

SUPERIOR COURT OF ARIZONA
[XXXXXXXXXX] COUNTY

IN THE MATTER OF)
IMPLEMENTATION OF MENTAL)
COMPETENCY PROCEEDINGS IN)
CRIMINAL MATTERS IN LIMITED)
JURISDICTION COURTS)
_____)

ADMINISTRATIVE ORDER
No. [year] - ____

On August 9, 2017, legislation amending A.R.S. § 13-4503 became effective granting the Presiding Judge in each county the authority to authorize a municipal court or justice court to exercise jurisdiction over competency hearings in misdemeanor cases that arise out of the municipal court or justice court. It further provides that the limited jurisdiction court may refer a competency hearing to another limited jurisdiction court in that county with the approval of the Presiding Judge. Thereafter, the Supreme Court amended Rule 11 of the Arizona Rules of Criminal Procedure (hereinafter (“Rule 11”) to conform to the jurisdictional changes the legislature made to A.R.S. § 13-4503.

Having considered A.R.S. § 13-4503 and Rule 11, this Order addresses how [*insert name of court(s)*] may conduct Rule 11 competency proceedings in [*name of*] County.

IT IS ORDERED [*insert name of court(s)*] shall exercise jurisdiction over competency hearings in misdemeanor cases that arise out of its court in compliance with the policies and procedures set forth below.

IT IS FURTHER ORDERED that beginning on [*insert date*], [*insert name of court(s)*] shall:

1. Conduct Rule 11 proceedings in compliance with the policies and procedures approved by the Presiding Judge and attached to this Order.
2. Ensure an accurate and complete recording of all Rule 11 courtroom proceedings is taken and maintained in accordance with applicable retention schedules. This

- includes completion of all automation tasks to ensure the local case management system is properly configured for docketing and retaining case records.
3. Establish a process approved by the Presiding Judge for the issuance, filing, and distribution of minute entries and orders, and for the handling of evaluations and medical reports as required by law and court rule.
 4. Appoint mental health experts who meet the requirements set by statute and rule, and who are appointed pursuant to statutory and local procurement requirements.
 5. Transmit necessary findings to the Administrative Office of the Courts for the Department of Public Safety for firearm background checks as required by state and federal law.
 6. Pay any costs associated with holding Rule 11 competency proceedings as dictated by applicable statute, rule, or local practice at their court.

IT IS FURTHER ORDERED:

7. In accordance with A.R.S. § 13-4508, and Arizona Supreme Court Rule 123, judges shall take all necessary steps to ensure the confidentiality of Rule 11 evaluations and ensure that those records are to be treated as confidential records by all who have access to them, including attorneys. Judges who conduct Rule 11 proceedings shall have the authority to order the unsealing of past Rule 11 evaluations for the limited purposes of the Rule 11 proceedings held in their court.
8. The Superior Court and the Clerk of the Superior Court shall ensure that when *[insert name of court(s)]* conducts Rule 11 competency proceedings, *[insert name of court(s)]* has access to any records necessary to conduct the proceeding, including past Rule 11 evaluations in the Superior Court.
9. *[Name of court(s)]* shall provide to a requesting court access to any records necessary to conduct Rule 11 proceedings in that court if the requesting court is authorized to conduct Rule 11 proceedings.

IT IS FURTHER ORDERED if [*insert name of court(s)*] wishes to refer competency hearings to another court authorized to conduct Rule 11 hearings pursuant to A.R.S. § 13-4503(F), [*insert name of court(s)*] shall submit to the Presiding Judge for approval its policies and procedures regarding referral of these matters.

IT IS FURTHER ORDERED the Presiding Judge may revoke the [*insert name of court(s)*] authorization to conduct or refer Rule 11 competency proceedings if the Presiding Judge determines that the court fails to comply with the conditions of this Order or any subsequent related order.

Dated this ____ day of _____, 20__.

[NAME]
Presiding Judge

Limited Jurisdiction Courts Rule 11 Cheat Sheet

11.1 - A person shall not be tried, convicted, or sentenced while “unable to understand the proceedings,” or “assist in his or her own defense.”

11.2(a) – Either party OR the Court may move to determine the Defendant’s competency.

A.R.S. § 13-4503(D): If the Court finds a reasonable basis to examine the Defendant’s competency and the originating jurisdiction does not have an agreement with the presiding judge of the Superior Court, the case shall immediately transfer to Superior Court for competency proceedings by default.

A.R.S. § 13-4503 (E): With the agreement of the presiding judge of the Superior Court, a justice of the peace or municipal court judge may exercise jurisdiction over competency proceedings.

