

**United States Department of Justice
Executive Office for Immigration Review
Immigration Court
[Street Address]
[City, State] [Zip Code]**

File No.: [Alien Registration Number])	Date: [Month Day, 2015]
)	
)	
In the Matter of)	IN [Proceeding Type]
)	
[Respondent's Name],)	PROCEEDINGS
)	
Respondent)	
)	

ON BEHALF OF RESPONDENT:

Pro Se
[Location of detention]

ON BEHALF OF DHS:

[Government Attorney]
Department of Homeland Security
Immigration and Customs Enforcement
[Street Address]
[City, State] [Zip Code]

**ORDER FOR FORENSIC COMPETENCY EVALUATION
AND REPORT OF EVALUATION**

This Court, having reasonable cause to believe that the respondent has a mental disorder impairing his or her ability to represent him- or herself, hereby orders as follows:

Dr. _____ (hereinafter “the mental health professional”) shall conduct a Forensic Competency Evaluation to assess the competence of the respondent to represent him-/herself in immigration proceedings.

1. The evaluation, unless otherwise specified by the Immigration Judge, shall be conducted in person at the address for the respondent provided above.
2. The mental health professional shall review the “Forensic Competency Evaluation Referral” received from the Court and any documents, records and information submitted with the referral.

3. The mental health professional shall attempt to communicate with any contact identified in the referral as having knowledge about the respondent's past or current cognitive, emotional, and behavioral functioning.
4. The mental health professional shall use the services of a language interpreter provided by the court if the mental health professional is not fluent in the language that the respondent speaks and understands best.
5. The mental health professional shall comply with the laws regulating his or her profession in the jurisdiction in which the evaluation is performed and any other professional or ethical obligations that apply.
6. The mental health professional shall notify the respondent of the purpose of the evaluation, the procedure to be utilized, the lack of privilege and confidentiality between the mental health professional and the respondent, possible uses of the report of evaluation produced, how information obtained during the evaluation and the report may be shared, and of any other matter required by applicable professional or ethical rules.
7. The mental health professional shall examine the respondent's cognitive, emotional, and behavioral functioning. Specifically, the mental health professional shall assess:
 - a. relevant aspects of the respondent's social, educational, vocational, medical, and mental health histories, and other histories if necessary, and
 - b. the respondent's presentation and behavior during the evaluation, including reported or observed signs or symptoms of a mental disorder (including Intellectual Disability) and the respondent's response style (i.e., approach to the evaluation).
8. The mental health professional shall consider factors related to the issue of whether the respondent meets the criteria for competence in an immigration proceeding; that is, whether the respondent has present ability to represent him- or herself. Specifically, the mental health professional shall assess:
 - a. Respondent's rational and factual understanding of:
 - 1) the nature and object of the proceeding, including its adversarial nature,
 - 2) the allegations and charge(s),
 - 3) possible outcomes of the proceeding, and
 - 4) the roles of participants in the proceeding, and
 - b. Respondent's rational and factual understanding of the:

- 1) privilege of representation by counsel,
- 2) right to present, examine, and object to evidence,
- 3) right to cross-examine witnesses, and
- 4) right to appeal, and

c. The respondent's sufficient present ability to:

- 1) exercise the rights listed above,
- 2) make informed decisions about whether to waive the rights listed above,
- 3) respond to the allegations and charges in the proceeding,
- 4) present information and evidence relevant to eligibility for relief, and
- 5) act upon instructions and information presented by the Immigration Judge and government counsel.

d. Any other factors the mental health professional deems relevant to the respondent's competence to represent him- or herself.

9. If the mental health professional will recommend that the respondent be adjudicated incompetent to represent him- or herself, the mental health professional shall:

a. identify the impairments and mental disorder (including Intellectual Disability) that are the cause of the incompetence, and

b. assess the respondent's ability to:

- 1) make a rational decision about being represented by counsel, and
- 2) assist counsel.

10. The mental health professional must file with the Court an original written report summarizing the evaluation with copies for the respondent and the attorney for the Government. The mental health professional shall include a current curriculum vitae with the report. Unless otherwise specified by the Immigration Judge, the written report must be filed with the court within thirty (30) days of the date of this Order. In the written report, the mental health professional must:

a. identify the specific matters referred for evaluation;

b. list any procedures, techniques, and tests used in the evaluation;

c. list all sources of information considered by the mental health professional;

- d. describe relevant aspects of the respondent’s social, educational, vocational, medical, and mental health histories, and other factors as necessary;
 - e. describe the respondent’s presentation and behavior during the evaluation (including reports or exhibition of signs or symptoms of mental disorder) and response style;
 - f. provide opinions on each issue referred for evaluation and identify any issues about which the mental health professional could not give an opinion;
 - g. provide a factual basis for any opinions offered in the report; and
 - h. identify the mental disorder (including Intellectual Disability) that is the cause of the incompetence (if indicated).
11. If the respondent refuses to cooperate in or attend the Forensic Competency Evaluation, the mental health professional shall use any available data or information to assess the competency of the respondent to represent him- or herself and, to the extent possible, prepare the report as ordered by the Court.
12. If this is the first time that the mental health professional is assigned by an Immigration Judge to conduct a Forensic Competency Evaluation of a respondent in an immigration proceeding, the mental health professional must submit a copy of his or her report to [TBD].

IT IS SO ORDERED.

 [Name of Judge]
 Immigration Judge

Certificate of Service

This document was served by: Mail (M) Personal Service (P)

To: [] Respondent [] Respondent c/o Custodial Officer [] Respondent’s Atty/Rep [] DHS

Date: _____ By: Court Staff _____

**cc: [Name of Mental Health Professional]
 [Address]**