

1986

# Lowell Cook v. Seymour Stead, Superintendant Utah State Hospital: Brief of the Respondent

Utah Supreme Court

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David L. Wilkinson; attorney general; attorney for respondent.

Alvin G. Nash; attorney for appellant.

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## Recommended Citation

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DOCKET NO. \_\_\_\_\_ IN THE SUPREME COURT OF THE STATE OF UTAH

LOWELL COOK,

Plaintiff and  
Appellant,

VS.

SEYMOUR STEAD, Superintendant,  
Utah State Hospital,

Defendant and  
Respondent.

District Court No. 70767

Supreme Court No. 86 0055  
Category No. 3

## BRIEF OF THE RESPONDENT

AN APPEAL FROM THE ORDER DENYING PETITIONER'S  
APPLICATION FOR A WRIT OF HABEAS CORPUS IN THE  
FOURTH JUDICIAL DISTRICT COURT, IN AND FOR UTAH  
COUNTY, STATE OF UTAH,  
THE HONORABLE RAY M. HARDING, JUDGE PRESIDING

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Attorney for Plaintiff/  
Appellant

# FILED

APR 30 1986



IN THE SUPREME COURT OF THE STATE OF UTAH

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LOWELL COOK,	:	
	:	
Plaintiff and	:	District Court No. 70767
Appellant,	:	
	:	Supreme Court No. 86 0055
vs.	:	Category No. 3
	:	
SEYMOUR STEAD, Superintendant,	:	
Utah State Hospital,	:	
	:	
Defendant and	:	
Respondent.	:	
	:	

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BRIEF OF THE RESPONDENT

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AN APPEAL FROM THE ORDER DENYING PETITIONER'S  
APPLICATION FOR A WRIT OF HABEAS CORPUS IN THE  
FOURTH JUDICIAL DISTRICT COURT, IN AND FOR UTAH  
COUNTY, STATE OF UTAH,  
THE HONORABLE RAY M. HARDING, JUDGE PRESIDING

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IN THE SUPREME COURT OF THE STATE OF UTAH

---

LOWELL COOK,	:	
	:	
Plaintiff and	:	District Court No. 70767
Appellant,	:	
	:	Supreme Court No. 86 0055
vs.	:	Category No. 3
	:	
SEYMOUR STEAD, Superintendant,	:	
Utah State Hospital,	:	
	:	
Defendant and	:	
Respondent.	:	
	:	

---

**STATEMENT OF ISSUES PRESENTED ON APPEAL**

Whether the petitioner has been properly involuntarily hospitalized at the Utah State Hospital.

**STATEMENT OF THE CASE**

This is an appeal of the denial of a writ of habeas corpus filed in Fourth District Court of Utah County, the Honorable Ray M. Harding presiding.

**SUMMARY OF THE ARGUMENTS**

Mr. Cook was arrested in April, 1984 and charged with a public offense. After his arrest, the Uintah County Attorney filed a petition for inquiry into the competency of Mr. Cook to proceed with his criminal charges. The Seventh District Judge signed an order committing Mr. Cook to the Utah State Hospital for an evaluation as to his competency to proceed. The steps taken by the county attorney and the District Judge clearly complied with the provisions of Utah Code Annotated 77-15-1 et seq. Appellant's argument that the county attorney failed to



file a proper petition in accordance with Utah Code Annotated Section 77-15-1 et seq. ignores the petition and orders attached hereto as Appendices I and II which are part of the Uintah County criminal case record.

The appellant, Mr. Cook, was properly committed to the State Hospital pursuant to the provisions of Utah Code Annotated Section 77-15-1 et seq. and Section 64-7-36. Appellant has failed to cite to any part of the record for his allegations of failure to comply with due process hearing requirements. The record clearly reflects Mr. Cook was accorded statutory hearings and counsel at those hearings.