A.R.S. § 13-4503 (F): A justice of the peace or municipal court judge approved to hear competency proceedings by the presiding judge of the Superior Court may hear cases referred to it by other justices of peace or municipal court judges.

11.5(b)(1) – If the Defendant is found competent, the originating court may proceed or the Superior Court shall remand the case to the originating jurisdiction for proceedings to resume.

11.5(b)(2) – If the Defendant is found to be incompetent and not restorable, the charges against the Defendant shall be dismissed without prejudice.

11.5(b)(3) – If the Defendant is found to be incompetent but likely to be restorable, the Court will enter a treatment order to begin restoration to competency treatment until the Defendant is found to be competent, or unable to be restored to competency.

A.R.S. § 13-4508: No evidence of any kind obtained from the Rule 11 process may be used at any subsequent proceedings or trial to determine the guilt or innocence of the Defendant. All statements made by the Defendant in Rule 11 proceedings are privileged and may not be used at any subsequent proceedings or trial to determine the guilt or innocence of the Defendant.

For minute entry:

Defense counsel and State having stipulated to the 7/28/17 competency report pursuant to Rule 11.5(a), and the Court, now having considered this report, finds: the Defendant is unable to understand the nature of proceedings and at this time is unable to assist in his defense, and is therefore determined incompetent pursuant to ARS 13-540. The Court finds there is persuasive evidence that with appropriate treatment the Defendant can be restored to competency within 15 months, pursuant to ARS 13-4510(C).

The Defendant, refusing to accept the terms and conditions of out-of-custody restoration treatment, is ordered committed to the in-custody Pima County Restoration-to-Competency Program to receive any treatment required for the restoration process.

A review hearing in the Ajo Justice Court is ordered for 12/14/17 at 11 a.m. The supervisor of the Restoration-to-Competency Program will submit a status report to the Mental Health Clinical Liaison one week prior to that hearing, or earlier if the treatment program concludes competency has been restored or that there is no substantial probability that the Defendant will be restored to competency within nine months.

AJO JUSTICE COURT
CONDITIONS OF RELEASE AND ORDER-COMPETENCY PROCEEDINGS

State of Arizona VS.		Today's Date	
Case Number(S)		Next Court Date	

IN ADDITION TO THE STANDARD CONDITIONS OF RELEASE AND ORDER THE DEFENDANT WILL ALSO:

IT IS ORDERED THE DEFENDANT SHALL ABIDE BY ALL STANDARD CONDITIONS OF RELEASE AND SHALL:		
	BE RELEASED TO PRETRIAL SERVICES	
	ABIDE BY ALL PREVIOUS TERMS AND CONDITIONS OF RELEASE	
	ATTEND AND PARTICIPATE IN ALL EVALUATION APPOINTMENTS MADE FOR YOU BY THE COURT	
	COMPLETE ANY DRUG/ALCOHOL TESTING AS REQUESTED BY RESTORATION PROVIDER OR PRETRIAL SERVICES	
	TAKE MEDICATION AS PRESCRIBED AND SUPPLY INFORMATION ON MEDICINE TO RESTORATION PROVIDER	
	APPEAR AT ALL FUTURE HEARINGS SET FOR YOU	
	REMAIN IN CONTACT WITH DEFENSE COUNSEL	
	ATTEND CLASSES/SESSIONS FOR OUTPATIENT RESTORATION AS DIRECTED BY THE RESTORATION PROVIDER	
	DRINK NO ALCOHOLIC BEVERAGES AND TAKE NO ILLEGAL DRUGS	

I WILL COMPLY WITH THESE CONDITIONS. IF I VIOLATE ANY OF THESE CONDITIONS OR FAIL TO APPEAR TO COURT, APPOINTMENTS, OR CLASS SESSIONS SCHEDULED I COULD BE TAKEN INTO CUSTODY UNTIL COMPLETION OF THIS CASE	
DEFENDANT SIGNATURE	DATE
CONTACT INFO: ADDRESS/PHONE/EMAIL: _____	

ADDITIONAL INSTRUCTIONS		

SIGNATURE OF JUDGE

DATE

INCOMPETENT BUT RESTORABLE (out of custody restoration 9 week timeline):

Counsel having stipulated to the Court determining competency based upon the written reports pursuant to Rule 11.5(a), and the Court having now considered those reports,

THE COURT FINDS that the defendant is unable to understand the nature of the proceedings and is unable to assist in his/her defense, and is therefore incompetent pursuant to Arizona Revised Statutes. (A.R.S. §13-4510).

