

FILED  
COURT OF COMMON PLEAS

APR 17 2026

APRIL DANIELS, CLERK OF COURTS  
ASHTABULA COUNTY, OHIOIN THE COURT OF COMMON PLEAS  
ASHTABULA COUNTY, OHIO

State of Ohio,

Plaintiff,

vs.

ODRAYE G. JONES  
AKA Malik Allah U-Akbar,  
Defendant.:  
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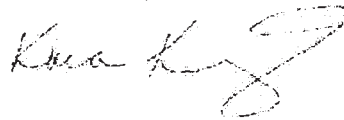
Case No. 1997-CR-221

Judge Schroeder

**70. STATE'S MEMORANDUM CONTRA DEFENDANT'S MOTION TO EXCLUDE  
DR. EISENBERG'S REPORT, TESTIMONY AND OPINIONS**

Defendant moved this Court for an order excluding Dr. James Eisenberg's 1998 report, testimony, and any reference to Dr. Eisenberg's testing, diagnosis, opinions, and conclusions. Defendant also moved this Court to exclude 2023 reports and testimony from Dr. Jessica Hart due to her reliance on Dr. Eisenberg. The State of Ohio is opposed to Defendant's motion for the reasons set forth in this memorandum and respectfully requests that Defendant's motion be denied.

Respectfully submitted,

DAVE YOST  
Ohio Attorney General



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### **MEMORANDUM IN SUPPORT**

The State of Ohio does not intend to introduce Dr. Eisenberg's testimony or report during the mitigation hearing. However, the State of Ohio does intend to rely on Dr. Hart's reports and testimony at the upcoming competency hearing on April 20, 2026.

In *Jones v. Bradshaw*, 46 F. 4<sup>th</sup> 459, 488-489 (6th Cir. 2022), the Sixth Circuit took issue with Dr. Eisenberg's racially prejudicial statements. These statements have been outlined on pages 488 through 489 of the opinion and restated by Defendant in his motion at the bottom of page six (6). What's notable is that the Sixth Circuit in 2022 did not take issue with the rest of Dr. Eisenberg's testimony.

This Court heard testimony from Dr. Jessica Hart on September 8, 2023. Dr. Hart's testimony was presented to the Court by prior counsel for the Defendant, John Juhasz and current counsel Margaret Brunarski. Testimony was heard by this Court after the Sixth Circuit remanded the case in 2022. No objection to Dr. Hart's report or testimony was made by either party based on Dr. Hart relying on testing completed by Dr. Eisenberg. This Court noted in its September 12, 2023 entry that "there was no testimony from any witness refuting the methodology or the conclusions from either Dr. Hart or Dr. Edwards."

The Defendant had no prior objection to Dr. Hart's report or testimony. Now suddenly two and a half years after the Court has found Dr. Hart's testimony and conclusions to be reliable and credible as well as admitted Dr. Hart's reports into evidence, the Defendant wants her conclusions and prior testimony excluded. Interestingly, two recent reports provided by counsel for the defense also rely on Dr. Eisenberg's prior reports. Dr. Bob Stinson reviewed reports prepared by Dr Hart as well as reports, files, and testimony from Dr. Eisenberg. Dr. LeRoy Reese also referenced work done by Dr. Eisenberg in preparing his own report.

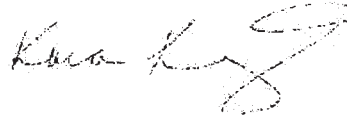
Dr. Hart remains the only reviewing physician in recent years who has been able to engage in any meaningful discussion with the Defendant. The statements included in her reports are relevant to the Court to consider when determining competency to stand trial.

### CONCLUSION

For the above reasons, the State respectfully requests that this Court deny Defendant's motion.

Respectfully submitted,

DAVE YOST  
Ohio Attorney General



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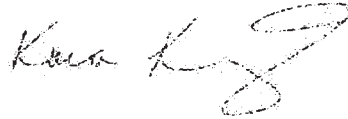
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**CERTIFICATE OF SERVICE**

This is to certify that this document has been filed electronically, and service to Attorneys for Defendant has been made via email on this 17<sup>th</sup> day of April, 2026 to the following addresses:

don@ohiodefensefirm.com

mbrunarski@ashtabulacountypd.com

A handwritten signature in black ink, appearing to read "Kara Keating", with a stylized flourish at the end.

