

9-404A. Order on motion for competency evaluation; transfer.

[For use with Magistrate Court Rule 6-507.1 NMRA
and Municipal Court Rule 8-507.1 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
_____ COURT

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]

v. _____ No. _____
_____, Defendant.

**ORDER ON MOTION FOR COMPETENCY EVALUATION
[AND TRANSFERRING CASE]**

The Court, having considered the motion for competency evaluation [and the response in opposition] and being otherwise fully advised in the premises, FINDS and CONCLUDES:

1. An issue as to the defendant's competency to stand trial has been raised by motion of:
 the defense.
 the prosecution.
 the court.
2. A hearing on the motion:
 was held.
 was not held.
3. The parties:
 stipulate that this case should be transferred to the district court for a competency determination.
 do not stipulate that this case should be transferred to the district court for a competency determination.
4. The motion:
 is based on a good faith belief that the defendant may not be competent to stand trial.
 is not based on a good faith belief that the defendant may not be competent to stand trial.

5. The motion:
 is not advanced for purposes of delay.
 is advanced for purposes of delay.

6. The court FINDS:
 The motion IS supported by a reasonable belief that the defendant may not be competent to stand trial based upon the following:
 The facts alleged in the motion for a competency evaluation, which are
 set forth in the written motion and incorporated herein; or
 described as follows: _____

_____;
 The court's observations of the defendant, described as follows: _____

_____ ; and
 Other: _____

_____.

OR

- The motion IS NOT supported by a reasonable belief that the defendant may not be competent to stand trial.

7. It is ORDERED that the proceedings in this case:
 shall be suspended, and this case shall be transferred to the district court for a determination of competency; or
 shall not be transferred to the district court because the allegations are insufficient to demonstrate a reasonable belief that the defendant may not be competent to stand trial.

Judge

Attorney for the State

Attorney for the defendant

USE NOTE

1. Although the ultimate determination of the defendant's competency to stand trial is made by the district court, the magistrate or municipal court should determine, prior to transferring a case to district court, whether the factual allegations of incompetency are sufficient to demonstrate a reasonable belief that the defendant may not be competent to stand trial. *See* Rule 6-507.1 NMRA; Rule 8-507.1 NMRA.

2. A defendant is competent to stand trial if the defendant (1) has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding, (2) has a rational as well as factual understanding of the proceedings against him or her, and (3) has the capacity to assist in his or her own defense and to comprehend the reasons for punishment *See State v. Linares*, 2017-NMSC-014, ¶ 34, 393 P.3d 691; *see also* UJI 14-5104 NMRA. [Approved by Supreme Court Order No. 18-8300-023, effective for all cases filed on or after February 1, 2019.]