

CHAPTER 17
JUVENILES IN THE CRIMINAL JUSTICE SYSTEM
TOPIC 2

ADJUDICATIVE COMPETENCE IN CRIMINAL PROCEEDINGS

1 **§ 17.20. Adjudicative Competence in Criminal Proceedings**

2 **(a) A juvenile charged with a criminal offense is not competent to participate in a**
3 **proceeding to adjudicate guilt or to plead guilty unless the juvenile has both a rational and**
4 **factual understanding of the proceedings, and is able to consult with and assist counsel in**
5 **preparing a defense. The juvenile may lack the requisite competence due to mental illness,**
6 **intellectual disability, or developmental immaturity.**

7 **(b) (1) A juvenile found incompetent to proceed cannot be subject to a criminal**
8 **proceeding or enter a plea unless and until his or her incompetence is remediated and**
9 **competence is attained. Remediation must occur in a reasonable period of time following the**
10 **finding of incompetence.**

11 **(2) Unless otherwise prohibited by law, a juvenile found incompetent to proceed**
12 **can be transferred to juvenile court to be adjudicated if he or she is competent to proceed in**
13 **a delinquency proceeding.**

14 **Comment:**

15 *a. History and rationale.* Common-law courts for centuries have determined that an
16 individual charged with a criminal offense cannot be tried if he or she is incapable of meaningfully
17 participating in the proceeding to determine guilt. Historically, the requirement that a defendant
18 must have a minimal level of competence was grounded in the formal procedural mandate that a
19 plea by the defendant was necessary before a criminal prosecution could proceed. If the defendant
20 was unable to understand and enter a plea because of diminished mental capacity, the adjudication
21 could not proceed. Even after courts entered a not-guilty plea for defendants who did not plead,
22 the requirement that the defendant be competent to proceed persisted as a condition of criminal
23 prosecution.

24 The requirement of adjudicative competence aims to preserve the values of accuracy,
25 legitimacy, and autonomy in criminal proceedings. See § 15.30, Adjudicative competence in
26 delinquency proceedings, Comment *a*. First, the requirement promotes accuracy because a

1 competent defendant can challenge prosecution evidence and provide exculpatory information to
2 defense counsel, while an incompetent defendant may be unable to fulfill those functions. Second,
3 the competence requirement promotes legitimacy, which is undermined when an
4 uncomprehending defendant faces the power of the state in a criminal proceeding, the goal of
5 which is punishment and deprivation of liberty. Finally, respect for individual autonomy requires
6 the defendant's meaningful participation in criminal proceedings. In *Drope v. Missouri*, the United
7 States Supreme Court held that constitutional due process requires that a criminal defendant be
8 competent to stand trial. 420 U.S. 162 (1975). The Court observed, "It has long been accepted that
9 a person whose mental condition is such that he lacks the capacity to understand the nature and
10 object of the proceedings against him, to consult with counsel and to assist in preparing a defense,
11 may not be subjected to a trial." *Id.* at 171.

12 The criminal defendant has a right not to be subject to prosecution while incompetent; but,
13 because the requirement of competence also has the purpose of promoting the integrity and
14 legitimacy of the proceeding, the defendant cannot waive this right. Further, the prosecutor can
15 raise the issue and the judge *sua sponte* can order a competence hearing. The evidence considered
16 in the hearing includes a report on a psychological evaluation of the defendant's competence by
17 an expert forensic clinician.

18 The legal standard that is universally applied by courts in determining adjudicative
19 competence in criminal proceedings was provided by the U.S. Supreme Court in *Dusky v. United*
20 *States*. 362 U.S. 402 (1960). Under *Dusky*, the test for adjudicative competence is "whether [the
21 defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of
22 rational understanding—and whether he has a rational as well as factual understanding of the
23 proceedings against him." *Id.* at 402. See also *Pate v. Robinson*, 383 U.S. 375 (1966) (defendant
24 was deprived of due process under the Fourteenth Amendment by court's failure to order
25 competence hearing). Courts apply this standard for adjudicative competence to a juvenile tried
26 as an adult in criminal court.

27 The determination that an adult criminal defendant is incompetent to proceed has usually
28 been limited to cases involving serious mental illness or intellectual disability that renders the
29 individual unable to participate in his or her defense. Only recently have courts addressed claims
30 that a juvenile prosecuted as an adult is incompetent on the basis of immaturity. This issue is
31 addressed in Comment *c* and the Reporter's Note thereto.

1 *b. Applying the legal standard for adjudicative competence.* Under the *Dusky* standard for
2 determining adjudicative competence, the juvenile, like the adult defendant, must have both a
3 rational and a factual understanding of the proceedings and the ability to rationally consult with
4 and assist counsel. To have a rational understanding, the defendant must not only comprehend
5 relevant information about the charges and the proceeding, but be able to appreciate the relevance
6 of this information to his or her own situation. Thus, due process requires that a juvenile facing
7 criminal prosecution must not only be able to describe the charges, but also to understand and
8 appreciate their seriousness and the possible consequences of a criminal conviction for his or her
9 future life. An understanding of the proceedings and of the participants is important, together with
10 the ability to apply that understanding to the juvenile's own case. The competent defendant
11 comprehends that the proceeding is adversarial, that the prosecutor seeks to establish that the
12 juvenile engaged in the criminal activity that is the basis of the charges, that the judge adjudicates
13 the case, and that the purpose of the proceeding is to punish the defendant if it is proved that he or
14 she committed the crime charged. A rational understanding of the meaning of the defendant's
15 procedural rights is also important. Under *Dusky*, the defendant's effective participation in the
16 proceeding requires a comprehension of the role of the defense attorney as the defendant's
17 advocate. Competence to assist counsel involves the capacity to understand information, including
18 the ability to attend to and understand instructions, attorney communications, and witness
19 testimony. It also involves the capacity to communicate with the attorney to provide a coherent
20 account of information relevant to the offense and to challenge testimony offered by the state.
21 Courts also indicate that competence requires that the defendant be capable of conforming to
22 conventional expectations regarding courtroom behavior; juveniles, due to immaturity, may
23 undermine their prospects for acquittal through their behavior or attitude. *Graham v. Florida*, 56
24 U.S. 48 (2010); *Miller v. Alabama*, 132 S. Ct. 2455, 2468 (2012).

25 Although not explicitly described in *Dusky*, the U.S. Supreme Court has clarified that due
26 process requires that the competent defendant must have the ability to make important decisions
27 that arise in the course of the proceeding. *Godinez v. Moran*, 509 U.S. 389 (1993). These decisions
28 include whether to plead guilty and avoid adjudication and whether to exercise or waive procedural
29 rights, including the right to a jury trial, the right to testify, and the right to counsel.

30 The decision of whether a juvenile is competent to proceed in a criminal proceeding is not
31 made according to "juvenile norms" that sometimes can guide the determination of competence in

1 a delinquency proceeding in juvenile court. See § 15.30, Adjudicative Competence in Delinquency
2 Proceedings, Comment *c*. A juvenile facing criminal prosecution must demonstrate the same level
3 of competence under *Dusky* as a competent adult defendant. For a juvenile, however, impediments
4 to competence can derive from developmental immaturity as well as from mental illness or
5 intellectual impairment. See Comment *c* below.

6 *c. Developmental incompetence in criminal court.* *Dusky* established a functional standard
7 for adjudicative competence, requiring that the defendant have the ability to adequately understand
8 the proceeding and to assist his or her attorney in presenting a defense against the charges. *Dusky*
9 did not specify the nature of the impairment that can render an individual incompetent. Like an
10 adult, a juvenile in criminal court can be incompetent to proceed on the basis of mental illness or
11 intellectual disability. But, unlike an adult, a juvenile can lack the capacity to function adequately
12 as a criminal defendant due to developmental immaturity.

13 This issue only recently has come to the attention of courts, probably because traditionally
14 only a small category of older juveniles, who were presumed to be mature, were eligible for
15 prosecution in criminal court. But the age of transfer to criminal court has been lowered in most
16 states since the 1980s, such that a younger juvenile can face criminal prosecution as an adult for
17 some crimes. Whenever a juvenile under age 16 faces adult prosecution, the question of
18 developmental competence can arise, due to the substantial risk that a younger juvenile may not
19 be competent to participate as a defendant in a criminal proceeding.

