

# O.R.C. § 2929.025 - An Alternative to Execution of Those with Severe Mental Illness

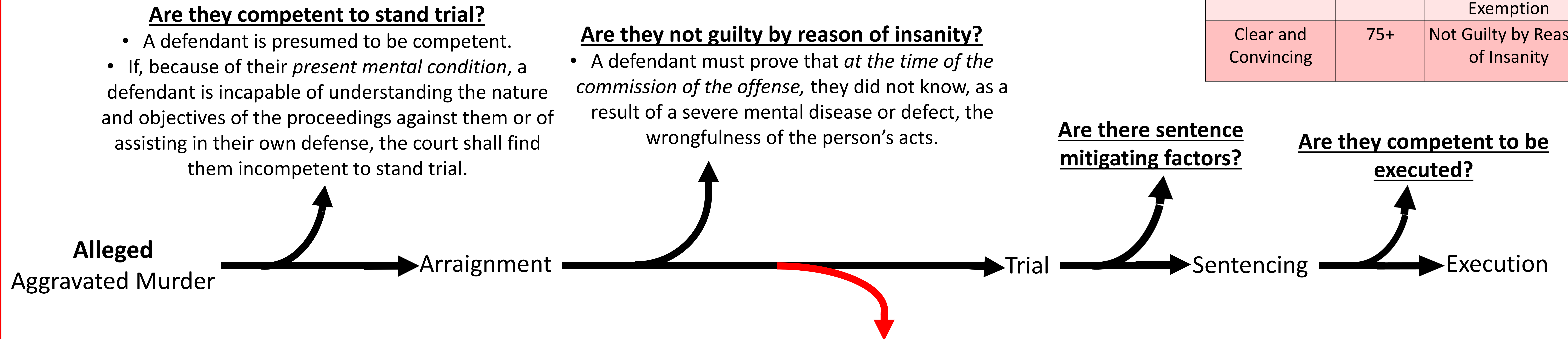
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## Ohio Death Row Facts

- Number of executions since 1976: **56**
- Current death row population: **134**
- Since 2018, **zero** executions have been completed, due to limited access to medications used for executions.
- There has been a recent push to abolish the death penalty in Ohio.

Standard of Proof	Certainty (%)	Legal Issue
Preponderance of the Evidence	51+	Capacity & Death Penalty Exemption
Clear and Convincing	75+	Not Guilty by Reason of Insanity



## Do they qualify for death penalty exemption under O.R.C. § 2929.025?

- A defendant must have one (or more) of the following serious mental illnesses:
  1. Schizophrenia
  2. Schizoaffective disorder
  3. Bipolar disorder
  4. Delusional disorder
- At the time of the alleged aggravated murder with which the person is charged, the condition, while *NOT* meeting the standard to be found not guilty by reason of insanity or the standard to be found incompetent to stand trial, nevertheless **significantly impaired the person's capacity to exercise rational judgement in relation to their conduct with respect to either:**
  1. Conforming the person's conduct to the law
  2. Appreciating the nature, consequences, or wrongfulness of the person's conduct.
- A disorder manifested primarily by repeated criminal conduct, or one that is attributed primarily to the acute effects of any use of alcohol or any other drug of abuse does not, *standing alone*, constitute a "severe mental illness" for purposes of this statute.

## Evaluation Pitfalls

1. What if the defendant does not participate in the evaluation?
2. Can an opinion be offered without the defendant's participation?
3. If the defendant does not participate, are they competent to waive this defense?

## Common Functional Deficits in O.R.C. § 2929.025 Qualifying Illnesses

Schizophrenia	Schizoaffective Disorder	(Euthymic) Bipolar Disorder	Delusional Disorder
<ul style="list-style-type: none"> <li>• Processing speed</li> <li>• Memory</li> <li>• Executive functioning</li> </ul>	<ul style="list-style-type: none"> <li>• Gray matter volume loss (more closely related to schizophrenia than bipolar disorder), leading to similar cognitive deficits seen in schizophrenia</li> </ul>	<ul style="list-style-type: none"> <li>• Attention/processing speed</li> <li>• Episodic memory</li> <li>• Executive functioning</li> </ul>	<ul style="list-style-type: none"> <li>• Impaired verbal memory</li> <li>• Cognitive symptoms</li> <li>• Higher scores in paranoid &amp; cognitive symptomatic dimensions</li> </ul>

## References

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