

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Apr 24 2013 04:04 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

DIPAK KANTILAL DESAI,

Petitioner,

VS.

Case No. 63046

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND
THE HONORABLE VALERIE ADAIR,
DISTRICT JUDGE

District Court No. 10C265107

Respondent,

and

THE STATE OF NEVADA,

Real Party in Interest.

RESPONDENT'S APPENDIX

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State of Nevada

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Counsel for Appellant

Counsel for Respondent

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CATHERINE CORTEZ MASTO
Nevada Attorney General

RICHARD A. WRIGHT, ESQ.
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MARGARET M. STANISH, ESQ.
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RJM//jg

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REGISTER OF ACTIONS

[CASE No. 10C265107-1](#)

The State of Nevada vs Dipak K Desai

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Case Type: **Felony/Gross Misdemeanor**
Date Filed: **06/04/2010**
Location: **Department 21**
Conversion Case Number: **C265107**
Defendant's Scope ID #: **1240942**
Lower Court Case Number: **09GJ00049**

RELATED CASE INFORMATION

Related Cases

10C265107-2 (Multi-Defendant Case)
10C265107-3 (Multi-Defendant Case)
C-12-283381-1 (Consolidated)
C-12-283381-2 (Consolidated)
C-12-283381-3 (Consolidated)

PARTY INFORMATION

Defendant Desai, Dipak Kantilal

Lead Attorneys
Richard A. Wright
Retained
7023824004(W)

Other Nevada Mutual Insurance Co

Mark B. Bailus
Retained
7027377702(W)

Plaintiff State of Nevada

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Desai, Dipak Kantilal

	Statute	Level	Date
1. AS USED IN NRS 207.360-207.520, INCLUSIVE, UNLESS CONTEXT OTHERWISE REQUIR	207.350	Felony	01/01/1900
1. "CRIME RELATED TO RACKETEERING" MEANS THE COMMISSION OF ATTEMPT TO	207.360	Felony	01/01/1900
1. "CRIMINAL SYNDICATE" MEANS ANY COMBINATION OF PERSONS, SO STRUCTURED	207.370	Felony	01/01/1900
1. "ENTERPRISE" INCLUDES ANY NATRAL PRSN, SOLE PRPRIETRSH, PRTRNSHP, CORP	207.380	Felony	01/01/1900
1. RACKETEERING ACTIVITY MEANS ENGAGING IN AT LEAST 2 CRIMES RELATED TO	207.390	Felony	01/01/1900
1. INSURANCE FRAUD	686A.291	Felony	01/01/1900
2. PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
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10.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
11.INSURANCE FRAUD	686A.291	Felony	01/01/1900
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25.THEFT	205.0835.3	Felony	01/01/1900
26.THEFT-PENALTIES	205.0835	Felony	01/01/1900
26.OBTAIN MONEY UNDER FALSE PRETENSES	205.380.1a	Felony	01/01/1900
27.OBTAINING MONEY UNDER FALSE PRETENSES.	205.380	Felony	01/01/1900
27.IT SHALL BE NO DEFENSE TO A PROSECUTION FOR LARCENY THAT THE ACCUSED WAS	205.265	Felony	01/01/1900
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29.MURDER, SECOND DEGREE	200.030.2	Felony	09/21/2007

EVENTS & ORDERS OF THE COURT

07/29/2010 [Further Proceedings: Competency](#) (9:30 AM) (Judicial Officer Glass, Jackie)

