

Competency to Stand Trial

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- 14th amendment and 6th amendment implicated
 - if you suspect incompetence or know of it, you must raise it
- WA does not have statutory provision that acknowledges immaturity in competency to stand trial
 - RCW 10.77
 - Capacity to understand the nature of the proceedings
 - Capacity to assist in their own defense
 - Incapacity must be due to a mental disease or defect
 - Exceptions:
 - Where provisions are inconsistent with Juvenile Justice Act RCW 13.40
 - Where provisions are inconsistent with the needs of an individual respondent
- *Dusky v. US*, 362 U.S. 402 (1960) - Juvenile must have competency to stand trial (set the standard)
- *State v. EC*, 83 Wn. App.523 (1996) - Can "respond to the need of the offender" and dismiss with prejudice a case against an incompetent juvenile
- Factors that prompt the need for a competency:
 - In special education classes/ has an IEP/ IQ
 - Communication - demonstrating immaturity
 - Brain injury/mental health issues
 - Non-responsive, lack of communication, inability to explain simple things
 - Ability to retain information
 - Age – young (ie. 8 yrs old)
- Factual Understanding (first prong of *Dusky*): the minor's ability to understand the nature and purpose of the proceedings
 - Nature and seriousness of charges
 - Purpose of trial and possible consequences
 - Pleas and nature of plea agreements/ also admissions
 - The role of various participants in the court process
 - Probation terms and conditions (in WA there are 10 terms, in CA there are 25) youth normally remember 2
- Rational Understanding: the minor's ability to apply what she or he understands (factual understanding) in a way that does not impair decision making.
- Ability to assist
 - Communicate about allegations
 - Be able to give their own narrative
 - Can they endure the stress of the trial
 - Maintain demeanor
 - Testify relevantly
 - Follow the flow of proceedings
- CA S. Ct said there was a constitutional right to competency, regardless of mental condition (so immaturity counts)
 - Once this went through, the legislature passed laws to help as well
 - Same thing must be done in WA
- Good reference material: Thomas Grisso Report on Competency, *Competence to Stand Trial Evaluations*: