

FITNESS TO STAND TRIAL

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WHAT DOES IT MEAN TO BE UNFIT TO STAND TRIAL?



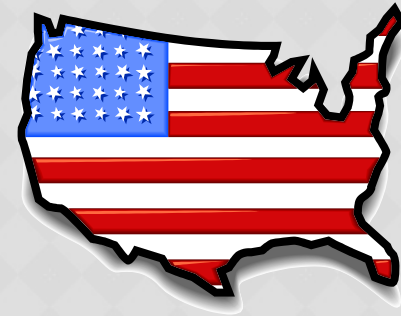
HISTORY OF COMPETENCY TEST

- The rule that an individual must be competent to undergo the criminal process can be traced back to the **17th century**.
- Issue of fitness to stand trial originated from a concern that subjecting certain types of individuals to trial was simply **unfair**.
- The trial of a defendant who **cannot adequately participate in their own defense** was deemed inappropriate and irrational.



DUSKY VS. UNITED STATES

- In 1960, the U.S. Supreme Court set forth a definition of fitness to stand trial, which has come to be the standard in federal court and most state jurisdictions.
- “The test must be whether the defendant has sufficient present ability to **consult with his attorney** with a reasonable degree of rational understanding and a rational as well as factual **understanding of proceedings** against him.”
- **Two prongs** to the fitness test: (1) Capacity to understand the court process, and (2) Ability to adequately assist counsel in the preparation of a defense.



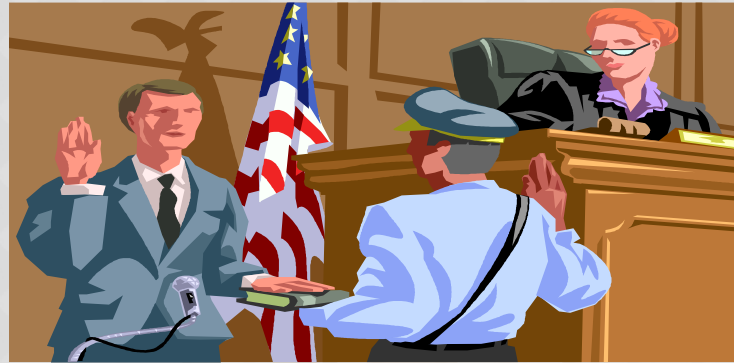
725 ILCS 5/104. FITNESS FOR TRIAL, TO PLEAD, OR TO BE SENTENCED

- **Section 104-10. Presumption of Fitness. Fitness Standard.**



- “A defendant is presumed to be fit to stand trial or to plead, and be sentenced. A defendant is unfit if, because of his mental or physical condition, he is unable to **understand the nature and purpose of the proceedings** against him or to **assist in his defense.**”

WALKTHROUGH OF THE FITNESS TO STAND TRIAL PROCESS



ARRESTED AND CHARGED WITH A CRIME



RAISING THE ISSUE OF FITNESS

- ◉ **Section 104-11.**
- ◉ “The issue of the defendant’s fitness for trial, to plead, or to be sentenced may be raised by **the defense, the State, or the court** at any appropriate time before a plea is entered or before, during, or after trial. When a bona fide doubt of the defendant’s fitness is raised, the court shall order a determination of the issue before proceeding further.”



FITNESS EXAMINATION

- ◉ **Section 104-13.**
- ◉ “When the issue of fitness involves the defendant’s mental condition, the court shall order an examination of the defendant by one or more **licensed physicians, clinical psychologists, or psychiatrists** chosen by the court.”



FITNESS REPORT



- **Section 104-15.**
- “The person or persons conducting an examination of the defendant shall submit a written **report** to the court, the State, and the defense within **30 days** of the date of the order.”
- “The report shall include:
 1. A **diagnosis** and an explanation as to how it was reached,
 2. A description of the defendant’s **mental or physical disability**, and
 3. An opinion as to the **likelihood of the defendant attaining fitness** within one year if provided with a course of treatment.”

FITNESS HEARING

- **Section 104-16.**
- “The court shall conduct a hearing to determine the issue of the defendant’s fitness **within 45 days** of receipt of the final written report of the person or persons conducting the examination.”
- “On the basis of the evidence before it, the **court or jury** shall determine whether the defendant is unfit to stand trial or to plead.”