Minutes

07/29/2010 9:30 AM

RPIA 000002

07/29/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI present out of custody on bail/house arrest. Both counsel have records they would like to provide to the evaluating doctors. Mr. Wright will obtain the information from UCLA regarding the stroke that happened after the incidents alleged in the Indictment and the MRIs/records from the prior stroke here as well as the evaluation by the Board of Medical Examiners. Mr. Staudaher requests all records regarding any rehabilitative efforts, further treatment or subsequent events since the time of the stroke as well anything related to any prior medical conditions that could contribute or affect defendant's competency or ability to aide and assist counsel. COURT SO ORDERED. FURTHER, counsel are to forward all records to the Court who will then provide them to Ms. Greene who will in turn provide them to the evaluating doctors. Matter SET for STATUS CHECK in two (2) weeks. Judge Mosley has requested this Court oversee an independent medical evaluation (IME) to review possible medical conditions that could affect competency which Mr. Staudaher believes is three-part: 1) a neuroradiologist (MRI/radiological review), 2) a neurologist to review the prior and recent stroke and then subsequent fainting spells, transit ischemic attack, and 3) a cardiologist. Mr. Wright has no objection to the IME. Court NOTED it will have the competency evaluation done first and, depending on what is found, there could be further litigation on the issue. Mr. Staudaher requested the competency evaluators not have any connection with Dr. Desai noting malingering is a huge issue and the COURT SO ORDERED. Ms. Greene is DIRECTED to inquire of the doctors to make sure they have no relationship and/or connection with the defendant. Mr. Staudaher requested defendant be present at all hearings because of the issues raised regarding defendant's ability to aide and assist. Mr. Wright objects to the State's request as it pertains to status checks. COURT ORDERED, defendant's presence is WAIVED at the next date. BAIL/HOUSE ARREST CONTINUED TO: 8/12/10 9:30 AM

[Parties Present](#)

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Plaintiff State of Nevada

Steven B Wolfson
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RPIA 000004

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29.MURDER, SECOND DEGREE	200.030.2	Felony	09/21/2007

EVENTS & ORDERS OF THE COURT

09/16/2010	Further Proceedings: Competency (9:30 AM) (Judicial Officer Glass, Jackie) 09/16/2010, 10/05/2010, 11/02/2010, 11/23/2010, 12/02/2010, 12/21/2010, 01/04/2011, 01/11/2011
	Minutes 08/12/2010 9:30 AM

RPIA 000005

09/16/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI not present, out of custody on bail/house arrest and his PRESENCE IS WAIVED this date. Mr. Wright lodged indexed binders with the Court and State advising they contain 98% of the records requested including images of the MRI's/films. Further, Mr. Wright advised he should have the rest of the records within the next two to four weeks. The Court stated it is not waiting any longer and will provide the information to Ms. Greene who will then forward it to the evaluating doctors which Ms. Greene will make sure have had no association with the defendant whatsoever. FURTHER, Mr. Wright to provide Ms. Greene with the defendant's contact information today. Mr. Staudaher acknowledged receipt of the information, however, noted he still needs records relative to any rehabilitative services/therapy/treatment subsequent to defendant's second stroke. Further, Mr. Staudaher requests the name of defendant's disability carrier and whether defendant applied for disability benefits and/or was evaluated by the carrier. If so, Mr. Staudaher requests a copy of the evaluation. Further, if defendant applied for benefits but was rejected, the State wants to know that as well and Mr. Staudaher would like to wait until all requested information is received prior to beginning the competency evaluation process. Mr. Wright does not have an answer today but will get the information. Colloquy. COURT ORDERED, Mr. Wright to obtain all information requested by the State including any speech, occupational/work-related rehabilitative efforts that defendant did since his second stroke as well as the information regarding defendant's disability benefits. Once this information is provided to the Court and State, it will be turned over to Ms. Greene who will then provide it to the evaluating doctors. Matter CONTINUED. BAIL/H.A. CONTINUED TO: 10/5/10 9:30 AM

10/05/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI not present, out of custody on bail/house arrest and his presence is WAIVED this date. In open court, Mr. Wright lodged additional records with the State as well as two copies with the Court advising he expects more records today. Further, the UCLA records have already been provided to Ms. Greene and one evaluation is scheduled for Wednesday afternoon. Additionally, Mr. Wright advised Dr. Desai has no disability insurance now; defendant has made no disability claims with any government agencies, therefore, no evaluations were done and Mr. Wright will ask the defendant if he had any before. The Court directed Mr. Wright to inquire of the defendant if he has ever had a disability policy in place to which Mr. Wright responded that he would instruct the defendant to invoke his Fifth Amendment Right noting his client does not presently have any insurance. Colloquy. Court NOTED Mr. Wright has indicated that at the time defendant did not have a disability policy and, as far as any past disability coverage, the Court is not going there as it anticipates the issue will continue to be litigated in the originating Court. COURT ORDERED, matter CONTINUED two (2) weeks. Mr. Wright to have the additional records hand-delivered to the State and the Court today and Ms. Greene to notify the doctors that more records are forthcoming. BAIL/H.A. CONTINUED TO: 10/19/10 9:30 AM

