

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,)	
)	
Plaintiff,)	
v.)	
)	
ERIC DORSEY,)	Cr. ID. No. 1211020711
)	
Defendant.)	
)	

Submitted: February 9, 2015
Decided: March 24, 2015

Upon Commissioner’s Report and Recommendation
that Defendant’s Motion to Dismiss Should be Granted.

ADOPTED

ORDER

This 24th day of March, 2015, the Court has considered the Commissioner’s Report and Recommendation.

On February 28, 2013, Defendant Eric Dorsey (“Dorsey”) was indicted on two counts of Unlawful Sexual Contact and Indecent Exposure. He received an unsecured bail with the condition that he not have contact with the alleged victim or any child under the age of 18.

On October 17, 2013, a Competency Hearing was held before Commissioner Vavala, wherein both parties agreed that Dorsey was incompetent to stand trial.

Commissioner Vavala issued an Order on March 26, 2014, stating that Dorsey is incompetent to stand trial. Commissioner Vavala ordered that Dorsey participate in the Competency Restoration Program at Delaware Psychiatric Center on an outpatient basis.

On August 26, 2014, at an office conference proceeding before Commissioner Vavala, it was learned that the Delaware Psychiatric Center does not offer its Competency Restoration Program on an outpatient basis.

On October 24, 2014, Dorsey filed a Motion Dismiss pursuant to 11 *Del. C.* § 404. The State filed a Response to the Motion to Dismiss on November 26, 2014. On December 15, 2014, Dorsey filed a Reply in Support of His Motion to Dismiss. The motion was referred to Commissioner Vavala in accordance with 10 *Del. C.* § 512(b) for proposed findings of fact and conclusions of law. The Commissioner issued the Report and Recommendation on January 28, 2015. The Commissioner recommended that Defendant's Motion to Dismiss be granted. "Within ten days after filing of a Commissioner's proposed findings of fact and recommendations . . . any party may serve and file written objections."¹ Neither party has filed an objection to the Commissioner's Report and Recommendation.

The Court holds that the Commissioner's Report and Recommendation dated January 28, 2015, should be adopted for the reasons set forth therein. The

¹ Super. Ct. Crim. R. 62(a)(5)(ii).

Commissioner's findings are not clearly erroneous, are not contrary to law, and are not an abuse of discretion.²

THEREFORE, the Court hereby accepts the Commissioner's Report and Recommendation in its entirety.

IT IS SO ORDERED.

/s/ Mary M. Johnston

The Honorable Mary M. Johnston

² Super. Ct. Crim. R. 62(a)(4)(iv).