COMMITMENT FOR TREATMENT; TREATMENT PLAN

- ◉ **Section 104-17.**
- ◉ “If the defendant is eligible to be or has been released on bail or on his own recognizance, the court shall select the **least physically restrictive** form of treatment therapeutically appropriate and consistent with the treatment plan.”
- ◉ “The placement may be ordered either on an **inpatient** or an **outpatient** basis.”

COMMITMENT FOR TREATMENT; TREATMENT PLAN (CONTINUED)

- ◉ **Section 104-17.**
- ◉ **“Within 30 days of entry of an order to undergo treatment, the person supervising the defendant’s treatment shall file with the court, the State, and the defense a **report** assessing the facility’s capacity to provide appropriate treatment for the defendant. If the report indicates that there is a substantial probability that the defendant will attain fitness, the treatment supervisor shall also file a **treatment plan.**”**



PROGRESS REPORTS

- ◉ **Section 104-18.**
- ◉ “The treatment supervisor shall submit a written **progress report** to the court, the State, and the defense:
 1. At least **7 days** prior to the date for any hearing on the issue of the defendant’s fitness;
 2. Whenever he believes that the defendant has **attained fitness**;
 3. Whenever he believes that there is **not a substantial probability that the defendant will attain fitness**, with treatment, within one year from the date of the original finding of unfitness.”

NINETY-DAY HEARINGS; CONTINUING TREATMENT

- ◉ **Section 104-20.**
- ◉ “Upon entry or continuation of any order to undergo treatment, the court shall set a date for **hearing** to reexamine the issue of the defendant’s fitness not more than **90 days** thereafter.”
- ◉ “The court shall determine:
 1. Whether the defendant is **fit** to stand trial or to plead; and if not,
 2. Whether the defendant is **making progress** under treatment toward attainment of fitness.”

NINETY-DAY HEARINGS; CONTINUING TREATMENT (CONTINUED)

- **Section 104-20.**
- “If the court finds the defendant to be **fit** pursuant to this Section, the court shall set the matter for **trial**.”
- “If the court finds that the defendant is still **unfit** but that he is making progress toward attaining fitness, the court may continue or modify its original **treatment order**.”



NINETY-DAY HEARINGS; CONTINUING TREATMENT (CONTINUED)

- ◉ **Section 104-20.**
- ◉ “If the court finds that the defendant is still **unfit** and that he is **not making progress** toward attaining fitness such that there is not a substantial probability that he will attain fitness within one year from the date of the original finding of unfitness, the court shall proceed pursuant to **Section 104-23.**”

UNFIT DEFENDANTS

- ◉ **Section 104-23.**
- ◉ “Upon a determination that there is not a substantial probability that the defendant will attain fitness within one year from the original finding of unfitness, a defendant or the attorney for the defendant may move for a **discharge hearing.**”



DISCHARGE HEARING

- **Section 104-25.**
- “If the evidence does not prove the defendant guilty beyond a reasonable doubt, the court shall enter a judgment of acquittal.” - **Not Guilty**