20 Developmental immaturity has the same validity as a source of incompetence as do mental
21 illness and intellectual disability. Courts have generally recognized that a juvenile can be
22 incompetent to proceed due to developmental immaturity in a delinquency proceeding, a setting
23 in which the adjudicative process is less complex and the stakes usually are lower than in a criminal
24 proceeding. The argument for recognizing incompetence on the basis of a juvenile's immaturity is
25 more compelling in criminal court, where developmental factors can seriously impede the young
26 defendant's capacity to understand the proceedings, assist counsel, and make important decisions.
27 In a criminal proceeding, the defendant's competence is essential to fundamental fairness, because
28 the potential consequences of a criminal conviction are of such critical importance to his or her
29 future life.

30 The United States Supreme Court has recognized that a juvenile, due to immaturity, can be
31 seriously disadvantaged in navigating the criminal process; and that a devastating outcome can

1 follow. In two Eighth Amendment opinions restricting the authority of the state to impose harsh
2 adult sentences on juvenile defendants due to their developmental immaturity, the Court opined
3 that an immature juvenile's reduced trial competence could contribute to the juvenile's conviction
4 and imposition of the challenged sentences. *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v.*
5 *Alabama* 132 S.Ct. 2455 (2012). This admonition, together with the Court's insistence in *Drope*
6 that constitutional due process prohibits adjudication and conviction of an incompetent defendant,
7 supports the conclusion that a juvenile who is incompetent to proceed due to immaturity cannot be
8 tried in criminal court. In many cases in which a juvenile's competence to proceed is at issue, both
9 immaturity and intellectual disability or mental illness are evident; but a juvenile can lack the
10 competence needed to face criminal prosecution on the basis of developmental immaturity alone.
11 Any other conclusion is problematic on constitutional grounds.

12 The scientific evidence strongly supports the commonsense intuition that immaturity can
13 substantially undermine the ability of a younger juvenile to participate competently in a criminal
14 proceeding. Research consistently has shown that individuals age 13 or younger are far less likely
15 to perform adequately on standard competence measures than are older juveniles or adults; a
16 substantial minority perform as poorly as adults found incompetent to stand trial. Juveniles age 14
17 and 15 are also at significant risk of performing inadequately. By age 16, the performance of
18 juveniles is comparable to that of adults. Thus, the risk is substantial that a younger juvenile will
19 be found incompetent to proceed in a criminal proceeding on the basis of immaturity. For this
20 reason, the question of competence is relevant whenever a younger juvenile is tried as an adult.
21 Further, when intellectual impairment or mental illness is combined with immaturity, the risk of
22 incompetence increases, because intellectual deficits can contribute to difficulty with memory,
23 reasoning, learning, and processing information. Thus, a 15-year-old with intellectual deficits is at
24 risk for incompetence to the same extent as a younger juvenile of average intelligence.

25 Several factors associated with cognitive and social immaturity can impede a younger
26 juvenile's capacity to understand the proceeding, assist in his or her defense, and make critical
27 decisions. A competent defendant is capable of understanding information, appreciating its
28 relevance to his or her case, communicating with defense counsel, conforming to courtroom
29 behavioral expectations, attending to instruction and testimony, and making important decisions
30 in a rational manner. See Comment *b*. These functions require a level of maturity that many
31 younger juveniles lack. In the early teenage years, brain regions that control cognitive functioning

1 are still developing; thus, working memory, the capacity for processing information, and the ability
2 to engage in logical reasoning in making decisions and to choose between hypothetical alternatives
3 are not mature. The capacity to comprehend abstract concepts such as the meaning of rights is also
4 deficient during this period. Further, both younger and older juveniles tend to focus on the short-
5 term consequences of decisions and to discount long-term consequences, a tendency that can
6 seriously undermine the ability to make rational self-interested decisions, such as the decision
7 about entering a plea or waiving a constitutional right. But in younger juveniles, this tendency is
8 more pronounced and is exacerbated by reduced comprehension of the options and less mature
9 reasoning ability. Finally, a younger juvenile is less likely than an older counterpart to have
10 knowledge of or experience with the justice system; this ignorance can create an obstacle to
11 understanding the proceeding and appreciating its meaning and relevance to the juvenile.