The provisions of Utah Code Annotated Section 77-15-5(6), which requires the stay of all other proceedings against the defendant until proceeding to determine his mental competency have been terminated, have been met in this matter. The criminal charges against Mr. Cook were not pursued during his commitment to the State Hospital. Indeed, those charges were eventually dismissed entirely. (Record, 12-14)

#### **STATEMENT OF THE FACTS**

Mr. Lowell Cook was initially arrested in Uintah County on an information filed on April 6, 1984 which alleged he had made a terrorist threat in violation of Section 76-5-107, Utah Code Annotated. (Record, 5) The Uintah County Attorney, Mark W. Nash, filed a petition with the Seventh District Court seeking an order committing Mr. Cook to the Utah State Hospital for an evaluation to determine Mr. Cook's competency to stand trial in accordance with Utah Code Annotated Section 77-15-2. (Appendix



Richard C. Davidson signed an order committing Mr. Cook to the Utah State Hospital for a period not to exceed ten days for the purposes of a competency evaluation in accordance with Utah Code Annotated Section 77-15-2. (Appendix II)

On April 9, 1984, an Application for Order of Hospitalization was filed in Utah County by Mr. Robert C. Verville of the Utah State Hospital. Mr. Verville swore under oath that Mr. Cook was mentally ill and should be involuntarily hospitalized pursuant to Section 64-7-36, Utah Code Annotated. His belief was based upon the following facts:

Patient threatened to shoot kids with a shotgun, to burn his house down, threw rocks at vehicles as they passed by, exposed himself to women and children in front of his residence, threw glass and nails on highway to stop vehicle movement. Uncontrollable nature, threatens to kill anyone who passes by, paranoia, threatens to kill himself.

(Record, 35)

The case was ordered transferred from Uintah County to Utah County by order of Uintah County District Judge Richard Davidson on April 10, 1984. (Record, 11)

A hearing was held before Fourth District Court Judge Maurice Harding on April 13, 1984 and the matter continued until April 20, 1984. (Record, 39) At the April 20th hearing on the application for involuntary hospitalization, the Court found that Lowell Cook was mentally ill and in need of hospitalization. The Court ordered him to be hospitalized at the Utah State Hospital for a temporary period of six months unless sooner discharged by proper authority. (Record, 40,41)



Although the record is somewhat unclear, it appears that Mr. Cook's case again came before the Seventh Judicial District Court on recommendation of the Uintah County Sheriff and physicians at the Utah State Hospital. On June 14, 1984, Judge Richard C. Davidson made a finding that Mr. Cook was not competent to stand trial on his criminal charges and he was ordered to the custody of Utah State Hospital until such time as he became competent to stand trial. (Record, 53, Appendix III) The Utah State Hospital subsequently notified the Division of Mental Health that Mr. Cook had been released from his civil commitment and that he remained at the State Hospital under a criminal commitment. (Record, 55, Appendix IV)

On June 20, 1985, the State Hospital, by three of its physicians, notified Judge Richard Davidson that Mr. Cook's condition had continued to deteriorate since his commitment on June 14, 1984 as "not competent to proceed" pursuant to Utah Code Annotated 77-15-6. The doctors stated that Mr. Cook continued to lack the ability to comprehend the nature of the charges against him and the punishment specified for the crime charged. He also lacked the ability to assist his counsel in his defense. The doctors could not recommend that the Court find Mr. Cook competent to proceed and, indeed, felt that he would not attain competency within a reasonable amount of time. They recommended that the Court dismiss the pending criminal charges and initiate civil commitment proceedings. (Record, 9)

In response to the Hospital's letter, an application for order of hospitalization was filed on July 23, 1985 in Uintah



County. The application stated that Mr. Cook, in the opinion of the affiant, David Emmett, a mental health specialist, was mentally ill and should be involuntarily hospitalized at the Utah State Hospital. The affiant, Mr. David Emmett, stated:

Lowell is mentally ill and not able to care for himself. He still has angry outbursts. He has further deteriorated while in treatment at the State Hospital. Lowell remains a danger to himself and others. There is no less restrictive environment available. (Record, 6)

On July 23, 1985, Judge Richard C. Davidson signed an Order for Admission and/or Detention Pending Hearing or Examination which ordered that Lowell Cook be detained in the State Hospital pending further order of the Court. (Record, 8) Judge Davidson also signed an Order of Transfer which stated that "there is probable cause that the proposed patient's mental condition requires hospitalization pending a hearing." The Court further found that there was no appropriate mental health facility for Lowell Cook within Uintah County. Therefore, the Judge ordered the case transferred to the District Court of Utah County for further proceedings. (Record, 44)