THE COURT FURTHER FINDS that there is clear and convincing evidence that the defendant can be restored to competency within the timeframe permitted under Arizona law. (15 months pursuant to A.R.S. §13-4510(C), which may be extended 6 months if court determines that defendant is making progress toward the goal of restoration.)

IT IS ORDERED committing the defendant to the out of custody Pima County Restoration to Competency Program to receive any treatment necessary to restore the defendant to competency.

IT IS FURTHER ORDERED that the defendant attend all appointments necessary for the restoration process. Failure to attend appointments or cooperate with the restoration process shall be cause to take the Defendant into custody for purposes of participating in the in-custody restoration process at the Pima County Jail.

IT IS FURTHER ORDERED setting a review hearing [in nine weeks] and that the Supervisor of the RTC program (or its designee) submit a written status report to the Mental Health Clinical Liaison one week prior to that hearing, or earlier if the treatment program concludes that competency has been restored or that there is no substantial probability that the defendant will be restored to competency within 15 months.

INCOMPETENT BUT RESTORABLE : IN CUSTODY

Counsel having stipulated to the Court determining competency based upon the written reports from:

Dr. ----- and Dr. -----

pursuant to Rule 11.5(a), and the Court having now considered those reports,

THE COURT FINDS that the defendant is unable to understand the nature of the proceedings and is unable to assist in his/her defense, and is therefore incompetent pursuant to Arizona Revised Statutes. (A.R.S. §13-4510).

THE COURT FURTHER FINDS that there is clear and convincing evidence that the defendant can be restored to competency within the time frame permitted under Arizona law.*

IT IS THEREFORE ORDERED committing the defendant to the in-custody Pima County Restoration to Competency Program to receive any treatment necessary to restore the defendant to competency.

IT IS FURTHER ORDERED that a review hearing be set [*in 9 weeks*] and that the Supervisor of the restoration program (or its designee) submit a written status report to the Mental Health Clinical Liaison one week prior to the review hearing for distribution.

IT IS FURTHER ORDERED that the defendant be held at the Pima County Adult Detention Center until the defendant has been restored to competency or has been determined to be non-restorable.

* That is 15 months pursuant to A.R.S. §13-4510(C) and it may extend 6 months if court determines that defendant is making progress toward the goal of restoration.

FINDING COMPETENT:

Counsel having stipulated to the Court determining competency based upon the written reports pursuant to Rule 11.5(a), and the Court having now considered those reports:

OR

Based upon the final report submitted by Dr. _____ of the Pima County Restoration to Competency Program / or the out of custody Restoration to Competency Program, to which counsel have stipulated:

THE COURT FINDS that the Defendant understands the nature of the proceedings, is able to assist in his/her defense and can accept a plea agreement if he/she so desires. The Defendant is therefore competent as defined by Arizona Revised Statutes.

[IF MEDICATION DEPENDENT, add next paragraph:]

However the Court notes that the Defendant is medication dependent, IT IS FURTHER ORDERED pursuant to A.R.S. §13-4514(D) and 13-4511 that the medical unit at the Pima County Jail continue to give the Defendant any medication(s) prescribed and the Defendant continue to take those medications to maintain his/her competent status.

IT IS ORDERED that the stay of proceedings is lifted.

IT IS FURTHER ORDERED setting a SC/COP/PTC on at 9:00 a.m. in Division 6.

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12, 44

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INCOMPETENT NOT RESTORABLE:

Counsel having stipulated to the Court determining competency based upon the written reports of DR. _____ and Dr. _____ pursuant to Rule 11.5(a), and the Court having now considered those reports

(OR having considered the final report of Dr. _____ of the Pima County Jail RTC Program or out of custody RTC program),

THE COURT FINDS that the defendant is unable to understand the nature of the proceedings and/or is unable to assist in his/her defense, and could not accept a plea agreement if he/she so desired. The Defendant is therefore not competent as defined by Arizona Revised Statutes. (pursuant to A.R.S. §13-4510).

THE COURT FURTHER FINDS that there is clear and convincing evidence that the defendant cannot be restored to competency within the timeframe permitted under Arizona law. *

If the court believes that the Defendant requires further treatment pursuant to Title 36, chapter 5, it can direct either the Pima County Attorney Civil Division to file a Title 36 petition pursuant to §§13-4515(D) and 13-4517.

If either party requests, the charges are to be dismissed without prejudice.

If the treatment provider wishes to have the defendant released the next day at a specific time so that they can be available to pick the defendant up and transport them, do not enter the dismissal until such time as the defendant is to be released from the PCJ.

*15 with additional 6 possible (total) 21 months pursuant to A.R.S. §13-4510(C)

Rule 11 Flowchart

