

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT,
IN AND FOR ST. JOHN'S COUNTY, FLORIDA

CASE NO: 2023 00781 CF

STATE OF FLORIDA

v.

VERGILIO AGUILAR MENDEZ

Defendant

**ORDER ADJUDICATING DEFENDANT INCOMPETENT TO PROCEED AND TO
RECEIVE JAIL BASED COMPETENCY TREATMENT**

THIS MATTER came before the Court to consider Defendant's competency to proceed to trial on December 22, 2023. The Court, having reviewed the evaluation and testimony of the experts and, being otherwise fully apprised of the premises, the Court hereby makes the following Findings of Fact and Conclusions of Law:

1. The Defendant received competency evaluations from Roger Davis, PhD, finding Defendant competent to proceed and Yolanda C. Leon, Psy.D., APBdN, and Yenys Castillo, PH. D, finding Defendant incompetent to proceed. All three experts testified at the competency hearing held before the court. All three experts are learned and well-respected in their fields. Additionally, Mariana Blanco, Assistant Executive Director of the Guatemalan-Maya Center based in Palm Beach County, Florida testified about services that agency could provide to assist with competency-based training, mental health counseling and education.

2. Based on the report and opinions of the examining experts, the Court makes the following

Findings of Fact based upon clear and convincing evidence:

- a. Defendant is Mayan and grew up in a small village in the mountainous region of Guatemala. He primarily speaks and understands the Mam language but also understands some Spanish. He has also learned a limited amount of the English language. The village he grew up in did not have a formal system of government. Individuals within his village would take turns acting as “auxiliaries” to conduct legal proceedings.
- b. He has been working as an agricultural laborer picking fruits and vegetables in Guatemala and here in the United States. He sends some of his earnings to his family who still reside in Guatemala.
- c. He came to the United States when he was 17 years old and does not have valid immigration status in this country. He is currently being housed in the Volusia County jail and the United States Department of Homeland Security’s Immigration and Customs Enforcement agency will take custody of the Defendant if he is released from that facility.
- d. Defendant currently has educational, cultural, and linguistic challenges that affect his capacity to proceed to trial. The three experts disagree as to whether these challenges can be overcome with training and education.
- e. The experts did not find that Defendant suffers from a mental illness. There was also conflicting testimony regarding intellectual disability, but no formal intellectual disability testing was conducted because there are no appropriate testing instruments available in the Mam language.


- f. SMA Healthcare operates in Volusia County, and they provide full time services in the Volusia County jail.
 - g. The Guatemalan-Maya Center can assist the SMA with competency-based training at the Volusia County jail by providing interpretive and educational and mental health services.
 - h. Defendant does not have sufficient present ability to disclose to his attorney facts pertinent to the proceedings at issue.
 - i. Defendant does not have appreciation of the charges or allegations.
 - j. Defendant does not have appreciation of the range and nature of possible penalties.
 - k. Defendant does not understand the adversary nature of the legal process.
 - l. Defendant has the capacity to manifest appropriate courtroom behavior.
 - m. Defendant does not have the capacity to testify relevantly.
3. Based on these Findings of Fact, the Court makes the following Conclusions of Law:
- a. Defendant is incompetent to proceed as defined in Fla. Stat. §916.12(1).
 - b. Given the immigration status and the hold from the U.S. Immigration and Customs Enforcement agency, the least restrictive means to conduct competency-based training is to utilize the services provided by SMA at the Volusia County jail.

Therefore, it is ORDERED and ADJUDGED that:

- 1. The provisions of Fla.R.Crim.P. 3.191 are hereby suspended.
- 2. The Court hereby retains jurisdiction in this cause, pursuant to Fla.Stat. §916.16 for entry of any Order as may be necessary or appropriate.

3. The Defendant is to receive competency restoration at the Volusia County Branch Jail from SMA Healthcare.
4. SMA Healthcare shall coordinate with The Guatemalan-Maya Center and utilize their services to conduct the competency restoration. A Mam interpreter should be utilized during the competency-based training. All services provided shall be kept confidential by any person participating in Defendant's competency restoration.
5. Within 60 days or at any time the administrator or their designee from SMA determines Defendant has regained competency to proceed, they shall file a report with the court pursuant to the applicable Florida Statutes and Florida Rules of Criminal Procedure.
6. Volusia County Branch Jail or medical designee shall administer physician prescribed psychiatric medications and the Defendant shall take them as prescribed.

DONE AND ORDERED in chambers, in St. Johns County, Florida, on 29 day of December, 2023.


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e-Signed 12/29/2023 3:03 PM 23000781CFMA
CIRCUIT JUDGE

