

IN THE SUPERIOR COURT OF LUMPKIN COUNTY  
STATE OF GEORGIA

State of Georgia )  
v. ) Indictment No. 16-CR-78-SG  
Jonathon Aaron Morgan )  
)  
)

**ORDER**

This matter in the above styled case having come before this Court pursuant to the State's Motion for Reconsideration of this Court's Order Granting Defendant's Motion to Disqualify the Enotah Judicial Circuit's District Attorney's Office, and the State being represented by Chief Assistant District Attorney William M. Clark and the Defendant being represented by Andrew Richman, and the Court having heard testimony, received evidence, and having heard argument of counsel, this Court finds as follows:

1.

Judge Miller ordered a mental competency evaluation of the Defendant, which was completed by Dr. Kiana Wright. A copy of that evaluation was inadvertently provided to Assistant District Attorneys Faizah Shabazz and Frank Moran by electronic mail on February 3, 2017. On February 4, 2017, Judge Miller directed everyone not to open the email.

2.

Assistant District Attorney Frank Moran testified that he did not recall opening the email, and he deleted it once directed to do so by Judge Miller.

3.

Assistant District Attorney Faizah Shabazz testified that she opened the email before receiving Judge Miller's direction not to open it. She testified that she scanned the document and read the conclusion. She recalled no content of the evaluation, and all she recalled about the conclusion was that after reading it, she knew she would be able to proceed with the prosecution.

4.

Dr. Kiana Wright testified that she completed the mental competency pursuant to the order of Judge Miller. She was not retained by the defense. Therefore, the communications by the Defendant to Dr. Wright are not protected by the attorney-client privilege.

5.

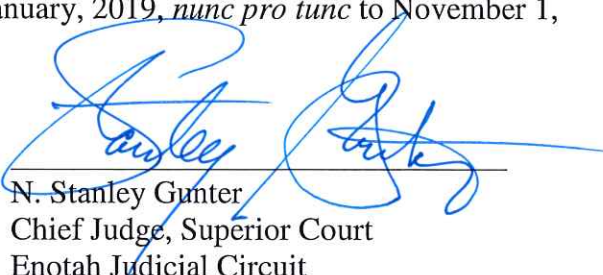
The mental competency evaluation was received by the State inadvertently, and not through any action by the State. The Court finds no fault on any party's part, and further finds no misconduct. The Court further finds that Ms. Shabazz, individually, is not disqualified from the prosecution of this case. The State gained no tactical advantage by having access to the evaluation.

6.

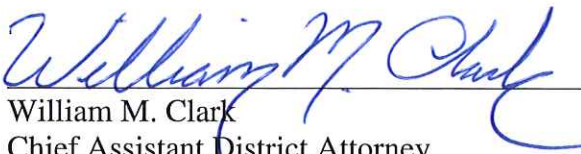
After receiving the mental competency evaluation, the Defense filed a Notice of Intent of Defense to Raise Issue of Insanity, Mental Illness or Mental Retardation. Pursuant to Official Code of Georgia Annotated §17-7-129(b), once the Defense raises the issue of insanity, the court shall release the competency evaluation to the prosecuting attorney. At that time, the State was entitled to have a copy of the mental competency evaluation performed on Mr. Morgan. Therefore, at the time this Court conducted a hearing on the Defendant's Motion to Disqualify the Enotah Judicial Circuit's District Attorney's Office the issue was moot.

Based on the foregoing, it is **HEREBY ORDERED** that this Court's Order granting the Defendant's Motion to Disqualify the Enotah Judicial Circuit's District Attorney's Office is rescinded.

SO ORDERED, this 7<sup>th</sup> day of January, 2019, *nunc pro tunc* to November 1, 2017.

  
N. Stanley Gunter  
Chief Judge, Superior Court  
Enotah Judicial Circuit

Presented by:

  
William M. Clark  
Chief Assistant District Attorney  
Enotah Judicial Circuit  
Georgia Bar Number 128162

IN THE SUPERIOR COURT OF LUMPKIN COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA

v.

JOHNATHON AARON MORGAN,  
Defendant.

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CRIMINAL ACTION  
FILE NO.: 2016-CR-78-SG

GEORGIA, LUMPKIN COUNTY  
CLERK OF SUPERIOR COURT  
Filed 4:35 P.M. 12-10-18  
*Rita Harkins*  
RITA HARKINS, CLERK

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VERDICT

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**COUNT ONE:**

We, the jury, find the defendant ~~not~~ guilty of the offense of Rape as charged in Count One.

**COUNT TWO:**

We, the jury, find the defendant guilty of the offense of Aggravated Sodomy as charged in Count Two.

**COUNT THREE:**

We, the jury, find the defendant guilty of the offense of Aggravated Sodomy as charged in Count Three.

