

Incompetence to Stand Trial and Insanity

Forensic mental health questions relate to legal capacities at a particular point in time. Insanity relates to mental state in the past, and whether a person should be excused for an act committed while insane. Incompetence relates to the legal capacity to “understand and assist” at the time of trial. It is a present tense inquiry. Anticipation of future mental states, and dangerous behaviors, can be found in legal proceedings involving civil commitment, civil commitment of sexually violent predators, and proceedings around conditional discharge.

Because mental state can fluctuate, these psycholegal issues are separate and distinct – and can change with time.

Although mental illness is a necessary predicate to each, diagnosis of mental illness alone is not sufficient to render a person incompetent, insane, or dangerous.

Incompetence to Stand Trial (Iowa Code § 812)

Due process of law, as required by the Fourteenth and Fifth Amendments, is violated by conviction of an incompetent person. Pate v. Robinson, 383 U.S. 375 (1966).

Standard

The Constitutional test for competence is found in Dusky v. United States, 362 U.S. 402 (1960): the “test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding-and whether he has a rational as well as factual understanding of the proceedings against him.”

Iowa Code 812 states the legal test for competence as: “the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense.”

The standard is by a preponderance of the evidence, or more than 50%. Iowa Code § 812.5(2).

Who can raise the question?

All parties, the prosecutor, the defense counsel, and the judge, are required to raise any bona fide doubts as to competence. But in practice, it is typically raised by defense counsel.

Placement

There are three possible **placements** for persons to be assessed for or restored to competence:

- a) **Outpatient:** Not a danger, otherwise qualified for pretrial release, and willing to cooperate with treatment. Iowa Code § 812.6(1).
- b) **IMCC:** A danger, OR not qualified for pretrial release. Iowa Code § 812.6(2)(a).
- c) **DHS:** Not a danger, held in custody OR refuses to cooperate with treatment. Iowa Code § 812.6(2)(b).

Time Limits

A defendant may be detained a “reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future” Jackson v. Indiana, 406 U.S. 715, 738 (1972). This period of time cannot exceed the maximum term of confinement of which the defendant is accused, or eighteen months from the date of the original adjudication of incompetence . . . whichever occurs first. Iowa Code § 812.9.

Can you forcibly administer medication to restore a defendant's competence?

It depends.

The Iowa Code permits the director of the facility (or designee) to request from the court an order authorizing treatment by chemotherapy or other somatic treatment. Iowa Code § 812.6(3).

The United States Supreme Court requires analysis of several factors. United States v. Sell, 539 U.S. 166 (2003).

Government's interest must be important: charges serious, evaluate special circumstances like time in confinement.

Treatment must significantly further those interests and substantially unlikely to have side effects that may undermine the fairness of the trial.

Treatment must be necessary, considering less intrusive alternatives

Treatment must be medically appropriate, substantially unlikely to have side effects that may undermine the fairness of trial.

**Note the analysis in Sell involved a nondangerous person. For pretrial detainees, Loughner clarifies that the analysis of Washington v. Harper governs; pretrial detainees may be medicated if dangerous and administrative processes are followed. United States v. Loughner, 672 F.3d 731 (9th Cir. 2012).

Release

Unlike commitments under Chapter 229, a court order is required before a defendant can be released when held under an 812 order. Iowa Code § 812.8.

Insanity

To plead not guilty by reason of insanity, a defendant admits the factual basis of the crime, and argues for an excuse from punishment. National studies indicate that insanity is raised in approximately 1 percent of all felony trials.

Standard

Iowa uses a cognitive test: "if at the time the crime is committed, the person suffers from such a diseased or deranged condition of the mind as to render the person incapable of knowing the nature and quality of the act the person is committing or incapable of distinguishing between right and wrong in relation to the act. Iowa Code § 701.4.

Affirmative defense – defendant must raise and bears burden of proof by preponderance of the evidence.

Post Verdict Placement

Iowa Rule of Civil Procedure 2.22(8). Following the verdict, the acquitted person shall be subject to a psychiatric evaluation. The substantive standard for continued detention is the similar to that for civil commitment: mentally ill and dangerous to self or others. The Iowa Code sets out periodic review: 30 days post evaluation then every sixty days a periodic report shall be filed.

Release: Like 812, release post NGRI acquittal requires a hearing and court order. Iowa R. Crim. P. 2.22(8)(e).

Conditional Discharge: Iowa permits conditional discharge of persons acquitted NGRI. This means outright discharge is not required; the court can impose conditions like compliance with treatment or residential supervision. State v. Stark, 550 N.W.2d 467 (Iowa 1996).