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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

IN THE MATTER OF:
ESTABLISHING COMPETENCY COURT
AND IMPLEMENTING PROCEDURES.

_____ /

ADMINISTRATIVE ORDER 2023-02

ESTABLISHING COMPETENCY COURT

WHEREAS judicial power is vested in the state court system – comprised of the Supreme Court, a court of appeals, district courts, and justices of the peace, and municipal courts where established. Nev. Const. art. VI § 1;

WHEREAS “the judiciary has the inherent power to govern its own procedures,” and “the authority of the judiciary to promulgate procedural rules is independent of legislative power.” *State v. Connery*, 99 Nev. 342, 345, 661 P.2d 1298, 1300 (1983);

WHEREAS “the judiciary, as a coequal branch of government, has inherent powers to administer its affairs,” including but not limited to the “the procedural management of litigation, which includes conservation of judicial resources.” *Borger v. Eighth Judicial Dist. Court ex rel. Cnty. of Clark*, 120 Nev. 1021, 1029, 102 P.3d 600, 606 (2004);

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1 WHEREAS the Second Judicial District Court (“SJDC”) has “inherent authority to
2 administrate its own procedures and to manage its own affairs, meaning that the
3 judiciary may make rules and carry out other incidental powers when ‘reasonable and
4 necessary’ for the administration of justice.” See *Halverson v. Hardcastle*, 123 Nev. 245,
5 261, 163 P.3d 428, 440 (2007);
6

7 WHEREAS the SJDC Chief Judge (“Chief Judge”) has authority to make
8 administrative decisions pertaining to the business of the SJDC and issue administrative
9 orders necessary to effectuate the orderly administration of justice within the SJDC.
10 WDCR 2(2); NRS 3.025(2)(C);
11

12 WHEREAS NRS 3.026(1)(a)(1) states the Chief Judge shall ensure “[t]he
13 procedures which govern the consideration and disposition of cases and other
14 proceedings within the jurisdiction of the district court are applied as uniformly as
15 practicable;
16

17 WHEREAS NRS 3.026(1)(a)(2) states the Chief Judge shall ensure cases and
18 other proceedings within the jurisdiction of the district court are considered and decided
19 in a timely manner;
20

21 WHEREAS the current determination of competency and resultant restoration
22 procedures in Washoe County are challenging and lack efficiency;
23

24 WHEREAS the significant delays are occurring despite entry of applicable and
25 appropriate orders;
26

27 WHEREAS it is reasonable and necessary to establish the SJDC Competency
28 Court to facilitate evaluation of competency and restoration of competency, if possible,
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1 for persons with underlying criminal proceedings and whose competency has been
2 called into question; and,

3 WHEREAS consideration of civil competency for persons with underlying Justice
4 Court criminal actions and competency of defendants during SJDC criminal actions by
5 one SJDC Judicial Department will result in consistent and efficient judicial
6 determination.
7

8 After consideration by the Chief Judge and the SJDC Bench, and good cause
9 appearing therefor,

10 **IT IS HEREBY ORDERED:**

11 Judge Egan Walker, Department 7, is appointed to serve as the Presiding Judge
12 in the SJDC Competency Court.
13

14 All initial civil competency matters filed in SJDC arising before bind over of
15 criminal proceedings from justice court shall be heard by the Competency Court.
16

17 If Department 7 is not available to hear or proceed with Competency Court
18 proceedings, the Chief Judge shall select an alternate Judicial Department.

19 As the establishment of Competency Court evolves, Department 7 shall
20 promulgate internal rules and regulations as it deems reasonable, and necessary for
21 efficiency and serves the interests of justice, subject to approval by the Chief Judge.
22

23 At any time prior to bind over when competency is called into question, the
24 resulting civil proceeding shall be referred to the Competency Court.

25 The Clerk of the Court shall include the assigned Judicial Department number
26 and the designation "Transferred to Competency Court, Dept No. 7" on the caption of all
27 filed papers for proceedings transferred to the Competency Court.
28

1 The Competency Court shall order the appointment of certified psychiatrists or
2 psychologists to complete reports pursuant to NRS 178.415.

3 After bind over, when the competency of a defendant is called into question in a
4 criminal proceeding, individual Judicial Departments shall have the discretion to refer
5 the competency determination to the Competency Court or continue to hear the matter.
6

7 Prior to bind over or after referral from the assigned Judicial Department, the
8 Competency Court shall hear subsequent competency related hearings, including any
9 status hearings and/or reports to the Court pursuant to NRS 178.450, and the
10 determination of competency after restoration, or incompetency without likelihood of
11 restoration.
12

13 If any additional reports are required, the Competency Court shall order the
14 completion of the additional report(s) by certified psychiatrist(s) or psychologist(s) to
15 complete reports as needed;
16

17 The Competency Court shall conduct hearings and issue appropriate orders as it
18 deems reasonable and necessary.

19 Upon a determination of competency, the Competency Court will remand the
20 defendant for further proceedings in the Justice Court. When previously bound over
21 before competency was called into question, the matter will proceed in the assigned
22 Judicial Department.
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24 At any time a question of competency should arise just prior to or during trial,
25 regardless of whether or not the defendant was previously referred to Competency
26 Court, the competency matter shall remain with the assigned Judicial Department or the
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trial court if a Department other than the assigned Judicial Department is trying the case.

The Clerk of the Court is directed to establish and maintain statistics regarding the number of competency cases transferred to the Competency Court prior to bind over and after bind over, the time between remand to a forensic hospital or outpatient treatment and the time transported or treatment initiated, and the time until hearing on restoration results.

IT IS SO ORDERED.

DATED this 7th day of February, 2023.


LYNNE K. SIMONS
CHIEF DISTRICT JUDGE