

Competence to Stand Trial Assessment: Squaring the Practices with Case Law

John Philipsborn, JD

Track: Legal

CE: CPA/BBS/BRN, MCLE (1.5)

POST TBD

Narrative

Competence to stand trial is the legal condition that is the most evaluated pursuant to court orders in pending criminal cases. California evaluators use various approaches to their evaluations, but often do so without reference to, or in some instances knowledge of, the court rulings that explain the constitutionally based contours of competence to stand trial, or of the professional standards and literature that makes reference to those contours. A number of institutions and jurisdictions in California have set forth assessment protocols, and guidelines that do not take into account the standards and approaches rooted in controlling case law. This presentation, by a lawyer who has qualified in courts as an expert on the assessment of competence to stand trial, will review the roots of the requirement of competence to stand trial, including the many United States Supreme Court decisions that frame the legal condition at issue, as well as the current standards of practice that apply in both Federal and State courts.

BIO

John Philipsborn, JD

Law Offices of John T. Philipsborn

John has been a criminal defense lawyer since 1978, primarily in private practice. He has represented persons in criminal cases in a wide variety of jurisdictions around the United States, and has been involved in the defense of more than 30 capital cases in his career. He has been recognized for his work on cases involving complex mental health issues, and has been presenting to professional groups on forensic mental health issues for more than 30 years. He has been published more than 100 times in books and periodicals, and has figured as counsel of record or amicus counsel in more than 90 published appellate cases. He was a 2015 recipient of FMHAC's Christine West Award, and the 2016 recipient of the Lifetime Achievement Award from California Attorneys for Criminal Justice.

Learning Objectives

1. Identify and describe controlling case law that should be understood to apply to framing the condition of competence to stand trial.
2. Identify and describe the elements of the Due Process based requirement of competence to stand trial which must be subject to assessment in a competence to stand trial assessment.
3. Describe and apply the basic legal and professional standards that frame the assessment of competence to stand trial included in some California court procedures and the

formal constitutionally based requirements imposed by the United States Supreme Court.