemeanor cases, if the dismissal is on the record, it shall be transcribed and filed."

64. Rule 34.01 Computation.

Amend this rule to read:

"34.01 Computation.

Except as provided by Rules 3.02, subd. 2(3), 4.02, subd. 5(1), and 4.02, subd. 5(3), time shall be computed as follows:

. . ."

65. Rule 34.02 Enlargement.

Amend this rule to read:

"34.02 Enlargement.

When an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done if the failure to act was the result of excusable neglect; but the court may not extend the time for taking any action under Rules 26.03, subd. 17(3); 26.04,

subd. 1(3); or 26.04, subd. 2, or except as provided by Rules 29.02, subd. 5(3), 29.02, subd. 6(4), and 28.05, subd. 1, the time for taking an appeal."

66. Comments on Rule 34.02.

Amend the last sentence of the second paragraph of the comments to read:

"Extention of time for taking an appeal may not be enlarged except as provided by Rule 29.02, subd. 5(3), Rule 29.02, subd. 6(4), and Rule 28.05, subd. 1."

67. Forms.

Amend the Appendix of Forms; Felonies and Gross Misdemeanors Forms by adding the following forms:

1.36 District Court. Findings of Fact, and Order Including Petition for Judicial Commitment of Defendant Found Not Guilty by Reason of Mental Illness or Mental Deficiency, Pursuant to Rule 20.02, subd. 8.

1.37 District Court. Findings of Fact and Order Including Petition for Judicial Commitment of a Defendant Found Incompetent to Proceed to Trial, Pursuant to Rule 20.01, subs. 4 and 5.

1.38 District Court. Findings of Fact; Order Including Petition for Judicial Commitment; Order for Mental Examination to Determine:

- 1) Defendant's Competency to Proceed with Criminal Case.
- 2) Mental Illness or Deficiency at Time of Commission of the Offense, Pursuant to Rule 20.01 and 20.02.

1.39 District Court. Findings of Fact and Order for Judicial Commitment of Defendant Found Incompetent to Proceed with Criminal Case, Pursuant to Rule 20.01.

68. Amend the Appendix of Forms; Misdemeanor Forms as follows:

Delete misdemeanor form number 2.16.

Add 2.34 County or Municipal Court. Findings of Fact and Order Including Petition for Judicial Commitment, Pursuant to Rule 20.01.

STATE OF MINNESOTA \_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

-----  
State of Minnesota,

Plaintiff,

vs.

\_\_\_\_\_ ,

Defendant.

FINDINGS OF FACT, AND ORDER  
INCLUDING PETITION FOR JUDICIAL  
COMMITMENT OF DEFENDANT  
FOUND NOT GUILTY BY REASON OF  
MENTAL ILLNESS OR MENTAL  
DEFICIENCY

-----  
This matter came on for hearing before the Court, the Honorable  
\_\_\_\_\_, District Judge presiding.  
\_\_\_\_\_, Assistant County Attorney,  
appeared for the State. The defendant appeared in person and was represented  
by Attorney \_\_\_\_\_.

This Court finds that based on all the files, records, and proceedings  
in this case: The defendant has been found not guilty by reason of mental  
illness or mental deficiency; there is reason to believe that the defendant  
may be mentally ill or mentally deficient and that proceedings should be  
commenced under the Minnesota Hospitalization and Commitment Act.

Pursuant to the Minnesota Hospitalization and Commitment Act, this

Court represents that:

1) Defendant was born \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_.

2) Defendant resides at \_\_\_\_\_, Minnesota.

3) Defendant's spouse and nearest kindred are:

(Name)	(Relationship)	(Age)	(Address)
--------	----------------	-------	-----------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Defendant (is) (is not) a Veteran.