12 **Illustration:**

13 1. Lonnie, age 14, is charged with murder in the course of aggravated child abuse
14 in the death of a six-year-old girl when Lonnie was 12-years-old. The death occurred when
15 Lonnie was “wrestling” with the child and threw her onto the ground. Against the advice
16 of counsel, Lonnie rejects the state’s plea offer of three years in a juvenile facility and is
17 tried as an adult. During the trial, in which he faces a sentence of life without parole, Lonnie
18 doodles and draws pictures at the defense table, and seems to his attorneys not to be paying
19 attention or understanding the proceedings. The attorney reports to the judge that Lonnie
20 does not or cannot communicate with them and that he “hasn’t listened to one word and
21 has no idea what is going on.” The court orders a competence evaluation with an expert in
22 adolescent forensic psychology, who reports to the judge that Lonnie’s IQ score is 90,
23 within the normal range, but that he is not capable of making a competent plea decision, or
24 of understanding the proceeding or communicating with his attorney. Lonnie also does not
25 comprehend fully the consequences of a criminal conviction. Lonnie lacks adjudicative
26 competence, largely on the basis of developmental immaturity.

27 In a typical younger juvenile, the deficiencies in adjudicative competence and predictable
28 improvement as the juvenile matures can be understood as a product of normal cognitive
29 development during adolescence. Cognitive capacity in all of the areas described above improves

1 steadily during childhood and early adolescence, reaching adult levels by about age 16. Thus, it is
2 not surprising that a typical 16-year-old performs on competence measures similarly to adults.

3 The fact that a 16-year-old juvenile may be competent to participate in a criminal
4 proceeding does not mean that the juvenile is criminally responsible to the same extent as an adult
5 counterpart. The impact of a juvenile's immaturity on adjudicative competence implicates
6 primarily cognitive development. Aspects of brain development affecting social and emotional
7 maturity proceed more slowly than those affecting the cognitive capacities of reasoning and
8 understanding, continuing to develop into the twenties. Adolescents (and young adults), due to
9 biological and psychological immaturity, have poorer impulse control than older adults, together
10 with greater susceptibility to peer influence and a stronger tendency toward sensation-seeking.
11 These developmental influences lead adolescents to engage in criminal activity at higher levels
12 than adults. Thus, while a 16-year-old may be competent to participate in a criminal proceeding,
13 the Supreme Court and other courts have recognized that, due to developmental immaturity, the
14 older juvenile is usually less culpable for his or her criminal conduct than is an adult counterpart
15 and deserves more lenient punishment.

16 A court-ordered competence evaluation of an adult is performed by a forensic clinician.
17 When the defendant is a juvenile, the clinician's expertise in adolescent development will be
18 important to the competence evaluation. A trained forensic clinician without such expertise will
19 likely not be capable of assessing the impact of developmental factors on the juvenile's
20 competence.

21 *d. Disposition of juvenile found to lack adjudicative competence.* A juvenile who is found
22 incompetent to proceed will not be subject to criminal prosecution unless and until competence is
23 attained. Subsection (b) deals with the disposition of the juvenile found to lack adjudicative
24 competence. If the court later determines that competence has been attained, the juvenile can be
25 adjudicated on the charges at that time.

26 The finding that a juvenile defendant lacks competence to proceed can sometimes raise
27 unique issues that do not arise with an incompetent adult. When an adult defendant is found
28 incompetent due to mental illness or intellectual disability, the court typically orders the transfer
29 of the defendant to a forensic mental-health facility to be restored to competence. This process
30 usually involves competence training—intensive instruction about the trial process, the role of the
31 participants, and the attorney–client relationship. Further, when incompetence is due to the

1 defendant's mental illness, appropriate medication can often facilitate the restoration of
2 competence. Medication can also assist a juvenile defendant whose incompetence is due to a
3 mental illness or disability that responds to pharmacological treatment. Competence training may
4 also be appropriate if the juvenile's lack of understanding is due to lack of knowledge of and
5 experience in the justice system that can be remediated through intensive instruction, or due to
6 other deficiencies that can be remediated with instruction. But the typical interventions designed
7 to restore competence in adult defendants may be less effective in remediating the juvenile's
8 deficiencies if incompetence is due to immaturity, either alone or in combination with mental
9 illness or cognitive impairment. For some juveniles, competence can only be attained through
10 maturation.

