

7-507.1. Competency.

A. **Purpose; scope.** This rule is intended to provide a timely, efficient, and accurate procedure for resolving whether a defendant is competent to stand trial. Competency to stand trial is distinct from other questions about a defendant's mental health that may be relevant in a criminal proceeding, such as the substantive defenses of not guilty by reason of insanity at the time of commission of an offense and incapacity to form specific intent.

B. **Definitions.** For purposes of this rule, the following definitions shall apply.

(1) **Competency.** The terms competency, competence, and competent are used interchangeably throughout this rule and refer to whether the defendant has,

(a) sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding,

(b) a rational as well as factual understanding of the proceedings against the defendant, and

(c) the capacity to assist in the defendant's own defense and to comprehend the reasons for punishment.

(2) **Competency evaluation.** A competency evaluation is an examination of the defendant by a qualified mental health professional, appointed by and acting on behalf of the court, limited to determining whether the defendant is competent to stand trial. Unless otherwise ordered by the court, a competency evaluation shall be limited to a determination of the defendant's competency and shall not state opinions about other matters including the defendant's sanity at the time of the offense or ability to form a specific intent.

C. **Competency to stand trial.**

(1) The issue of the defendant's competency to stand trial shall be raised whenever it appears that the defendant may not be competent to stand trial. The issue may be raised by motion, or upon the court's own motion, at any stage of the proceedings.

(2) The issue of the defendant's competency to stand trial shall be determined by the judge, unless the judge finds there is evidence which raises a reasonable belief that the defendant may not be competent to stand trial. If a reasonable belief that the defendant may not be competent to stand trial is raised prior to trial, the court shall order the defendant to undergo a competency evaluation. The court shall hold a hearing to determine the issue of the defendant's competency to stand trial:

(a) within ten (10) days after the filing of the competency evaluation if the defendant is incarcerated; or

(b) within thirty (30) days after the filing of the competency evaluation if the defendant is not incarcerated.

(3) If a defendant is found incompetent to stand trial the court may:

(a) dismiss the charges; or

(b) transfer the proceedings to the district court.

(4) If the finding of incompetency is made during the trial, the court shall declare a mistrial.

D. Statement made during competency evaluation. A statement made by a person during a competency evaluation or treatment subsequent to the commission of the alleged crime shall not be admissible in evidence against such person in any criminal proceeding on any issue other than that of the person's competency to stand trial.

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Committee commentary. — The Metropolitan Court shall order a competency evaluation when the court finds evidence which raises a reasonable belief that the defendant may not be competent to stand trial. A reasonable belief may arise from the court’s own observations or from the factual allegations in a party’s motion.

The reasonable belief standard for ordering a competency evaluation requires the court to consider only whether the movant’s subjective, good faith belief that the defendant may not be competent to stand trial is objectively reasonable. *Cf. Kestenbaum v. Pennzoil Co.*, 1988-NMSC-092, ¶ 27, 108 N.M. 20, 766 P.2d 280 (discussing the difference between a “subjective good faith belief as opposed to an objective standard of reasonable belief”). In making this determination, the court should evaluate whether the movant’s good faith belief is supported by specific, articulable facts that would lead a reasonable person to believe that the defendant may not be competent to stand trial. *Cf. State v. Martinez*, 2018-NMSC-007, ¶ 10, 410 P.3d 186 (“An officer obtains reasonable suspicion when the officer becomes aware of specific articulable facts that, judged objectively, would lead a reasonable person to believe criminal activity occurred or was occurring.” (internal citation and quotation marks omitted)). This is not a heavy burden, and in most circumstances should be capable of resolution without an evidentiary hearing.

For a discussion of procedures related to this rule, *see* the committee commentary to Rule 5-602.1 NMRA.

Courtroom closure

Hearings under this rule may be closed only upon motion and order of the court. *See* Rule 7-115(A) NMRA (“All courtroom proceedings shall be open to the public unless the courtroom is closed by an order of the court entered under this rule.”); *see also* Rule 7-115 committee commentary (“[I]f a party believes that courtroom closure is warranted for any reason, including the protection of confidential information, such party may file a motion for courtroom closure under Subparagraph (B)(2) of this rule.”).

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