10/19/2010 9:30 AM

11/02/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI present out of custody on bail/house arrest. Defendant's wife also present. Court NOTED it required the defendant's

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presence at today's hearing because questions arose from the doctors doing the evaluations through Christina Greene. One of the doctors asked if Mrs. Desai was her husband's guardian because she was signing all of the documents. Additionally, Mrs. Desai told Dr. Bradley that Dr. Roitman is defendant's treating psychiatrist and the Court seeks clarification of whether the doctor treated the defendant beyond June 2009. Mr. Wright confirmed Mrs. Desai was made the defendant's guardian and there has been no continuing treatment with Dr. Roitman beyond June 2009. The Court NOTED additional records were provided to Ms. Greene yesterday. Mr. Wright concurred and advised he provided the records from Summerlin Hospital to the State and Ms. Greene today, however, Mr. Staudaheer has not personally received them as of yet. The fifth submission by the defense was records from the Heart Center of Nevada and Mr. Staudaheer provided the UCLA records which Mr. Wright believes should complete all of the records. However, Mr. Staudaheer still seeks specific records that he believes are germane to the process and that were referenced in the records from UCLA regarding any rehabilitative/therapy/treatment efforts, both cognitive and language. Further, there was a speech and language evaluation by the Speech Therapy Center Of Excellence and he requests those records as well as records from the speech/language pathologist, any home therapy and radiology records. Colloquy. The Court FINDS the records outlined by Mr. Staudaheer are relevant and ORDERED, Mr. Wright to obtain all of the records requested that are not included in the UCLA records. FURTHER, Mr. Wright to contact Dr. Roitman and verify defendant's status. The COURT FURTHER NOTED both doctors have seen the defendant so the reports should be forthcoming. Matter CONTINUED; defendant's PRESENCE WAIVED at the next date. BAIL/H.A. CONTINUED TO: 11/23/10 9:30 AM

11/23/2010 9:30 AM

- Deputy District Attorney Staudaheer present for the State. Mr. Wright present for Defendant. Defendant not present. Christina Green also present. Defendant's PRESENCE WAIVED today. Colloquy regarding records received and missing. Upon inquiry of the Court, Mr. Wright advised he should receive the remainder of the records in 7 to 10 days from 11/17/10. Upon inquiry of the Court, Ms. Green advised all the reports could be to the Court within one week. COURT ORDERED, matter CONTINUED. Defendant's appearance WAIVED at the next Court date. BAIL (H.A.) CONTINUED TO: 12/2/10 9:30 AM bjc

12/02/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI not present, out of custody on bail/house arrest and his PRESENCE is WAIVED this date. The Court stated it is hopeful this will be the final status check on the evaluations. Upon the Court's inquiry, Ms. Stanish advised there have not been anymore records submitted to Ms. Greene since the last date. Further, Ms. Mandlebaum's office has contacted UCLA specifically regarding the rehabilitation records and they are producing same, however, they are awaiting invoicing and mailing. Colloquy. COURT ORDERED, matter CONTINUED. FURTHER, Ms. Greene to e-mail the Court once she receives the records. BAIL/H.A. CONTINUED TO: 12/21/10 9:30 AM

12/21/2010 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the Specialty Courts present. Defendant DESAI not present, out of custody on bail/house arrest and his PRESENCE is WAIVED this date. Mr. Wright advised the Court that Ms. Mandelbaum's office received the invoice from UCLA via fax yesterday and a check was sent by Fed Ex. Upon Court's inquiry, Mr. Staudaheer stated the records relate to the deft's therapeutic intervention that was done and occupational therapy. Colloquy between Court and