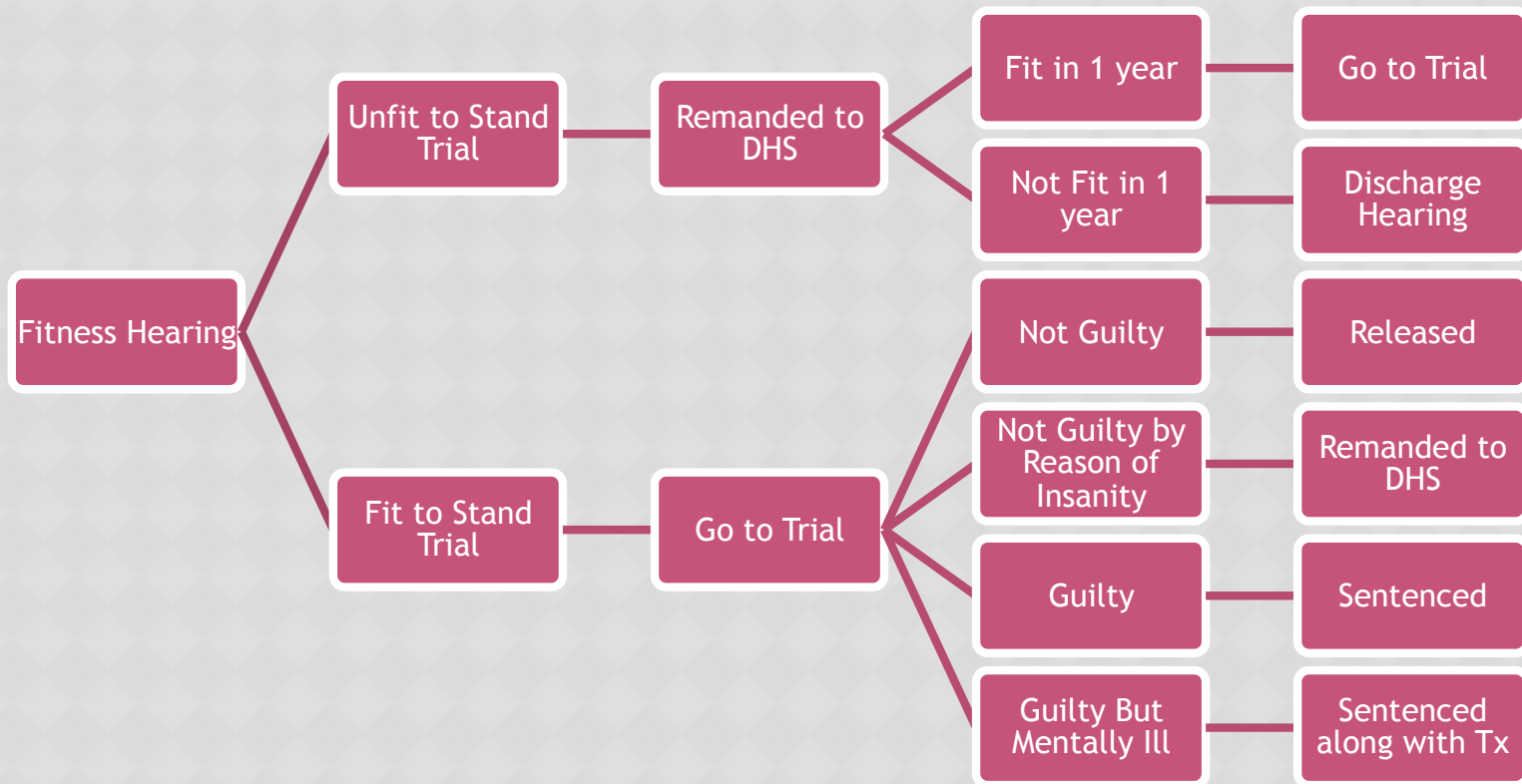
DISCHARGE HEARING (CONTINUED)

- ◉ **Section 104-25.**
- ◉ “If the defendant is found **not guilty by reason of insanity**, the court shall enter a judgment of acquittal and the proceedings after acquittal by reason of insanity under **Section 5-2-4** of the Unified Code of Corrections shall apply.” - **NGRI**

DISCHARGE HEARING (CONTINUED)

- ◉ **Section 104-25.**
- ◉ “If the discharge hearing does not result in an acquittal of the charge, the defendant may be **remanded for further treatment** and the one year time limit set forth in Section 104-23 shall be **extended.**” - **Not Not Guilty**

SUMMARY OF FITNESS PROCESS



HOW DO YOU RESTORE SOMEONE
TO FITNESS?



FITNESS RESTORATION STRATEGY

- Clinical **stabilization** is the initial of treatment.
- **Medication compliance** is a significant predictor for attainment of fitness.
- Participation in recommended **treatment groups** is beneficial.
- **Fitness education** can be conducted in both individual and group formats.
- **Ongoing assessment** of stability, cooperation, and understanding of court process is necessary.
- Seeking a consensus of **treatment team** regarding fitness.



QUESTIONS AND DISCUSSION

