



SUPREME COURT OF GEORGIA

Atlanta May 1, 2013

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Uniform Superior Court Rules 1.1 (relating to repeal of local rules); 1.2 (relating to authority to enact rules); 6.2 (relating to a filing a reply to a civil motion); and 31.4 (relating to an evaluation regarding mental competency to stand trial with suggested Specimen Order) be amended effective May 23, 2013, as follows:

Rule 1.1. Repeal of Local Rules

All local rules, internal operating procedures and experimental rules of the superior courts shall expire effective December 31, 2010.

Rule 1.2. Authority to Enact Rules Which Deviate From the Uniform Superior Court Rules

(A) The terms "local rules," "internal operating procedures" and "experimental rules" will no longer be used in the context of the Uniform Superior Court Rules. Any deviation from these rules is disallowed.

(B) Notwithstanding the expiration of local rules, internal operating procedures and experimental rules on December 31, 2010, courts may continue to maintain practices and standing orders to regulate the internal processes of the court in matters which are not susceptible to uniformity, which relate only to internal procedure and which do not affect the rights of any party substantially or materially, either to unreasonably delay or deny such rights. Such internal processes include but are not limited to case management, court administration, case assignment, traverse and grand jury management, court-annexed alternative dispute resolution programs (which are subject to approval by the Georgia Commission on Dispute Resolution), specialty courts, indigent defense programs, court security, emergency planning, judicial assistance requests, appointments of chief judges, law libraries, and other similar matters. The Clerk of Court shall maintain the originals of such standing orders and provide copies of them, upon request.

(C) The above provisions notwithstanding, each superior court may retain or adopt an order establishing guidelines governing excuses from jury duty pursuant to OCGA § 15-12-10.

(D) Notwithstanding these uniform rules, a majority of judges in a circuit may adopt pilot projects, upon approval of the Supreme Court, adequately advertised to the local bar, with copies to the State Bar of Georgia, not to exceed a period of one year,

subject to extension for one additional year upon approval of the circuit judges and the Supreme Court. At the end of the second year, any such pilot projects will either be approved by the Supreme Court or will be allowed to sunset. Programs developed under the Alternative Dispute Resolution Rules of the Supreme Court will be approved by the Georgia Commission on Dispute Resolution before attaining permanent status under these rules.

(E) Notwithstanding the expiration of all local rules, internal operating procedures and experimental rules, effective December 31, 2010, courts may promulgate standing orders as to matters not addressed by these uniform rules and which are not inconsistent with a uniform rule only if actual notice of such order is provided to all parties. Such orders include, but are not limited to, orders to attend educational seminars contemplated by Uniform Superior Court Rule 24.8, orders governing or mandating alternative dispute resolution, orders governing payments into the registry of the court, orders governing electronic filing, and similar matters. "Actual notice" shall be deemed to have been satisfied by providing copies of such orders to attorneys and pro se litigants, service by a party upon opposing parties and publicized dissemination in such locations as the offices of the clerks of court, law libraries, legal aid societies and public libraries. Mere filing of standing orders and posting in prominent places in the courthouse shall not suffice as actual notice.

(F) No person shall be denied access to the court nor be prejudiced in any way for failure to comply with a standing order of which the person does not have actual notice.

Rule 6.2. Reply (Motions in Civil Actions)

Unless otherwise ordered by the judge or as provided by law, each party opposing a motion shall serve and file a response, reply memorandum, affidavits, or other responsive material not later than 30 days after service of the motion. Such response shall include or be accompanied by citations of supporting authorities and, where allegations of unstipulated facts are relied upon, supporting affidavits or citations to evidentiary materials of record. [In State Court, see State Court Rule 6.2.]

Rule 31.4. Motion and Order for Evaluation Regarding Mental Competency to Stand Trial

(A) In pending superior court cases, except in proceedings for involuntary treatment under OCGA Title 37, or proceedings for the appointment of a guardian under Title 29, where the mental competency of an accused is brought into question, the judge may, upon a proper showing, exercise discretion and require a mental evaluation at public expense. A motion for mental evaluation may be filed in writing, setting out allegations and grounds for such motion, praying for a court-ordered evaluation. The judge may enter an order requiring a mental evaluation of the defendant for the purposes of evaluating competency to stand trial. The judge may direct the Department of Behavioral Health and Developmental Disabilities to perform the evaluation at a time and place to be set by the Department in cooperation with the

county sheriff or counsel for the defendant if the defendant is not in custody. The Clerk shall forward a copy of the order to the Department accompanied by a copy of the indictment, accusation or specification of charges, and where available, a copy of the police arrest report, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Counsel for the defendant shall forward any other background information available to the evaluator to assist in performing adequately the requested services. Unless otherwise ordered by the court, the Department shall submit its report to the requesting judge for distribution to the defendant's attorney. The evaluation shall be placed under seal and shall be not be released absent a court order. Upon the filing of a Plea of Mental Incompetency to Stand Trial, the Court shall submit a copy of the Department's evaluation to the prosecuting attorney.