5) Defendant is believed to be (mentally ill) (mentally deficient) because \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6) Defendant is further believed to be (mentally ill) (mentally deficient) as evidenced by the physician's statement furnished herewith:

7) The Court has been unable to procure a physicians statement because \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8) Defendant is presently at \_\_\_\_\_

\_\_\_\_\_

9) Defendant was last committed to the State Hospital at \_\_\_\_\_, Minnesota, by the \_\_\_\_\_ County Probate Court on or about \_\_\_\_\_, 19 \_\_\_\_\_, and has received psychiatric treatment at the following hospitals:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10) Defendant has been under the care of Dr. \_\_\_\_\_ whose office address is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

This Court orders that:

- a) The prosecuting attorney shall immediately:
  - 1) Deliver a copy of this findings of fact, and order including petition for judicial commitment to the county welfare department.
  - 2) File this findings of fact, and order including petition for judicial commitment in the probate court.
  - 3) Request the probate court to immediately issue such orders as may be necessary to provide for the examination of the proposed patient.
  - 4) Cause to be delivered to the sheriff any order of the probate court directing the sheriff to transport the proposed patient to a designated hospital or other place for the purpose of an examination prior to the hearing on the petition for judicial commitment.
- b) The sheriff shall immediately transport the proposed patient to a designated hospital or other place as directed by any order of the probate court.
- c) The county attorney shall appear and represent the petitioner at the commitment hearing.
- d) These proceedings are suspended pending the commitment determination.
- e) Subject to any further order of this court, these proceedings are continued until this court is notified of any proposed termination of any civil commitment resulting herefrom, and a hearing is held in this court pursuant to Rule 20.02 Subd. 8(4) of the Minnesota Rules of Criminal Procedure.

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Court Judge

STATE OF MINNESOTA

\_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

-----

State of Minnesota,

Plaintiff,

vs.

FINDINGS OF FACT, AND ORDER  
INCLUDING PETITION FOR JUDICIAL  
COMMITMENT OF DEFENDANT FOUND  
INCOMPETENT TO PROCEED WITH  
CRIMINAL CASE

\_\_\_\_\_,

Defendant.

-----

This matter came on for hearing before the Court, the Honorable

\_\_\_\_\_, District Judge Presiding.

\_\_\_\_\_, Assistant County Attorney,

appeared for the State. The defendant appeared in person and was represented

by Attorney \_\_\_\_\_.

This Court finds that, based on all the files, records, and proceedings in this case: The defendant is mentally ill or mentally deficient so as to be incapable of understanding the proceedings against him or participating in his defense; there is reason to believe the defendant may be mentally ill or deficient and that proceedings should be commenced under the Minnesota Hospitalization and Commitment Act.

Pursuant to the Minnesota Hospitalization and Commitment Act,

this Court represents that:

1) Defendant was born \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_.

2) Defendant resides at \_\_\_\_\_, Minnesota.

3) Defendant's spouse and nearest kindred are:

(Name)	(Relationship)	(Age)	(Address)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Defendant (is) (is not) a Veteran.

5) Defendant is believed to be (mentally ill)(mentally deficient) because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6) Defendant is further believed to be (mentally ill), (mentally deficient), as evidenced by the physician's statement furnished herewith:

7) The Court has been unable to procure a physicians statement because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8) Defendant is presently at \_\_\_\_\_

\_\_\_\_\_

9) Defendant was last committed to the State Hospital at \_\_\_\_\_, Minnesota by the \_\_\_\_\_ County Probate Court on or about \_\_\_\_\_, 19 \_\_\_\_\_, and has received psychiatric treatment at the following hospitals:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10) Defendant has been under the care of Dr. \_\_\_\_\_ whose office address is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

This Court orders that:

