**CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**THE STATE OF TEXAS § IN THE \_\_\_\_\_\_\_\_\_ COURT OF**

 **§**

**V. §**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § \_\_\_\_\_\_\_\_\_ COUNTY, TEXAS**

**STATE’S MOTION TO COMPEL INVOLUNTARY**

**ADMINISTRATION OF COURT-ORDERED MEDICATION PURSUANT TO 46B.086**

The State of Texas files this Motion to Compel Involuntary Administration of Court-Ordered Medication, pursuant to Article 46B.086 of the Texas Code of Criminal Procedure, and requests this Court to issue an order to compel the involuntary administration of psychoactive medication to the Defendant, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, in order to restore competency to stand trial.

**I.**

This Court previously found Defendant incompetent and committed them to the name of facility. They were placed at the name of facility, an inpatient facility, for the purpose of competency restoration. While committed there, the Defendant was diagnosed with the following mental disorder or mental defect: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. As part of the hospitalization, a continuity of care plan was developed that determined that the administration of psychoactive medications was required, specifically: antidepressants, antipsychotics, anxiolytics/ sedatives/hypnotics, and mood stabilizers. The medications are necessary for the patient’s restoration of competency.

**II.**

To compel the administration of medication to a defendant that has been found incompetent to stand trial and committed to an inpatient mental health facility for the purpose of competency restoration, a proceeding must first be brought pursuant to Texas Health and Safety Code §574.106, which provides for a determination by the Probate Court as to whether the administration of psychoactive medications should be ordered. The Probate Court analysis is conducted in the court’s capacity as guardians of wards of the State without regard to any specific interest of the State of Texas. Specifically, the Health and Safety Code provision requires that the Defendant be a danger to themselves or others. This standard differs from article 46B.086 of the Code of Criminal Procedure, which does not require any finding of danger.

The Probate Court is required, by §574.106 of the Health and Safety Code, to consider the patient’s expressed preferences, religious beliefs and consequences regarding the best interest of the patient. In contrast, under article 46B.086 the Criminal District Court is to consider the best *medical* interest of the Defendant along with, but not limited to, the State’s interest in the Defendant’s restoration of competency.

Probate Court Number \_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Texas, did not find evidence to meet the necessary criteria prescribed by §574.106 of the Texas Health and Safety Code, and denied the motion. *See* notification of denial sent by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Clerk, pursuant to article 46B.086(b), Texas Code of Criminal Procedure.

**III.**

In light of the Probate Court’s denial of the motion, and pursuant to article 46B.086(b) of the Texas Code of Criminal Procedure, the State files this Motion to Compel Involuntary Administration of Court-Ordered Medication not later than the 15th day after the date the probate judge issued an order stating that the Defendant does not meet the criteria for court-ordered administration of psychoactive medications under §574.106, Texas Health and Safety Code.

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**IV.**

Article 46B.086 of the Texas Code of Criminal Procedure prescribes procedures for a court, in which criminal proceedings are pending, to authorize psychoactive medications for a defendant who has been committed to a facility pursuant to Chapter 46B. Article 46B.086 applies to a defendant:

1. Who is determined under this Chapter to be incompetent to stand trial;
2. Who...

(B) is committed to an inpatient mental health facility or a residential care facility for the purpose of competency restoration;

1. for whom a correctional facility that employs or contracts with a licensed psychiatrist, an inpatient mental health facility, a residential care facility, or an outpatient treatment program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and
2. who, after a hearing held under Section 574.106, Health and Safety Code, if applicable, has been found not to meet the criteria prescribed by Sections 574.106(a) and (a-1) for court ordered administration of psychoactive medications.

**V.**

Because the Defendant was found by this court to be incompetent to stand trial, committed to an inpatient mental health facility, provided with a continuity of care plan involving psychoactive medications, and found by the Probate Court Number \_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Texas, not to meet the criteria for court-ordered administration of psychoactive medications under Section 574.106 of the Texas Health and Safety Code, article 46B.086 of the Texas Code of Criminal Procedure applies to this Defendant.

**VI.**

Further, article 46B.086(e) of the Texas Code of Criminal Procedure allows a court to issue an order under this article if the court, supported by the testimony of two physicians, finds by clear and convincing evidence that:

1. the prescribed medication is medically appropriate, is in the best medical interest of the defendant, and does not present side effects that cause harm to the defendant that is greater than the medical benefit to the defendant;
2. the state has a clear and compelling interest in the defendant obtaining and maintaining competency to stand trial;
3. no other less invasive means of obtaining and maintaining the defendant’s competency exists; and
4. the prescribed medication will not unduly prejudice the defendant’s rights or use of defensive theories at trial.

**VII.**

The Defendant was diagnosed by physicians and determined that these medications were the proper course of treatment and in the best medical interest of the Defendant. Upon that determination of treatment, Defendant’s physician concluded that there were no less intrusive means of achieving the Defendant’s competency.

Further, the State’s interest in bringing to trial an individual accused of a serious crime is important. *Sell v. U.S*., 539 U.S. 166, 180 (2003). The State has a legitimate interest in attempting to restore competence to an otherwise incompetent Defendant.

Lastly, the Defendant’s right to a fair trial will not be hindered because the prescribed medication will not interfere with Defendant’s communication with counsel, prevent reaction to trial developments, or diminish their ability to express emotions.

Thus, the Court should issue an order under article 46B.086 to compel the involuntary administration of psychoactive medication to the Defendant in order to restore competency to stand trial.

**VIII.**

WHEREFORE, the State requests that this Court set this matter for a hearing not later than the 10th day after this Motion to Compel Involuntary Administration of Court-Ordered Medication is filed, pursuant to article 46B.086(c) of the Texas Code of Criminal Procedure, and, after hearing, grant the relief requested herein.

Respectfully submitted,

CRIMINAL DISTRICT ATTORNEY

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Assistant Criminal District Attorney

**CERTIFICATE OF SERVICE**

This certifies that a true and correct copy of the above and foregoing document has been delivered by email to counsel for the Defendant on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_\_.

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Assistant Criminal District Attorney