(B) Upon the filing of a Plea of Mental Incompetency to Stand Trial, the judge shall conduct a bench trial to determine the issue of mental competency to stand trial unless the state or the defendant, within twenty days of filing of the plea, demands a special jury trial.

(C) Copies of suggested orders are attached as Specimen Order for Mental Evaluation Re: Competency to Stand Trial, and Specimen Judgment and Order of the Court on the defendant's Plea of Mental Incompetency to Stand Trial.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

 Clerk

Specimen Order for Mental Evaluation Re: Competency to Stand Trial:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA

INDICTMENT NO.

V. _____

CHARGE(S):

ORDER FOR MENTAL EVALUATION Re: COMPETENCY TO STAND TRIAL

WHEREAS the mental competency to stand trial of the above defendant has been called into question, and this court has found that it is appropriate for evaluation to be conducted at public expense;

IT IS HEREBY ORDERED that the Department of Behavioral Health and Developmental Disabilities conduct an evaluation of said defendant, provide treatment of the defendant, if appropriate, and provide to this court a report of diagnosis, prognosis and its findings, with respect to:

Competency to Stand Trial. Whether the defendant is capable of understanding the nature and object of the proceedings; whether the defendant comprehends his or her own condition in reference to such proceedings; and, whether the defendant is capable of rendering to counsel assistance in providing a proper defense.

IT IS FURTHER ORDERED that the Department arrange with the county sheriff, or if the defendant is not in custody, with the defendant's attorney, for the prompt evaluation of said defendant, either at the county jail, at a designated hospital, or at a location agreed with defense counsel, with transportation of the defendant to be provided by the sheriff, where necessary, with transportation costs to be borne by the county. Upon completion of the evaluation, if the defendant is in custody, the evaluating facility shall notify the sheriff, who shall promptly reassume custody of the defendant. Unless otherwise ordered by the court the Department shall submit its report to the requesting judge for distribution.

The Clerk shall forward a copy of this order to the Department accompanied by a copy of the indictment, accusation or specification of charges, and where available, a copy of the police arrest report, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Counsel for the defendant shall forward any other background information available to the evaluator to assist in performing adequately the requested services.

So ordered, this the _____ day of _____, 20__.

JUDGE, SUPERIOR COURT
JUDICIAL CIRCUIT, GEORGIA

Specimen Judgment and Order of the Court on the Defendant's Plea of Mental Incompetency to Stand Trial:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA

INDICTMENT NO.

V. _____

CHARGE(S):

JUDGMENT AND ORDER OF THE COURT ON THE DEFENDANT'S PLEA OF MENTAL
INCOMPETENCY TO STAND TRIAL

The above stated case came on regularly before the undersigned for trial this date. The defendant was represented by counsel.

After a hearing on defendant's plea of mental incompetency and due consideration, the plea of Mental Incompetency to Stand Trial is sustained.

IT IS, THEREFORE, THE ORDER of this court that the defendant be now delivered to the sheriff of this County and that the defendant be delivered by the sheriff, or the sheriff's lawful deputy, to the Department of Behavioral Health and Developmental Disabilities, as provided by OCGA § 17-7-130.

However, pursuant to OCGA § 17-7-130(c), the Court finds that the defendant is charged with a nonviolent offense and the Court exercises its discretion, and directs that the evaluation is to be performed on an outpatient basis.

The Court orders the Department of Behavioral Health and Developmental Disabilities to have a Department physician or licensed psychologist evaluate and diagnose the defendant as to whether there is a substantial probability that the defendant will attain mental competency to stand trial in the foreseeable future. Such evaluation shall be performed within 90 days after the Department has received actual custody of the defendant or, in the case of an outpatient, a court order requiring evaluation of the defendant.

IT IS FURTHER ORDERED that at such time as it is determined that the defendant is capable of understanding the nature and object of the proceedings, comprehends his or her own condition in reference to such proceedings, and is capable of rendering to counsel assistance in providing a proper defense, the defendant be delivered by the Department of Behavioral Health and Developmental Disabilities to the sheriff of this county, or the sheriff's lawful deputy, with transportation costs to be borne by the county.

IT IS FURTHER ORDERED that, should the Department of Behavioral Health and Developmental Disabilities determine that in light of present day medical knowledge that recovery of the defendant's legal mental competency to stand trial is not expected at any time in the foreseeable future, the defendant shall be dealt with by the Department as provided in OCGA § 17-7-130.

SO ORDERED, this the _____ day of _____, 20__.

JUDGE, SUPERIOR COURT

JUDICIAL CIRCUIT, GEORGIA
