

**IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
FLAGLER COUNTY, FLORIDA**

**CASE NO: 13-00763-CFFA**

**STATE OF FLORIDA**

**VS.**

**JOSEPH FRANK BOVA II,  
DEFENDANT.**

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**MOTION TO COMPEL DEFENDANT TO SUBMIT TO A COMPLETE  
PSYCHOLOGICAL EVALUATION BY THE STATE'S EXPERT FOR THE  
PURPOSES OF DETERMINING SANITY AT THE TIME OF THE OFFENSE OR,  
ALTERNATIVELY, TO PRECLUDE THE DEFENDANT FROM ASSERTING  
AND PRESENTING AN INSANITY DEFENSE AT TRIAL**

COMES NOW, the State of Florida, by and through the undersigned Assistant State Attorney, pursuant to Section 916.115, Florida Statutes, Rule 3.216, Florida Rules of Criminal Procedure, and relevant case law, and moves this Honorable Court for an order compelling the defendant to submit to a complete psychological evaluation by the State's mental health expert for the purposes of determining his sanity at the time of the offense or, in the alternative, to preclude the defendant from presenting an insanity defense at trial. In support thereof, the State sets forth the following grounds:

1. Based on verbal representations that the counsel for the defendant will rely on the insanity defense at trial, pursuant to Section 775.027, Florida Statutes,<sup>1</sup> the State filed a Motion for Order Allowing State Expert to Examine Defendant as to Sanity at the Time of the Offense on

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<sup>1</sup> The defendant has not yet filed with the court a written notice of intent to rely on an insanity defense as required by Rule 3.216(b), Florida Rules of Criminal Procedure. However, because verbal representations of its intentions to do so have been made and because the trial in the case has been scheduled for less than two months from the present date, the State is relying on those discussions.

March 25, 2019. During the discussions in which those representations were made, defense counsel agreed to permit the defendant to undergo an evaluation by the State's expert.

2. On March 27, 2019, the Court signed an Agreed Order on the State's motion.

3. On April 5, 2019, Dr. William Meadows, a psychologist retained by the State, travelled to the Northeast Florida State Hospital (hereinafter, "NEFSH") in Macclenny, Florida to conduct the sanity evaluation pursuant to the Court's order. Defense counsel was notified of the date and time of the evaluation and was present throughout.

4. However, after about 45 minutes into the evaluation the defendant abruptly announced an end to the evaluation, declined to answer any more of Dr. Meadows' questions, then left the room and refused to participate any further. As a result, Dr. Meadows was not able to complete his evaluation.

5. Because experts with the NEFSH had recently concluded that the defendant had been restored to competency and the Court shortly thereafter found him to be competent to proceed, the State has reasonable grounds to believe that the defendant's refusal to submit to Dr. Meadows' examination was not the result of any competency issues, but was a deliberate effort to prevent the State from fully exploring the merits of his asserted claim of insanity.

6. In *Henry v. State*, 574 So.2d 66 (Fla. 1991), the Florida Supreme Court held that a trial court properly exercised its discretion to preclude the defendant from asserting an insanity defense when he twice refused to submit to an evaluation by the State's expert.

7. In accordance with that decision and the State's right to conduct an independent evaluation of a defendant's sanity claim under Florida law, the State hereby requests that the Court again order the defendant to submit to an evaluation of the defendant's sanity at the time of the alleged offense until such time as Dr. Meadows has concluded his examination.

8. Alternatively, the State requests the Court to preclude the defendant from asserting the insanity defense at trial and presenting any evidence in support of that defense if the defendant persists in his refusal to voluntarily submit to the evaluation.

WHEREFORE, the State moves this Honorable Court to grant this motion as outlined above.

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by mail/delivery to JOSHUA MOSLEY, 4010 LEWIS SPEEDWAY SUITE 1101, SAINT AUGUSTINE, FL 32084, on May 21, 2019.

Respectfully submitted,

R.J. LARIZZA  
STATE ATTORNEY

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