

14-5104. Determination of present competency.¹

An issue in this case is the defendant's competency to stand trial. The defendant has the burden of proving by the greater weight of the evidence that the defendant is mentally incompetent to be tried.

[Before considering whether the defendant committed the crime charged, you must make a determination of the defendant's competency to stand trial.]² A person is competent to stand trial if that person has:

1. a sufficient present ability to consult with the person's lawyer with a reasonable degree of rational understanding;
2. a rational as well as factual understanding of the proceedings against the person;
3. the capacity to assist in the person's own defense; and
4. the capacity to comprehend the reasons for punishment.

As to this issue only, your verdict need not be unanimous. When as many as ten of you have agreed as to whether the defendant is competent to stand trial, your foreperson must sign the proper form. If your verdict is that the defendant is incompetent, you will immediately return to open court without proceeding further. If your verdict is that the defendant is competent, you should proceed to consider the defendant's guilt or innocence.

USE NOTES

1. This instruction is to be given upon request of the defendant only if the evidence raises a reasonable doubt as to the defendant's competency to stand trial and this issue is submitted to the jury.

2. Delete bracketed material if this determination of competency is to be made by a jury other than the jury deliberating the guilt or innocence of the defendant.

[As amended by Supreme Court Order No. 22-8300-031, effective for all cases pending or filed on or after December 31, 2022.]