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Kara Keating (0087252)  
Special Prosecutor for Ashtabula County

**IN THE COURT OF COMMON PLEAS  
ASHTABULA COUNTY, OHIO**

THE STATE OF OHIO

Plaintiff

vs.

ODRAYE G. JONES

aka Malik Allah U Akbar

Defendant

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CASE NO. 1997 CR 221

JUDGE SCHROEDER

DEATH PENALTY CASE

**FILED  
COURT OF COMMON PLEAS**

APR 22 2026

APRIL DANIELS, CLERK OF COURTS  
ASHTABULA COUNTY, OHIO

**PROCEEDING:** Competency of defendant.

As a threshold matter, this Court made a determination regarding the defendant's competency after a full hearing held on September 9, 2023. At the time of that hearing, Dr. Jessica Hart and Dr. Edwards testified regarding the issue of the defendant's competency. It should be noted that Dr. Hart spent significant time with the defendant; had extended and meaningful conversations with the defendant; experienced no personal animosity, or problems from the defendant; and concluded that he was in fact competent to stand trial.

Dr. Edwards was the first of multiple expert witnesses that the defendant refused to cooperate with and be evaluated by. Nonetheless, Dr. Edwards was able to opine that the defendant was in fact competent to stand trial. Dr. Edwards reduced that competency finding to writing in a report Dated August 30th of 2023, which was made a part of the record of this Court. Dr. Edwards and Dr. Hart both opined that the defendant O'draye Jones is competent to stand trial in that he is currently capable of understanding the nature and objectives of the proceedings against him and is able to assist his attorney in his defense.

After the passage of approximately three years, and the entry of appearance of new lead defense counsel for the defendant, upon motion, this court without objection from the state, granted leave for the defendant to be examined again for purposes of competency. It should be noted that competency is a fluid conditions in these matters and that approximately 2 1/2 years had passed from the initial competency evaluation and determination. In addition, this court was focused on the defendant's potential waiver of mitigation in this case.

The burden is of course upon the defendant to establish that he is not competent. To that end, the state engaged an expert witness, Dr. Reese from Atlanta, Georgia, who came to Ashtabula County, spent 2 days with the defendant attempting to secure his cooperation, which was ultimately and consistently refused. Dr. Reese wrote a report, after never having seen, examined or spoken with the defendant, that the defendant was not competent to stand trial. Dr. Reese testified in this matter on April 13, 2026, that it was his opinion that the dependent was not competent. It should be noted that Dr. Reese, in his testimony, in addition to acknowledging he had never seen, talked to, or examined the defendant, acknowledged further that he had no

knowledge of the Ohio Statutes regarding competency and the two stated criteria to determine competency.

The State had requested leave of Court to engage an expert for the purpose of examining the defendant for purposes of competency, as well. The Court granted the State leave for that purpose, but the Court made it very clear that it was incumbent upon the State to secure the testimony of their witness and his report so as to not to delay the long-scheduled trial date. It should be noted that the defendant refused to cooperate and be seen by the State's expert on April 22, 2026.

This Court has previously made a determination, based on the testimony and opinion of the one expert witness that the defendant cooperated with, that the defendant is in fact competent. This Court has had multiple interactions with the defendant and this Court has no concern whatsoever regarding his competency under the current standards. This Court has considered the testimony of the several witnesses in this matter and nothing this Court has heard changes this Courts conclusion as for this defendant's competency. This defendant is again, deemed to be competent, of this date, and jury selection will commence on April 23, 2026. The State may wish to supplement the record by the testimony of their expert at a later time.

**IT IS SO ORDERED.**

The Clerk is directed to serve notice of this judgment and its date of entry upon the journal upon the following: Daniel Kasaris, Esq., Kara Keating, Esq., and Erik Spitzer, Esq., Special Ashtabula County Prosecutors; Donald Malarcik, Esq.; Margaret Brunarski, Esq.; the defendant; and the Ashtabula County Sheriff.

  
DAVID A. SCHROEDER, JUDGE

DAS/jmk

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**APRIL DANIELS, CLERK OF COURTS  
ASHTABULA COUNTY, OHIO**