

1 **7-507.1. Competency.**

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

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

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

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

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

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

16 (2) **Competency evaluation.** A competency evaluation is an examination of the
17 defendant by a psychologist or psychiatrist or other qualified professional recognized by the court
18 as an expert, appointed by and acting on behalf of the court, limited to determining whether the
19 defendant is competent to stand trial. Unless otherwise ordered by the court, a competency
20 evaluation shall not state opinions about other matters at issue in the criminal case, including the
21 defendant's sanity at the time of the offense or ability to form a specific intent.

22 C. **Competency to stand trial.**

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

4 (2) The issue of the defendant's competency to stand trial shall be determined
5 by the judge, unless the judge finds there is evidence which raises a reasonable belief that the
6 defendant may not be competent to stand trial.

7 (3) If a reasonable belief that the defendant may not be competent to stand trial
8 is raised prior to trial, the court shall order the defendant to undergo a competency evaluation. The
9 qualified professional who evaluates the defendant's competency shall prepare an evaluation
10 report and submit the report as ordered by the court. The evaluation report shall conform to the
11 requirements stated in NMSA 1978, Section 31-9-1.1. If, in the opinion of the qualified
12 professional, a defendant is not competent to stand trial, an evaluation report shall include the
13 additional findings required in Section 31-9-1.1(C)(1)-(2).

14 (a) At any time, including in the order for competency evaluation, the
15 court may order records that are reasonably necessary to the determination of the defendant's
16 competency. The records shall be provided to the forensic evaluator assigned to evaluating the
17 defendant for competency.

18 (b) If the defendant fails to appear for a competency evaluation, or the
19 court and/or defense counsel is unable to locate the defendant or an address for the defendant, the
20 evaluator or entity scheduling the evaluations shall notify the court, and the court shall make a
21 record of the reason, if known, for the failure to appear; and

22 (c) The court may issue a new or amended order for competency
23 evaluation restarting the thirty (30)-day time period upon notification by the evaluator of the failure

1 to appear for the competency evaluation or cancellation of a bench warrant for the defendant's
2 arrest.

3 (4) The court shall hold a hearing to determine the issue of the defendant's
4 competency to stand trial:

5 (a) within ten (10) days of the date an evaluation report is submitted to
6 the court for an incarcerated defendant charged with misdemeanor charges; or

7 (b) within ninety (90) days of the date an evaluation report is submitted
8 to the court for a defendant who is not incarcerated.

9 (5) If a defendant is found incompetent to stand trial the court shall transfer the
10 proceedings to the district court for proceedings under Rule 5-602.2 NMRA.

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

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

17 [Approved by Supreme Court Order No. 18-8300-023, effective for all cases filed on or after
18 February 1, 2019; suspended by Supreme Court Order No. S-1-RCR-2025-00143, effective for all
19 cases pending or filed on or after September 30, 2025; as reinstated and provisionally amended by
20 Supreme Court Order No. S-1-RCR-2025-00163, effective for all cases pending or filed on or after
21 October 6, 2025.]

22 **Committee commentary.** — The Metropolitan Court shall order a competency evaluation
23 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.”).

**METROPOLITAN COURT CRIMINAL
RULE 7-507.1
[REINSTATED AND AMENDED]**

**Supreme Court Approved
October 6, 2025**

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