RPIA 000007

counsel regarding the length of time it will take UCLA to produce the records. COURT ORDERED, matter CONTINUED and if the records are received, counsel is to forward them to Ms. Greene and Ms. Greene will then forward them to the doctor's as well as inform the Court. BAIL (H.A.) 1/04/11 9:30 AM FURTHER PROCEEDINGS: COMPETENCY

01/04/2011 9:30 AM

- Ms. Stanish advised the Court informed by Ms. Mandelbaum's office that UCLA mailed the records by certified mail on December 29, 2010 and contacted Ms. Mandelbaum's office and they said they still haven't received it any day. Court stated and once they receive the documents, a copy will be provided to Ms. Greene and Ms. Greene will provide them to the doctor's and the District Attorney's office. COURT ORDERED, matter CONTINUED and if the records are received, then will be able to provide a final date for when the doctor's report will be prepared. BAIL (H.A.) 1/11/11 9:30 AM FURTHER PROCEEDINGS: COMPETENCY

01/11/2011 9:30 AM

- Court stated the last batch of records did not have what parties were looking for. Mr. Wright stated that he went through the records and they were basically the same records everyone has, so there is nothing new but there are some concerns based on specific references in some off the records provided by counsel which referred to visits at the speech pathologist clinic that didn't have records for. Mr. Wright stated that he actually contacted UCLA and spoke with the person who produced the records for counsel and found out what the situation was; first, the records produced are those available on-line; I asked specifically about October, 2008 visit and this person said that it might be in the chart and will order the chart and review it. Mr. Wright further stated that he does not think there is a lot more that will obtain from them; further, asked this person about the last visit in April, 2009 there was a recommendation at the end for the deft. to continue with some therapy and to undergo weekly sessions for a few months and according to UCLA, the deft. never followed up with that so there will not be any records related to that so as far as UCLA and related to the deft's treatment, all the records have been received except for the one. Upon Court's inquiry, Ms. Greene stated that she has received all of the records and they have been turned over to the doctor's and the doctor's are requesting to see the deft. again. COURT ORDERED, matter CONTINUED for a status check for receipt of the evaluations and the Deft. is to meet with the doctor's again. BAIL (H.A.) 2/08/11 9:30 AM FURTHER PROCEEDINGS: COMPETENCY/STATUS CHECK: RECEIPT OF EVALUATIONS

[Parties Present](#)

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[CASE No. 10C265107-1](#)

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10C265107-2 (Multi-Defendant Case)
10C265107-3 (Multi-Defendant Case)
C-12-283381-1 (Consolidated)
C-12-283381-2 (Consolidated)
C-12-283381-3 (Consolidated)

PARTY INFORMATION

Defendant Desai, Dipak Kantilal

Lead Attorneys
Richard A. Wright
Retained
7023824004(W)

Other Nevada Mutual Insurance Co

Mark B. Bailus
Retained
7027377702(W)

Plaintiff State of Nevada

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Desai, Dipak Kantilal

	Statute	Level	Date
1. AS USED IN NRS 207.360-207.520, INCLUSIVE, UNLESS CONTEXT OTHERWISE REQUIRES	207.350	Felony	01/01/1900
1. "CRIME RELATED TO RACKETEERING" MEANS THE COMMISSION OF ATTEMPT TO	207.360	Felony	01/01/1900
1. "CRIMINAL SYNDICATE" MEANS ANY COMBINATION OF PERSONS, SO STRUCTURED	207.370	Felony	01/01/1900
1. "ENTERPRISE" INCLUDES ANY NATURAL PERSON, SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION	207.380	Felony	01/01/1900
1. RACKETEERING ACTIVITY MEANS ENGAGING IN AT LEAST 2 CRIMES RELATED TO	207.390	Felony	01/01/1900
1. INSURANCE FRAUD	686A.291	Felony	01/01/1900
2. PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
3. CRIMINAL NEGLIGENCE OF PATIENT RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
4. INSURANCE FRAUD	686A.291	Felony	01/01/1900
4. SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
5. INSURANCE FRAUD	686A.291	Felony	01/01/1900
6. PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
7. CRIMINAL NEGLIGENCE OF PATIENTS RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
7. SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
8. INSURANCE FRAUD	686A.291	Felony	01/01/1900
8. SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
9. PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
10. CRIMINAL NEGLIGENCE OF PATIENT RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900