On August 2, 1985, the deputy clerk of Utah County filed a Notice of Commencement of Proceedings in the Matter of the Mental Condition of Lowell Cook (Record, 45) in that the Application for Order of Hospitalization previously filed in Uintah County by David Emmett had been transferred to Utah County by Judge Davidson's Order. A hearing was held in Utah County on August 8, 1985 before the Honorable Judge Maurice Harding. (Record, 46) Mr. Cook was represented by a public defender.



Evidence was entered and witnesses testified. In accordance with the recommendations of the examining physicians, the Court found Lowell Cook to be mentally ill and in need of hospitalization for said illness. The Court ordered Mr. Cook to be hospitalized at a mental health facility designated by the Division of Mental Health for a temporary period of six months, unless sooner discharged by proper authority. (Record, 47,48)

On August 21, 1985, the Uintah County Attorney filed a Motion to Dismiss the pending criminal charges against Mr. Cook on the grounds:

- (1) The Defendant has been determined to be mentally incompetent to stand trial;
- (2) Personnel at the Utah State Hospital feel that it is doubtful Defendant will ever be competent enough to stand trial;
- (3) Defendant has been civilly committed to the Utah State Hospital.

(Record, 12) An order dismissing the charges was signed by District Judge Richard C. Davidson. (Record, 13)

A six-month review hearing of Mr. Cook's commitment was held on February 6, 1986 before Judge Maurice Harding. Mr. Cook was represented by counsel, evidence was taken, and the Court ordered that Mr. Cook remain hospitalized at the mental health facility designated by the Division of Mental Health for an indeterminate period, subject to the provisions of Section 64-7-36(11), Utah Code Annotated (as amended, 1953). (Record, 50)

On September 12, 1985, a Complaint in Habeas Corpus was filed in the Utah County District Court. The complaint alleged Mr. Cook was unlawfully restrained at the Utah State Hospital and asked that the Court order the release or discharge of Mr. Cook.



(Record, 1-2) A hearing was held on the Complaint in Habeas Corpus on November 1, 1985. The Court reviewed the pleadings in both the habeas corpus matter and the civil commitment matter. The Court found that the writ of habeas corpus was moot, that all the defendant's rights in the civil commitment proceeding were properly protected, that all of the proper statutory procedures relative to notice and appointment of counsel were followed, and ruled that the civil commitment of August 8, 1985 was appropriate. (Record, 21-23) The Complaint in Habeas Corpus was dismissed and Mr. Cook ordered returned to the State Hospital. (Record, 24) A Notice of Appeal to the Utah Supreme Court was filed on December 20, 1985.

### ARGUMENT

#### POINT I

THE UTAH COUNTY DISTRICT COURT HAD  
AUTHORITY TO INITIALLY COMMIT THE APPELLANT  
TO THE UTAH STATE HOSPITAL FOR A COMPETENCY  
EVALUATION.

Utah Code Annotated Section 77-15-3 provides as follows:

(1) Whenever a person who is charged with a public offense, or who is serving a sentence of imprisonment, is or becomes incompetent as defined in this chapter, a petition may be filed in the district court of the county where the charge is pending or where the person is confined.

(2) The petition shall set forth the facts upon which the allegations of incompetency to proceed are based. The petition may be based upon knowledge or information and belief and may be filed by the party alleged incompetent to proceed, any person acting on his behalf, the prosecuting attorney, or any person having custody or supervision over the person.



In accordance with the foregoing statute, the prosecuting attorney in Uintah County filed a Petition for Inquiry as to the mental competency of Lowell Cook on April 18, 1984. (Appendix I) Seventh District Judge Richard C. Davidson signed an order on April 18, 1984 which committed Lowell Cook to the Utah State Hospital for a period not to exceed ten days in order for personnel at the Utah State Hospital to provide the Court a written evaluation of their findings as to the competency of Lowell Cook. (Appendix II) The Court's order was entered in accordance with the provisions of Utah Code Annotated Section 77-15-5(1) and (2) which read:

(1) Where a petition is filed pursuant to Section 77-15-3, the court shall enter an order for a hearing on the mental condition of the person who is the subject of the petition.

