

SUPERIOR COURT
OF THE
STATE OF DELAWARE

FRED S. SILVERMAN
JUDGE

NEW CASTLE COUNTY COURTHOUSE
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Wilmington, DE 19801-3733
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December 30, 2011

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RE: *State v. Cranston Raison*
ID # 1011000571

Dear Counsel:

Defendant was arrested more than a year ago for a serious offense. Then, he had a major stroke. For the past several months, the court has been insisting that the State must demonstrate why the case should not be dismissed for lack of prosecution. In particular, the court wants details about the stroke's seriousness and the likelihood that Defendant will recover. Despite the court's insistence, including threats of dismissal, the State mostly has provided a report from a psychologist confirming that Defendant is not competent to stand trial.

The State's last letter, filed yesterday, confirms that the State has been counting on Defendant to voluntarily announce when he might be fit for prosecution. Thus, the State has not used its power to obtain Defendant's medical records, or have Defendant evaluated by a trustworthy neurologist or other competent, mental health professional. Instead, the State continues to suggest that the court commit this stroke victim to Delaware Psychiatric Center under 11 *Del. C.* §404.

Matthew B. Frawley, Deputy Attorney General
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In its most recent letter to the State, the court observed that it would not commit Defendant to a psychiatric hospital, at taxpayer expense, when his presenting problem is a stroke, not unless DPC assures the court that commitment is medically appropriate. The State's reply seems to confirm that DPC does not agree that Defendant's commitment is medically correct.

Now, there is no reason to believe that Defendant will ever be fit to stand trial. Moreover, the State has unnecessarily delayed prosecution by not forcing the issue. Therefore, there is no reason for this case to remain on the court's docket. Taking the record, including the promises of dismissal, into account, this case is **DISMISSED**, without prejudice to the State's filing a motion to reopen within six months. Thereafter, the dismissal shall be with prejudice.

If the State is interested in reopening, presumably it will do what it should have done several months ago, issue subpoenas to Defendant or his health care providers in order to obtain his medical records. And, if the records do not speak for themselves, the State will have them reviewed by someone with medical training. If Defendant is dissatisfied with the court's approach, Defendant has ten days in which to file an opposing motion.

IT IS SO ORDERED.

Very truly yours,

/s/ Fred S. Silverman

FSS: mes
oc: Prothonotary (Criminal)
Diane M. Coffey, Chief County Prosecutor