

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 23-106

(Commission to Determine Mental Competency of Inmate)

WHEREAS, counsel for DUANE EUGENE OWEN, an inmate under a sentence of death and with a pending death warrant, has written a letter to the Governor alleging that DUANE EUGENE OWEN may be insane; and

WHEREAS, counsel for DUANE EUGENE OWEN attached a report from a neuropsychologist's recent evaluation of DUANE EUGENE OWEN opining that DUANE EUGENE OWEN meets the criteria for insanity and recounting DUANE EUGENE OWEN'S "feel[ing] that he is a women in the body of a man" and that he "was trying to fully become the woman he really was," none of which demonstrates that DUANE EUGENE OWEN currently lacks the mental capacity to understand the nature of the death penalty and the reasons why it was imposed; and

WHEREAS, DUANE EUGENE OWEN chose to waive his mental capacity claims, and all subsequent challenges to that waiver have been rejected in both state and federal court, *see Owen v. State*, 773 So. 2d 510 (Fla. 2000), *cert. denied*, *Owen v. Florida*, 532 U.S. 964 (2001); *Owen v. Crosby*, 854 So. 2d 182 (Fla. 2003); *Owen v. Sec'y for Dept. of Corr.*, 568 F.3d 894 (11th Cir. 2009), *cert. denied*, 558 U.S. 1151 (2010); and

WHEREAS, section 922.07, Florida Statutes, requires that "[w]hen the Governor is informed that a person under sentence of death may be insane, the Governor shall stay execution of the sentence and appoint a commission of three psychiatrists to examine the convicted person"; and

WHEREAS, to invoke section 922.07, an inmate must make sufficient allegations of insanity, *see Provenzano v. State*, 751 So. 2d 37, 40 (Fla. 1999); and

WHEREAS, the allegations set forth thus far that DUANE EUGENE OWEN is insane are insufficient assertions of insanity under section 922.07; and

WHEREAS, because the Governor's solemn duty to execute a duly imposed sentence of death requires the exercise of utmost caution, I will nonetheless implement the requirements of section 922.07.

NOW, THEREFORE, I, RON DESANTIS, Governor of Florida, by virtue of the authority vested in me by the Florida Constitution and laws of the State of Florida, direct as follows:

A. The following psychiatrists are hereby appointed as a Commission to examine the mental condition of DUANE EUGENE OWEN, pursuant to section 922.07, Florida Statutes:

1. Dr. Wade Myers
2. Dr. Tonia Werner
3. Dr. Emily Lazarou

B. The above-named psychiatrists constitute the "Commission to Determine the Mental Competency of Duane Eugene Owen." The Commission shall examine DUANE EUGENE OWEN to determine whether he understands the nature and effect of the death penalty and why it is to be imposed upon him. The examination shall take place with all three psychiatrists present at the same time. Counsel for DUANE EUGENE OWEN and counsel for the State, and any necessary correctional personnel, may be present at the examination. Counsel may not participate in the examination.

C. The examination shall be conducted on May 23, 2023. Upon completion of the examination, the Commission shall promptly, and by no later than close of business May 24, 2023, report its findings to my office.

D. The expenses incurred by the Commission for this examination and report shall be paid by the Department of Corrections.

E. The execution of sentence imposed upon DUANE EUGENE OWEN, scheduled for June 15, 2023 at 6:00 p.m., is hereby temporarily stayed pending receipt of the Commission's report. In the

event that, after receiving the report, I decide that DUANE EUGENE OWEN has the mental capacity to understand the nature of the death penalty and the reasons why it is to be imposed upon him, the execution of the sentence imposed upon DUANE EUGENE OWEN will occur on June 15, 2023 at 6:00 p.m. In the event that, after receiving the Commission's report, I decide that DUANE EUGENE OWEN does not have the mental capacity to understand the nature of the death penalty and the reasons it is to be imposed upon him, DUANE EUGENE OWEN will be committed to a Department of Corrections mental health treatment facility until such time as he has been restored to sanity and the sentence of death may be executed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 22nd day of May, 2023.



RON DESANTIS, GOVERNOR

ATTEST:

SECRETARY OF STATE

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DEPT. OF STATE
TALLAHASSEE, FL