(2) Prior to the hearing the court may:

(a) Order the person to be committed to the Utah State Hospital, or to another facility for an observation or treatment; or

(b) Appoint two or more alienists to examine the person and to be present at the hearing to give testimony concerning the mental condition of such person.

Because the prosecuting attorney did file a petition for inquiry as to the competency of Mr. Cook and because the Court issued an order committing Mr. Cook to the State Hospital for an evaluation, not to exceed a period of 30 days, the requirements of Utah Code Annotated 77-15-3 and 77-15-5 were met. The plaintiff-appellant is plainly in error in alleging that he was committed to the Hospital for observation without a proper petition having been filed.



## POINT II

PLAINTIFF-APPELLANT WAS NEVER COMMITTED TO THE STATE HOSPITAL FOR A PERIOD IN EXCESS OF EIGHTEEN MONTHS WITHOUT A HEARING.

The record in this matter is admittedly confusing in that it involved both civil and criminal commitments and two counties - Utah County and Uintah County. It is apparent that Mr. Cook was initially committed to the State Hospital on a criminal evaluation for competency to stand trial pursuant to Utah Code Annotated 77-15-1 et seq. The case was transferred to Utah County and a hearing and proceedings for involuntary hospitalization were held pursuant to Utah Code Annotated Section 64-7-36 on April 20, 1984. The Utah County Court ordered Mr. Cook involuntarily committed to the State Hospital for a period not to exceed six months in accordance with Utah Code Annotated 64-7-36(11)(a). (Record, 40,41)

Mr. Cook's case was again brought before the Uintah County District Court where, on June 14, 1984, Judge Richard Davidson made findings that Mr. Cook was not competent to stand trial on his criminal charges. The district court ordered Mr. Cook to the custody of the Utah State Hospital until such time as he became competent to stand trial. (Record, 53, Appendix III) The court's order clearly complied with the provisions of Utah Code Annotated Section 77-15-6 which states:

If, after hearing, the person is found to be incompetent, the court shall order him committed to the Utah State Hospital or to another mental health facility until the court which has committed him or the district court of the county wherein he is confined, after notice and hearing, finds that he is competent to proceed. Notice of such hearing



shall be given to the prosecuting attorney for the county from which the defendant was committed. If the hearing is held in the county where the defendant is confined, notice shall also be given to the prosecuting attorney for that county.

In June, 1985, the Hospital informed the Uintah County Court that Mr. Cook would likely never be competent to proceed and recommended a civil commitment. A petition for involuntary hospitalization was commenced in July, 1985, and the case transferred to Utah County in accordance with Utah Code Annotated Section 64-7-36(7). A hearing was held before Utah County District Judge Maurice Harding on August 8, 1985. The hearing requirements of Utah Code Annotated Section 64-7-36(10) were complied with and the Court issued a six-month Order of Hospitalization in compliance with Section 64-7-36(10). (Record, 47,48) Subsequently, the Uintah County Attorney moved to dismiss the criminal charges pending and the Uintah County Judge so ordered. (Record, 12-14)

Mr. Cook's six-month review hearing was conducted on February 6, 1986 in accordance with Utah Code Annotated Section 63-7-36(11)(a).

The fact and record of this matter give ample evidence that the provisions of Utah Code Annotated 77-15-1 et seq., and Utah Code Annotated 64-7-36 have been met. Mr. Cook has utterly failed to cite to any part of the record for the proposition that his due process rights were violated. Indeed the record demonstrates that Mr. Cook has been accorded the rights afforded him by Utah law.



### POINT III

PROCEEDING TO DETERMINE MENTAL COMPETENCY  
ONLY STAY ALL OTHER PROCEEDINGS RELATIVE TO  
THE CRIMINAL CHARGE AGAINST THE DEFENDANT.

Utah Code Annotated 77-15-5(6) provides:

All other proceedings pending against the  
defendant shall be stayed until the  
proceedings to determine his mental condition  
are terminated.