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10.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
11.INSURANCE FRAUD	686A.291	Felony	01/01/1900
11.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
12.PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
13.CRIMINAL NEGLECT OF PATIENT RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
13.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
14.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
14.INSURANCE FRAUD	686A.291	Felony	01/01/1900
15.INSURANCE FRAUD	686A.291	Felony	01/01/1900
16.PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
17.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
17.CRIMINAL NEGLECT OF PATIENT RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
18.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
18.INSURANCE FRAUD	686A.291	Felony	01/01/1900
19.PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
20.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
20.CRIMINAL NEGLECT OF PATIENT RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
21.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
21.INSURANCE FRAUD	686A.291	Felony	01/01/1900
22.PERFORMANCE OF ACT IN RECKLESS DISREGARD OF PERSONS OR PROPERTY RESULTING IN SUBSTANTIAL BODILY HARM	202.595.2	Felony	01/01/1900
23.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
23.CRIMINAL NEGLECT OF PATIENTS, RESULTING IN SUBSTANTIAL BODILY HARM	200.495.2b	Felony	01/01/1900
24.SUBSTANTIAL BODILY HARM.	0.060	Felony	01/01/1900
24.INSURANCE FRAUD	686A.291	Felony	01/01/1900
25.THEFT	205.0835.3	Felony	01/01/1900
26.THEFT-PENALTIES	205.0835	Felony	01/01/1900
26.OBTAIN MONEY UNDER FALSE PRETENSES	205.380.1a	Felony	01/01/1900
27.OBTAINING MONEY UNDER FALSE PRETENSES.	205.380	Felony	01/01/1900
27.IT SHALL BE NO DEFENSE TO A PROSECUTION FOR LARCENY THAT THE ACCUSED WAS	205.265	Felony	01/01/1900
28.OBTAINING MONEY UNDER FALSE PRETENSES	205.380	Felony	01/01/1900
28.IT SHALL BE NO DEFENSE TO A PROSECUTION FOR LARCENY THAT THE ACCUSED WAS	205.265	Felony	01/01/1900
29.MURDER, SECOND DEGREE	200.030.2	Felony	09/21/2007

EVENTS & ORDERS OF THE COURT

02/08/2011 [Further Proceedings: Competency](#) (9:30 AM) (Judicial Officer Glass, Jackie)
Minutes

02/08/2011 9:30 AM

- APPEARANCES CONTINUED: Christina Greene of the

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Specialty Courts present. Conference at the Bench. Court stated it had a discussion with counsel regarding procedural matters; the reports came back finding the deft. not competent and in cases where the deft. is found not competent, the deft's are sent to Lakes Crossing in Reno, NV for restoration under NRS 178.425, therefore, the deft. has to be remanded as that is the only way for the deft. to be admitted to Lakes Crossing since there is no mental facility in Clark County. Court further stated that there are people who are severely mentally ill that are on the waiting list and the deft. will be sent to Lakes Crossing in the order the deft. is placed in as this Court will not bump anyone out of order. Court has checked with the jail and the next available transport date is in March, 2011, therefore, the deft. will have to surrender to the Court to be remanded, to have medical testing and a clearance done prior to admission. COURT ORDERED, matter CONTINUED for the deft. to surrender himself; FURTHER ORDERED, deft. is not to travel outside of Clark County. Court stated it will send all documentation that has been gathered and will have it transmitted to Lakes Crossing; deft. will remain in Lakes Crossing until a determination is made that either the deft. is competent and returned or not competent without probability and at that time parties will receive notice and either side can challenge the findings, depending on the findings. Upon Court's inquiry, Mr. Wright stated that he believes the deft's passport has been surrendered. Court Clerk advised the Court that the passport has been surrendered and is being held in the Vault. BAIL (H.A.) 3/17/11 9:30 AM FURTHER PROCEEDINGS: COMPETENCY/SURRENDER

[Parties Present](#)

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