**9-514. Order on motion for a competency evaluation.**

[For use with Rule 5-602.1 NMRA]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DISTRICT COURT

[STATE OF NEW MEXICO]

[COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

[CITY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

v. No. \_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Defendant.

 **ORDER ON [TRANSFER] [MOTION]**

 **FOR COMPETENCY EVALUATION**

[ ] This matter comes before the Court upon transfer from the [magistrate] [municipal] court after a finding of a reasonable belief that the defendant may not be competent to stand trial. The defendant [ ] is [ ] is not in custody.

OR

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

[ ] The motion is well-taken and is GRANTED because there is a reasonable belief that the defendant may not be not competent to stand trial based upon the following:

[ ] The facts alleged in the motion for a competency evaluation;

[ ] The courts observations of the defendant, described as follows:\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and

[ ] Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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[ ] The motion is not well-taken and is DENIED.

(*Complete the following only if the case has been transferred or the motion is GRANTED*)

The Court therefore ORDERS the following:

1. A competency evaluation shall be performed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

2. The evaluation shall be completed and a written report shall be filed with the court within thirty (30) days of the filing of this order.

3. The report filed under Paragraph 2 of this order shall include the following:

(a) a description of the procedures, tests, and techniques used by the evaluator;

(b) a clear statement of the evaluators clinical findings and opinions about the defendants competency;

(c) a description of the sources of information and the factual basis for the evaluators clinical findings and opinions, provided that the report shall not include information or opinions concerning the defendants mental condition at the time of the alleged crime or any statements made by the defendant regarding the alleged crime or any other crime; and

(d) the reasoning by which the evaluator utilized the information to reach the clinical findings and opinions.

4. Any party who objects to the conclusion set forth in the report filed under Paragraph 2 of this order shall file that partys objections in writing within seven (7) days of the filing of the report.

5. The parties shall return to court for a hearing on the question of the defendants competency on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*datenot to exceed forty-five (45) days from the date of this order*) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*time*), unless the court, upon its own motion or upon the motion of the parties, rules at an earlier time on the defendants competency without a hearing.

(*Optional*)

6. The court has considered the defendants conditions of release and orders the following:

[ ] The defendants conditions of release shall continue until further order of the court; or

[ ] A hearing to set or review the defendants conditions of release shall be held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*date*).

7. Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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IT IS SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

District Court

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for the State

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for the defendant

[Approved by Supreme Court Order No. 18-8300-023, effective for all cases filed on or after February 1, 2019.]