The appellant asserts that "the attempt to commit  
Plaintiff civilly while he was still under criminal commitment  
was a ruse on the part of the prosecution to avoid meeting the  
requirements of the law" and he references Utah Code Annotated  
77-15-5(6). (Appellant's Brief, 3) However, it is clear from the  
context of the term "proceeding" throughout Chapter 15, Title 77  
"Inquiring into Sanity of Defendant" that the proceedings  
required to be stayed are the proceedings relative to the  
criminal charge, and not to civil commitment proceedings.

Utah Code Annotated 77-15-1 provides:

No person who is incompetent to proceed shall  
be tried or punished for a public offense.

Utah Code Annotated 77-15-2 states:

For the purposes of this chapter, a person is  
incompetent to proceed if he is suffering  
from a mental disease or defect resulting  
either:

(1) In his inability to comprehend the  
nature of the proceedings against him or the  
punishment specified for the offense charges;  
or

(2) In his inability to assist his counsel  
in his defense.

(Emphasis added)




From the foregoing statutory language, it is apparent that the "proceedings" which are stayed by a competency inquiry are those proceedings relative to the offense with which the defendant is charged. The law makes it clear that no person who is incompetent to proceed may be tried for a criminal offense. It does not provide that a person incompetent to proceed in a criminal matter may not be civilly committed to a mental health facility for treatment of his mental disease.

It is clear from the record that the criminal charges against Mr. Cook were stayed during his commitments to the State Hospital for evaluation and treatment. Indeed, those charges were eventually dismissed. (Record, 12-14)

#### CONCLUSION

Based upon the foregoing, respondent respectfully requests that the order of dismissal entered in the Fourth Judicial Court, in and for Utah County, State of Utah, be affirmed.

DATED this 30<sup>th</sup> day of April 1986.

  
LINDA LUINSTRA  
Assistant Attorney General



CERTIFICATE OF MAILING

I hereby certify that I mailed four true and exact copies of the foregoing Respondent's Brief, postage prepaid, to Alvin G. Nash, American Savings Bldg., #202, 134 West Main Street, Vernal, Utah 84078 on this the 30<sup>th</sup> day of April, 1986.

Linda Lunda



MARK W. NASH  
UINTAH COUNTY ATTORNEY  
Attorney for Plaintiff  
319 West 100 South, Suite A  
Vernal, Utah 84078  
Telephone: (801) 789-1301

---

IN THE SEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF UINTAH, STATE OF UTAH

---

STATE OF UTAH,	:	
Plaintiff,	:	PETITION FOR INQUIRY AS TO
vs.	:	MENTAL COMPETENCY OF
	:	DEFENDANT
LOWELL COOK,	:	Case No. _____
Defendant.	:	

---

COMES NOW the State of Utah, by and through the Uintah County Attorney, Mark W. Nash, and moves the Court pursuant to the provisions of Chapter 15 of Title 77, Utah Code Annotated (1953) as amended, for an Order committing the Defendant to the Utah State Hospital for a period of not to exceed ten (10) days for the purposes of an evaluation to determine the Defendant's competency to stand trial on the charges now pending against him.

This Petition is based upon the belief that the Defendant may be incompetent as defined in Section 77-15-2, UCA (1953) as amended, and is accompanied by an Affidavit in Support hereof.

DATED this 18th day of April, 1984.



Mark W. Nash  
Uintah County Attorney



MARK W. NASH  
UINTAH COUNTY ATTORNEY  
Attorney for Plaintiff  
319 West 100 South, Suite A  
Vernal, Utah 84078  
Telephone: (801) 789-1301

---

IN THE SEVENTH JUDICIAL DISTRICT COURT

COUNTY OF UINTAH, STATE OF UTAH

---

STATE OF UTAH,	:	
Plaintiff,	:	AFFIDAVIT IN SUPPORT OR
vs.	:	PETITION FOR INQUIRY AS TO
	:	MENTAL COMPETENCY OF
	:	DEFENDANT
LOWELL COOK,	:	Case No. _____
Defendant.	:	

---

STATE OF UTAH     )  
                              : ss.  
County of Uintah )

COMES NOW Affiant, Wayne Hollebeke, after first being duly sworn upon his oath, deposes and says:

1. That he is a Class I Peace Officer of the State of Utah and is a Deputy in the Uintah County Sheriff's Office.

2. That he was the arresting officer in the above named case and that he is aware of the facts and circumstances surrounding and leading up to the arrest of Defendant.

