

Opinion No. 03-04

April 28, 2003

OPINION OF: PATRICIA A. MADRID, Attorney General

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TO: Senator Lidio Rainaldi, New Mexico State Senate, State Capitol Building Room 302, Santa Fe, New Mexico 87503

QUESTION

(1) Does a court of limited jurisdiction have the authority, under New Mexico statutes, to order a psychiatric evaluation of a defendant for competency to stand trial without a referral to district court?

(2) Does a judge sitting in a court of limited jurisdiction have the authority to commit a defendant to a state mental health facility?

CONCLUSION

Except for metropolitan courts, courts of limited jurisdiction have no authority to hold competency hearings.

Courts of limited jurisdiction have no authority to commit defendants to a mental health facility.

ANALYSIS

1. Determination of Competency

Article VI, Section 1, of the New Mexico Constitution states that "[t]he judicial power of the state shall be vested in the ... magistrate courts and such other courts inferior to the district courts as may be established by law from time to time in any district, county or municipality of the state." The magistrate court is a court of limited jurisdiction as evidenced by Article VI, Section 26 of the Constitution, which states that "[t]he Legislature shall establish a magistrate court to exercise limited original jurisdiction as may be provided by law." In NMSA 1978, Section 35-1-1 (1968), the legislature created the "magistrate court" as a court of limited original jurisdiction within the judicial department of the state government. Metropolitan courts and municipal courts are also courts of limited jurisdiction. A metropolitan court is "inferior to the district courts" and its jurisdiction is the same as the magistrate court's, with some additional causes. See NMSA 1978, Sections 34-8A-2 to -3 (2001). A municipal court's original jurisdiction is generally limited to hearing violations of municipal ordinances. **See** NMSA 1978, Section 35-14-2 (1988) (describing municipal court's jurisdiction).

Magistrate courts and other courts of limited jurisdiction are without authority to take action unless the authority has been affirmatively granted by the Constitution or statutory provision. **See State v. De La O**, 102 N.M. 638, 698 P.2d 911 (Ct. App. 1985); **State v. Vega**, 91 N.M. 22, 569 P.2d 948 (Ct. App. 1977). As jurisdiction has to be affirmatively granted, the question of whether a judge in a court of limited jurisdiction may order a psychiatric evaluation of a defendant for competency to stand trial, without a referral to district court, turns to whether that authority has been expressly granted. When the question of a defendant's competency to proceed in a criminal case is "raised in a court other than the district court or a metropolitan court, the proceeding **shall** be suspended and the cause transferred to the district court." NMSA 1978, Section 31-9-1 (1993). This statute specifically addresses the issue of jurisdiction over a defendant when the competency issue is raised. All courts, other than district and metropolitan courts, are included in the statute. Therefore, in the event a defendant's competency to proceed becomes an issue, a magistrate and a municipal court would have to suspend the proceeding and transfer the cause to district court.

Note, however, the affirmative, albeit limited, grant of jurisdiction to a metropolitan judge in Section 31-9-1. Although a metropolitan court is a court of limited jurisdiction, the statute affirmatively grants that court jurisdiction to preside over a competency hearing. The statute also provides, however, that if the metropolitan court determines the defendant is incompetent to proceed in a criminal trial, then the cause, if not dismissed upon motion of a party, shall be transferred to the district court. **Id.** The multi-step competency proceeding in district court for professional evaluation of a defendant's competency is set out in Sections 31-9-1.1 through 31-9-1.5. **See also State v. Webb**, 111 N.M. 78, 801 P.2d 660 (Ct. App. 1990) (when a question arises as to defendant's competency, in New Mexico the statutory scheme provides for a multi-step competency proceeding).

2. Authority over Involuntary Commitments

For the reasons discussed above, it is our opinion that a judge, sitting in a court of limited jurisdiction, be it a metropolitan court, magistrate court, or municipal court, has neither the authority nor the jurisdiction to commit a defendant to a state mental health facility. **See** Section 31-9-1.2. Jurisdiction over the defendant ends in magistrate and municipal court once the issue of competency is raised, and jurisdiction ends in metropolitan court when the defendant is deemed incompetent to stand trial. Only the district courts have jurisdiction to order a defendant deemed incompetent confined to a mental health facility. **See** Sections 31-9-1; 31-9-1.2 to 1.5; NMSA 1978, ch. 43, art. 1 (commitment procedures).