- a) The prosecuting attorney shall immediately:
  - 1) Deliver a copy of this findings of fact, and order including petition for judicial commitment to the county welfare department.
  - 2) File this findings of fact, and order including petition for judicial commitment in the probate court.
  - 3) Request the probate court to immediately issue the orders necessary to provide for the examination of the proposed patient. These orders shall include the appointment of two examiners at least one of whom shall be a licensed physician. At least one of these examiners shall also be a qualified psychiatrist or clinical psychologist or physician experienced in the field of mental illness.
  - 4) Cause to be delivered to the sheriff any order of the probate court directing the sheriff to transport the proposed patient to a designated hospital or other place for the purpose of an examination prior to the hearing on the petition for judicial commitment.
- b) The sheriff shall immediately transport the proposed patient to a designated hospital or other place as directed by any order of the probate court.
- c) The prosecuting attorney shall appear and represent the petitioner at the commitment hearing.
- d) These criminal proceedings are continued pending the commitment and other determinations.
- e) If Defendant is committed, the head of the institution or designated place to which the defendant is committed shall review the mental condition of the defendant within 60 days from the date of the commitment order and report in writing to this District Court on the defendant's mental condition with an opinion as to the defendant's competency to proceed with the criminal case, and as to the need of the defendant for further institutional care and treatment. Thereafter, if the commitment is continued, the head of the institution or designated place shall report to this District Court at least once every six months.
- f) If Defendant is committed, the criminal proceedings are continued in accordance with Rule 20.01 Subd. 4(2) of the Minnesota Rules of Criminal Procedure.



- g) If Defendant is not committed, the sheriff shall immediately cause the defendant to be brought before this court.
- h) Bail or other conditions of release as to the criminal proceedings are continued.

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Court Judge

STATE OF MINNESOTA

\_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

-----

State of Minnesota,

Plaintiff,

vs.

\_\_\_\_\_

Defendant.

FINDINGS OF FACT; ORDER INCLUDING  
PETITION FOR JUDICIAL COMMITMENT;  
ORDER FOR MENTAL EXAMINATION TO  
DETERMINE: (1) DEFENDANT'S  
COMPETENCY TO PROCEED WITH  
CRIMINAL CASE. (2) MENTAL ILLNESS  
OR DEFICIENCY AT TIME OF COMMISSION  
OF THE OFFENSE.

-----

This matter came on for hearing before the Court, the Honorable

\_\_\_\_\_, District Judge presiding.

\_\_\_\_\_, Assistant County Attorney,

appeared for the State. The defendant appeared in person and was represented

by Attorney \_\_\_\_\_.

This Court finds that based on all the files, records, and proceedings in this case: There is reason to believe that the defendant may be mentally ill or deficient and that proceedings should be commenced under the Minnesota Hospitalization and Commitment Act; there is reason to believe the defendant is incompetent to proceed with the criminal case; the defendant has notified the prosecuting attorney of an intention to assert a defense of mental illness or mental deficiency.

Pursuant to the Minnesota Hospitalization and Commitment Act, this

Court represents that:

- 1) Defendant was born \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_.
- 2) Defendant resides at \_\_\_\_\_, Minnesota.
- 3) Defendant's spouse and nearest kindred are:

(Name)	(Relationship)	(Age)	(Address)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 4) Defendant (is) (is not) a Veteran.
- 5) Defendant is believed to be (mentally ill) (mentally deficient) because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 6) Defendant is further believed to be (mentally ill) (mentally deficient) as evidenced by the physician's statement furnished herewith:
- 7) The Court has been unable to procure a physician's statement because \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 8) Defendant is presently at \_\_\_\_\_  
\_\_\_\_\_

- 9) Defendant was last committed to the State Hospital at \_\_\_\_\_, Minnesota, by the \_\_\_\_\_ County Probate Court on or about \_\_\_\_\_, 19 \_\_\_\_\_, and has received psychiatric treatment at the following hospitals:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 10) Defendant has been under the care of Dr. \_\_\_\_\_ whose office address is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Court orders that:

