

**Guilty Pleas and Related  
Proceedings Involving Defendants  
with Mental Health Issues:  
Best Practices**

Ripley Rand

Special Superior Court Judge

Superior Court Judges Conference

Fall 2008

# Due Process

- Defendant must be competent
- Guilty plea must be knowing and voluntary

*Godinez v. Moran*, 509 U.S. 389 (1993).

# N.C. Gen. Stat. 15A-1001

Defendant must –

- Understand the nature and object of proceedings
- Comprehend own situation re: proceedings
- Assist defense in rational and reasonable manner

# Godinez

Defendant must –

- Have rational and factual understanding of proceedings
- Be able to consult with lawyer with reasonable degree of factual understanding

# When is a hearing required?

The Court **SHALL** have a hearing  
when there is

- “substantial evidence” of  
incompetence
- “*bona fide* doubt” as to incompetence

# When is a hearing required?

- When defendant has been evaluated (probably)
  - \* especially where multiple evaluations
- “supplemental hearings” - 15A-1007
  - reviewed for abuse of discretion

# When is an evaluation required?

- “significant possibility” that defendant is not competent
  - duty to have hearing does not automatically trigger duty to order evaluation
- reviewed for abuse of discretion

# What do I consider in determining competency?

Pretty much everything.

- Reports
- Witnesses
- Information from defense counsel (“significant weight”)



# What do I consider in determining competency?

- Judge's personal observations of the defendant\*

\* *Be careful about this.*

- “Inability” vs. “refusal” to consult with lawyer

# The Hearing

- N.C. Gen. Stat. 15A-1002
- The defendant bears the burden (preponderance of the evidence)\*
- Mental illness is not dispositive
- “Highest state of mental alertness” not required

# The Hearing\*

**BUT**

Who has the burden when the judge is the one who institutes the hearing and the defendant is not directly challenging competency at that time?

# The Hearing\*

## Best practice:

Make a specific finding by a  
preponderance of the evidence that  
the defendant is competent to  
proceed.

# The Hearing

The determination is competency at the time of the hearing (not at time of evaluation).\*

\* Retrospective competency hearings are **DISFAVORED** - you can have one, but **ONLY** when the record is very well developed.

# The Hearing

- “Substantial compliance” with § 15A-1002 is okay.
- BUT NOTE: Concluding that the defendant waived the issue is dangerous.

# How do I get affirmed?

- Ruling based on “competent evidence” (even if there is contrary evidence)
- Specific findings of fact help (“the better practice”).
- You can always let the jury decide it.
- Do not abuse your discretion.

# What are my chances on appeal?

Pretty good.

NC appellate courts have historically been fairly deferential to trial courts on competency issues.



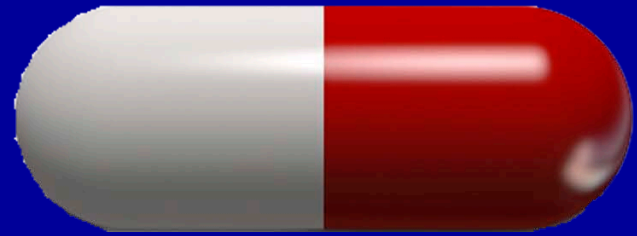
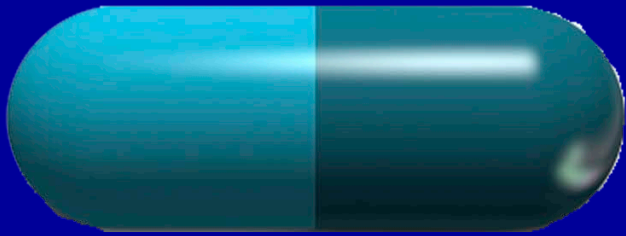
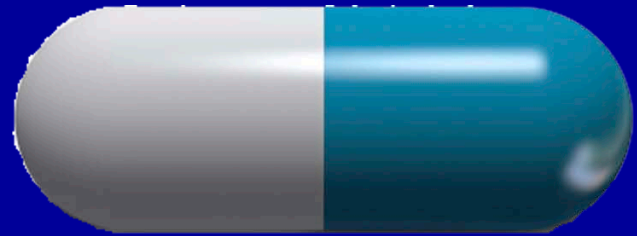
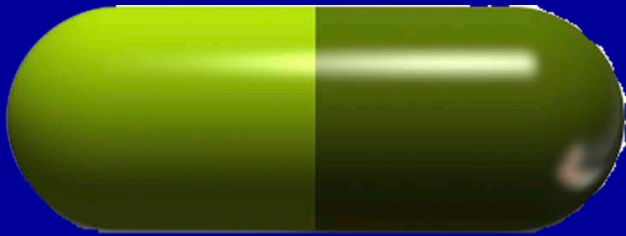
*The Honorable  
W. David Lee  
Superior Court Judge  
Presiding*

The State of North Carolina  
v. John R. Jolly, Jr.

# “Never”

Do you:

- (1) Ask “Have the charges been explained to your by your lawyer . . . ?”
- (2) Ask follow-up question to get more information?



Does Defendant's use of medication  
require a hearing or evaluation?

Not in and of itself.

**BUT**

You'd better ask some questions.

(See pages 12-27 of outline.)

# What are my chances on appeal? (revisited)

- Issues involving medication are being examined more closely by the appellate courts – see pages 6-7 of the outline.
- Be aware of “red flag” medications (see page 29 of outline)

LOOK AT  
THE COURT  
FILE

The State of North Carolina  
v. John R. Jolly, Jr.



# Does the defendant understand the plea agreement?

- Can he explain it (generally) in his own words?
- Can he answer the plea transcript questions by using words other than “yes” and “no”?
- Is he giving delayed responses?

# But this is a guilty plea!

- No right to appeal.
- COA usually declines to address them.

# But this is a guilty plea!

- Defendant is bound by statement that he entered the plea knowingly and voluntarily “absent clear and convincing evidence to the contrary.”
- Defendant can waive the issue.

So I'm looking good, then?

**Be careful!**

- Note: the decision itself whether to accept plea is reviewed for abuse of discretion.
- Recent cases: competency hearing was nonetheless required even though defendant didn't request a hearing and there was no objection to failure to have a hearing.

LOOK AT  
THE COURT  
FILE

# The Goal

Create a good record.

Show that you didn't abuse your  
discretion.

(See Sample Order on page 28 of the  
outline.)

# Related issues

Due process prohibits a court or other judicial entity from forcing a defendant to take medication against his will except in limited circumstances.

***Sell v. United States***, 539 U.S. 166, 156 L. Ed. 2d 197 (2003).

# Related issues

When defendant wants to represent himself and is competent to proceed, but due to mental health issues is not competent to conduct trial proceedings on his own, the trial court may order defendant to proceed with counsel in a trial.

***Indiana v. Edwards***, \_\_\_ U.S. \_\_\_, 171 L. Ed. 2d 345 (2008).