**COUNT FOUR:**

We, the jury, find the defendant guilty of the offense of Aggravated Assault as charged in Count Four.

**COUNT FIVE:**

We, the jury, find the defendant guilty of the offense of Aggravated Assault, Family Violence as charged in Count Five.

**COUNT SIX:**

We, the jury, find the defendant guilty of the offense of False Imprisonment as charged in Count Six.

**COUNT SEVEN:**

We, the jury, find the defendant guilty of the offense of Criminal Damage to Property in the Second Degree as charged in Count Seven.

**COUNT EIGHT:**

We, the jury, find the defendant guilty of the offense of Battery, Family Violence as charged in Count Eight.

**COUNT NINE:**

We, the jury, find the defendant guilty of the offense of Aggravated Assault, Family Violence as charged in Count Nine.

**COUNT TEN:**

We, the jury, find the defendant guilty of the offense of Incest as charged in Count Ten.

**COUNT ELEVEN:**

We, the jury, find the defendant guilty of the offense of Aggravated Child Molestation as charged in Count Eleven.

**COUNT TWELVE:**

We, the jury, find the defendant guilty of the offense of Aggravated Child Molestation as charged in Count Twelve.

**COUNT THIRTEEN:**

We, the jury, find the defendant guilty of the offense of Incest as charged in Count Thirteen.

**COUNT FOURTEEN:**

We, the jury, find the defendant guilty of the offense of Child Molestation as charged in Count Fourteen.

**COUNT FIFTEEN:**

We, the jury, find the defendant guilty of the offense of Aggravated Sodomy as charged in Count Fifteen.

**COUNT SIXTEEN:**

We, the jury, find the defendant guilty of the offense of Aggravated Sodomy as charged in Count Sixteen.

**COUNT EIGHTEEN:**

We, the jury, find the defendant guilty of the offense of Criminal Attempt to Commit Child Molestation as charged in Count Eighteen.

**COUNT NINETEEN:**

We, the jury, find the defendant guilty of the offense of Cruelty to Children in the Third Degree as charged in Count Nineteen.

**COUNT TWENTY:**

We, the jury, find the defendant guilty of the offense of Reckless Conduct as charged in Count Twenty.

**COUNT TWENTY-ONE:**

We, the jury, find the defendant guilty of the offense of Fleeing or Attempting to Elude a Police Officer as charged in Count Twenty-One.

So say we all on this, the 10th day of December, 2018.

Heather A. Hoogland  
Foreperson

**IN THE SUPERIOR COURT OF LUMPKIN COUNTY  
STATE OF GEORGIA**

**STATE OF GEORGIA**

**INDICTMENT NUMBER:**

**16-CR-78-SG**

**V.**

**GEORGIA, LUMPKIN COUNTY  
CLERK OF SUPERIOR COURT**

**JONATHON AARON MORGAN**

Filed 4:30 P M 10-10-17

*Rita Harkins*  
**RITA HARKINS, CLERK**

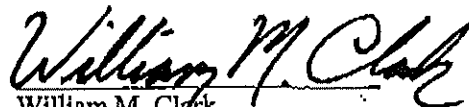
**MOTION FOR RECONSIDERATION**

**COMES NOW** the State of Georgia, by and through the Office of the District Attorney for the Enotah Judicial Circuit, and files this Motion for Reconsideration of this Court's Order Granting Defendant's Motion to Disqualify the Enotah Judicial Circuit's District Attorney's Office.

In support of said motion, the State shows the Court's ruling is contrary to laws of the State of Georgia. The Court improperly applied the holding of Neuman v. State, 297 Ga. 501(2015), to the instant case. The facts of the Neuman case are distinguishable from the facts of the instant case. The Court's ruling is an unauthorized interference with the elected District Attorney's constitutional role and right to enforce the law within his circuit.

This motion will be supplemented with a memorandum of law.

Respectfully submitted, this 27th day of September, 2017.



William M. Clark  
Chief Assistant District Attorney  
Enotah Judicial Circuit  
Georgia Bar No. 128162

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STATE OF GEORGIA**

**STATE OF GEORGIA**

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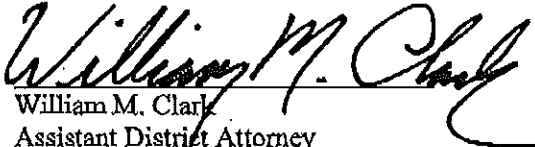
**V.**

**JONATHON AARON MORGAN**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing State's Motion for Reconsideration upon A.J. Richman, Attorney for Defendant by delivering a copy of the same by electronic mail.

This 6th day of January, 2017.

  
William M. Clark  
Assistant District Attorney  
Enotah Judicial Circuit