- A. The prosecuting attorney shall immediately:
- 1) Deliver a copy of this findings of fact, and order including petition for judicial commitment to the county welfare department.
  - 2) File this findings of fact, and order including petition for judicial commitment in the probate court.
  - 3) Request the probate court to immediately issue the orders necessary to provide for the examination of the proposed patient. These orders shall include the appointment of two examiners at least one of whom shall be a licensed physician. At least one of these examiners shall also be a qualified psychiatrist or clinical psychologist or physician experienced in the field of mental illness.
  - 4) Cause to be delivered to the sheriff any order of the probate court directing the sheriff to transport the proposed patient to a designated hospital or other place for the purpose of an examination prior to the hearing on the petition for judicial commitment.
- B. The sheriff shall immediately transport the proposed patient to a designated hospital or other place as directed by any order of the probate court.
- C. The prosecuting attorney shall appear and represent the petitioner at the commitment hearing.
- D. These criminal proceedings are continued pending the commitment and other determinations.
- E. The Probate Court shall transmit its findings to the District Court, including:
- 1) Its findings of fact and conclusions of law.
  - 2) A copy of the examiners' report.
  - 3) A determination as to whether defendant may be committed under the Minnesota Hospitalization and Commitment Act, and if so whether the defendant is dangerous to the public.
  - 4) As to competency to proceed with the criminal case:
    - (a) A diagnosis of the mental condition of the defendant.
    - (b) If the defendant is mentally ill or mentally deficient, an opinion as to: (i) his capacity to understand the proceedings against him and to participate in his

defense; (ii) the extent of his homicidal tendencies, if any, and the degree of likelihood that he will engage in seriously harmful conduct; (iii) the extent to which he can be treated without being committed to an institution; and (iv) whether there is a substantial probability that with treatment, or otherwise, he will ever attain the competency to proceed, and if so, in approximately what period of time.

(c) A statement of the factual basis upon which the diagnosis and opinion are based.

(d) If the examination could not be conducted by reason of the defendant's unwillingness to participate therein, a statement to that effect with an opinion, if possible, as to whether the defendant's unwillingness was the result of mental illness or deficiency.

5) As to mental illness or deficiency at time of commission of offense:

(a) A diagnosis of the defendant's mental condition at the time of the commission of the offense.

(b) An opinion as to whether, because of mental illness or deficiency, the defendant at the time of the commission of the offense charged was laboring under such a defect of reason as not to know the nature of the act constituting the offense with which defendant is charged or that it was wrong.

(c) A statement of the factual basis upon which the diagnosis and any opinion are based.

(d) If the examination could not be conducted by reason of the defendant's unwillingness to participate therein, a statement to that effect with an opinion, if possible, as to whether the defendant's unwillingness was the result of mental illness or deficiency.

F. Following the examination by the Probate Court, the entry of the appropriate judgment is to be suspended and the defendant returned to this Court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Court Judge

STATE OF MINNESOTA

\_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

-----  
State of Minnesota,

Plaintiff,

vs.

FINDINGS OF FACT, AND ORDER  
FOR JUDICIAL COMMITMENT OF  
DEFENDANT FOUND INCOMPETENT  
TO PROCEED WITH CRIMINAL CASE

\_\_\_\_\_,

Defendant.

-----  
This matter came on for hearing before the Court, the Honorable  
\_\_\_\_\_, District Judge presiding.

\_\_\_\_\_, Assistant County Attorney,

appeared for the State. The defendant appeared in person and was represented by Attorney \_\_\_\_\_.

This Court finds that, based on all the files, records, and proceedings in this case, the defendant is mentally ill or mentally deficient so as to be incapable of understanding the proceedings against him or participating in his defense.

This Court orders that:

1. The Judicial commitment proceedings in the Probate Court immediately be continued and completed by the Probate Court issuing such orders as may be necessary to commit the defendant.
  