3. That on or about April 3, 1984, Affiant, as part of his official duties, responded to the residence of Terrie J. Cox in response to a telephone complaint from Mrs. Cox concerning an alleged threat by Defendant to shoot Mrs. Cox's ten year old son. Upon speaking with Mrs. Cox, Affiant determined that the Cox child had ridden his bike along the public roadway in front of \_\_\_\_\_ Defendant had come out of his house. had



called to the child and while pointing a shotgun at the child had threatened in a loud and profane manner to "blow him away" if the child didn't stop riding in front of Defendant's place of residence.

4. After receiving the statements from Mrs. Cox, Affiant contacted a Deputy County Attorney who authorized the issuance of an Information which was then presented to Judge Whitney D. Hammond, who signed the Information and authorized the issuance of a Warrant of Arrest for Defendant on the charge of Terroristic Threat.

5. Upon receiving the Warrant, Affiant and another officer proceeded to Defendant's place of residence where Defendant was found and placed under arrest. After having been informed of his rights, Defendant made numerous statements both in response to questions and of a voluntary nature. These statements were to the effect that he had indeed committed the act with which he was charged and that he intended to harm or kill all those other little "bastards" if they didn't "stay away from his place".

6. Affiant is aware of numerous occasions in the past wherein Defendant has threatened other persons traveling on the roadway in front of his residence and has taken steps to hinder the flow of traffic on the roadway by placing nails and other sharp objects in the roadway.

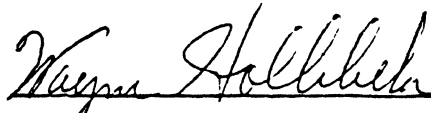
7. Since November of 1983, the Uintah County Sheriff's



Office has responded to more than thirty-five (35) calls from Defendant reporting harassment against him on the part of children, speeding traffic, attempts by people to burn his home and other reports of a similar nature. Personnel of the Uintah County Sheriff's Office have checked out these complaints and determined they were unfounded. On at least one occasion Affiant responded to a complaint by Defendant and parked some distance away from Defendant's place of residence so as to observe any threats or other acts directed against Defendant. During the approximate four (4) hours in which Affiant observed Defendant's residence, Defendant made three (3) additional calls to the Uintah County Sheriff's Office reporting acts of harassment directed against him. During this time Affiant was able to observe nothing out of the ordinary and did not observe anyone stop or approach Defendant's place of residence.

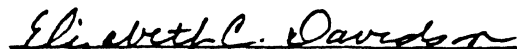
8. Defendant has been charged with and convicted of several serious crimes in other states ranging from indecent exposure to rape and sexual abuse. It is the opinion of Affiant that Defendant is a danger to the persons living in proximity to Defendant's place of residence.

DATED this 18th day of April, 1984.

  
Wayne Hollebeke, Affiant

Subscribed and sworn to before me this 18th day of April, 1984.

My commission expires:  
6-27-87

  
Notary Public  
Residing at Vernal, Utah



MARK W. NASH  
UINTAH COUNTY ATTORNEY  
Attorney for Plaintiff  
319 West 100 South, Suite A  
Vernal, Utah 84078  
Telephone: (801) 789-1301

---

IN THE SEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF UINTAH, STATE OF UTAH

---

STATE OF UTAH,	:	
Plaintiff,	:	ORDER
vs.	:	
LOWELL COOK,	:	Case No. _____
Defendant.	:	

---

THE COURT, having reviewed the Petition for Inquiry as to Mental Competency of Defendant and the Affidavit in Support thereof, hereby orders pursuant to Chapter 15 of Title 77, Utah Code Annotated, (1953) as amended, that the Defendant be committed to the Utah State Hospital for a period of not to exceed ten (10) days, for examination, observation, for treatment, and further orders and that the personnel at the Utah State Hospital provide to the Court a written evaluation of the findings as to Defendant's competency and as to what course of action would be most appropriate both for Defendant's good and for the protection of society at large.