2. The head of the institution or designated place to which the defendant is committed shall review the mental condition of the defendant within 60 days from the date of the commitment order and report in writing to this District Court on the defendant's mental condition with an opinion as to the defendant's competency to proceed with the criminal case, and as to the need of the defendant for further institutional care and treatment. Thereafter, if the commitment is continued, the head of the institution or designated place shall report to this District Court at least once every six months.
  
3. Bail or other conditions of release as to the criminal proceedings are continued.
  
4. The criminal proceedings are continued in accordance with Rule 20.01 Subd. 4(2) of the Minnesota Rules of Criminal Procedure.
  
5. The County Attorney shall immediately file a copy of these findings of fact and order in the Probate Court and request the Probate Court to immediately issue such orders as may be necessary to commit the defendant.

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Court Judge

STATE OF MINNESOTA

\_\_\_\_\_ COURT

COUNTY OF \_\_\_\_\_

-----

State of Minnesota,

Plaintiff,

vs.

\_\_\_\_\_

Defendant.

FINDINGS OF FACT, AND  
ORDER INCLUDING PETITION  
FOR JUDICIAL COMMITMENT

-----

This matter came on for hearing before the Court, the Honorable

\_\_\_\_\_, \_\_\_\_\_ Judge presiding.

\_\_\_\_\_, Prosecuting Attorney, appeared for

the State. The defendant appeared in person and was represented by Attorney

\_\_\_\_\_.

This Court finds that based on all the files, records, and proceedings in this case, there is reason to believe that the defendant may be mentally ill or deficient and that proceedings should be commenced under the Minnesota Hospitalization and Commitment Act.



Pursuant to the Minnesota Hospitalization and Commitment Act, this

Court represents that:

1) Defendant was born \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_.

2) Defendant resides at \_\_\_\_\_, Minnesota.

3) Defendant's spouse and nearest kindred are:

(Name)	(Relationship)	(Age)	(Address)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4) Defendant (is) (is not) a Veteran.

5) Defendant is believed to be (mentally ill) (mentally deficient) because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6) Defendant is further believed to be (mentally ill) (mentally deficient), as evidenced by the physician's statement furnished herewith:

7) The Court has been unable to procure a physicians statement because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

8) Defendant is presently at \_\_\_\_\_

\_\_\_\_\_

9) Defendant was last committed to the State Hospital at \_\_\_\_\_, Minnesota, by the \_\_\_\_\_ County Probate Court on or about \_\_\_\_\_, 19 \_\_\_\_\_, and has received psychiatric treatment at the following hospitals:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10) Defendant has been under the care of Dr. \_\_\_\_\_ whose office address is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Court orders that:

- a) The prosecuting attorney shall immediately:
  - 1) Deliver a copy of this findings of fact, and order including petition for judicial commitment to the county welfare department.
  - 2) File this findings of fact, and order including petition for judicial commitment in the probate court.
  - 3) Request the probate court to immediately issue such orders as may be necessary to provide for the examination of the proposed patient.
  - 4) Cause to be delivered to the sheriff any order of the probate court directing the sheriff to transport the proposed patient to a designated hospital or other place for the purpose of an examination prior to the hearing on the petition for judicial commitment.
- b) The sheriff shall immediately transport the proposed patient to a designated hospital or other place as directed by any order of the probate court.
- c) The county attorney shall appear and represent the petitioner at the commitment hearing.
- d) If the determination is commitment or other reasonable alternative disposition including, but not limited to, out-patient care, informal or voluntary hospitalization in a private or public facility, appointment of a guardian or release before commitment as provided for in Minn. Stat. §253A.12, the charge of \_\_\_\_\_ is dismissed in accordance with Rule 20.01(4) of the Minnesota Rules of Criminal Procedure.
- e) If the determination is dismissal of the petition, the sheriff shall immediately cause the defendant to be brought before this court.
- f) The proceedings in this matter are suspended pending the commitment and other determinations. Bail or other conditions of release as to this matter are continued subject to the order of this court or until and unless this matter is dismissed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
County or Municipal Court Judge