DATED this 18<sup>th</sup> day of April, 1984.



Richard C. Davidson  
District Court Judge



APPENDIX III

FILED  
CLERK OF DISTRICT COURT  
JULY COUNTY, STATE OF UTAH

1984 JUN 18 PM 3:08

WILLIAM F. HUISH, CLERK  
DEPUTY

KIRK C. BENNETT  
DENNIS L. JUDD  
BENNETT & JUDD  
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319 West 100 South, Suite B  
Vernal, Utah 84078  
Telephone: (801) 789-7038

IN THE SEVENTH JUDICIAL DISTRICT COURT OF UINTAH COUNTY  
STATE OF UTAH


---

STATE OF UTAH,	)	
	)	
Plaintiff,	)	ORDER
	)	
vs.	)	
	)	
LOWELL COOK,	)	
	)	
Defendant.	)	Civil No.

---

This matter having come before the Court upon recommendation of Uintah County Sheriff Department and the recommendation of Dr. Van O. Austin and Dr. Robert J. Howell, of the Utah State Hospital Staff, and having read the recommendation and being advised in this matter, it is the finding of this Court that Lowell Cook is not competent to stand trial and is ordered to the custody of Utah State Hospital until such time as he is competent to stand trial.

DATED this 14 day of June 1984.

  
Richard C. Davidson  
District Court Judge



CERTIFICATE OF MAILING

I hereby certify that I Susan Buckalew placed a true and correct copy of the foregoing ORDER

---

in an envelope addressed to:

Alvin Nash  
134 West Main  
Vernal, Ut. 84078

Utah State Hospital  
1300 East Center  
P.O. Box 270  
Provo, Ut. 84603-0270

and deposited the same, sealed, with the first class postage prepaid thereon, in the United States mail at Vernal, Utah on the 15 day of June, 1984.

Susan Buckalew  
Susan Buckalew  
Secretary for Bennett & Judd



FILED  
NORTH JUDICIAL DISTRICT COURT  
UTAH COUNTY, STATE OF UTAH

1984 JUN 20 AM 7: 58

WILLIAM F. HUSH, CLERK  
DEPUTY

FILED  
NORTH JUDICIAL DISTRICT COURT  
UTAH COUNTY, STATE OF UTAH  
1984 JUN 20 AM 7: 56  
WILLIAM F. HUSH, CLERK  
DEPUTY

**NOTICE OF RELEASE  
FROM JUDICIAL ORDER  
OF HOSPITALIZATION**

IN THE MATTER OF:

LOWELL COOK

*Patient*

Utah State Hospital

*Court case number or date of commitment*

*Mental Health Facility*

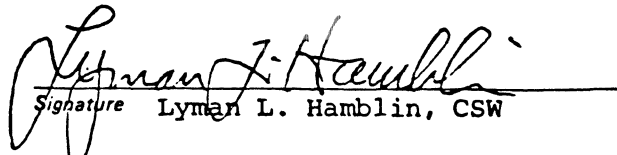
To the State Division of Mental Health and the District Court of Utah  
County:

The reasons justifying the judicial order of hospitalization of the above named patient no longer exist and the patient is discharged without conditions and released from any prior judicial order of hospitalization.

~~The above named patient was discharged with conditions on 2/22/84. An examination of the reasons justifying the original judicial order of hospitalization has been made and it has been determined that the reasons no longer exist.~~

Mr. Cook remains at the Utah State Hospital under criminal commitment.

Dated on this 18th day of June, 19 84.

  
Signature Lyman L. Hamblin, CSW

Administrative Director/Geriatric Unit  
Title

\*Cross out if not applicable

**INSTRUCTIONS:** This form will be used to notify the Division and the court of a release from commitment. If the patient is transferred to another facility with the judicial order of hospitalization intact, use DMH Form 41. If the patient is conditionally released (trial visit, etc.), use DMH Form 43A.