11 **Illustration:**

12 2. Eddie, age 15, is charged as an adult with armed robbery, along with three of his
13 friends. Eddie's attorney finds working with Eddie to be very difficult, because she cannot
14 get him to pay attention when she tries to question him about the events surrounding the
15 offense. He also seems unable to explain his legal situation or to describe the proceedings.
16 He keeps interrupting her and himself, diverting the conversation to other matters. Eddie
17 is easily distracted and often jumps up and wanders around the room. Even in the
18 courtroom, Eddie squirms in his seat and does not seem to be paying attention. Eddie's
19 attorney petitions the court for a competence evaluation. The psychiatrist who conducts the
20 court-ordered evaluation reports to the court that Eddie suffers from an anxiety disorder
21 and from attention-deficit hyperactivity disorder. His opinion is that Eddie is incompetent
22 because these conditions impair his ability to understand the proceedings and assist his
23 attorney. In the psychiatrist's opinion, medication is available that could alleviate Eddie's
24 symptoms and might allow him to participate competently in the proceeding. The court
25 finds Eddie to be incompetent and orders him to be treated for these conditions. Eddie lacks
26 adjudicative competence because of a treatable mental-health condition; therefore the court
27 appropriately orders treatment in an effort to mitigate the condition. Following treatment,
28 Eddie should be evaluated to determine whether the treatment he received has effectively
29 remediated his incompetence.

1 Under constitutional due process, the state can pursue efforts to restore an incompetent
2 defendant to competence for a reasonable period of time. If competence cannot be restored or
3 attained in a reasonable period, the criminal charges will be dismissed and the defendant released,
4 unless he or she meets the standard for civil commitment. *Jackson v. Indiana*, 406 U.S. 715 (1972).
5 The state cannot indefinitely restrict the incompetent defendant's liberty without an adjudication
6 of guilt, but can hold the defendant only so long as there is a reasonable prospect that the individual
7 will attain competence in a reasonable period. If the court concludes at any time after the initial
8 finding of incompetence that the defendant is not likely to attain competence in a reasonable
9 period, the court can dismiss the charges with prejudice.

10 **Illustration:**

11 3. Hyrum, age 14, is charged with sexual assault in an incident involving a younger
12 child. The district attorney brings charges against Hyrum in criminal court. Hyrum's
13 defense attorney complains to the court that Hyrum does not understand the seriousness of
14 the charges or the evidence the state plans to introduce. The court orders a competence
15 evaluation. In her report, the psychologist, Dr. Ramos, offers the opinion that Hyrum is an
16 immature 14-year-old with a mild intellectual disability. In her opinion, he is not competent
17 to proceed and not likely to become competent until he gains maturity. In response to the
18 judge's inquiry, Dr. Ramos offers the opinion that Hyrum is unlikely to become competent
19 before he is 15- or 16-yearsold at the earliest. The judge determines that Hyrum is not likely
20 to attain competence in a reasonable period and dismisses the charges with prejudice. The
21 judge acted appropriately. Unless Hyrum meets the standard for civil commitment, he will
22 be released to his parents' custody.

23 *e. Reverse Certification.* As Illustration 3 indicates, when a juvenile is incompetent on the
24 basis of developmental immaturity, it may not be possible for competence to be attained in a
25 reasonable period of time. Under these or other circumstances in which competence cannot be
26 attained in compliance with *Jackson*, the court can dismiss the charges against the defendant. In
27 the case of a juvenile defendant, the state may have an alternative disposition that is not available
28 in dealing with an incompetent adult. Unless prohibited by statute, the court can order a reverse
29 certification of the juvenile to the jurisdiction of the juvenile court.

1 Statutes in many states explicitly authorize reverse certification when the court concludes
2 that criminal-court prosecution is not appropriate for the juvenile, so long as public safety is not
3 compromised.

4 Reverse certification will not lead to adjudication of the juvenile in a delinquency
5 proceeding in all cases. In a case in which the delinquency proceeding carries serious consequences
6 analogous to a criminal conviction, the juvenile will not be competent to proceed if he or she is
7 not competent to proceed in criminal court because the same level of competence is required in
8 this situation as in a criminal proceeding. See §13.10. But sometimes, a juvenile may be competent
9 for purposes of delinquency adjudication when, for example, the juvenile is incompetent to stand
10 trial as an adult, in part, because of the highly stressful conditions surrounding a criminal
11 proceeding, or if the delinquency proceeding does not carry serious consequences analogous to a
12 criminal conviction. See Illustration 4. See also § 15.30, Comment *c*. Alternatively, the prosecutor
13 may offer the juvenile a plea agreement that avoids the serious consequences. See § 15.30,
14 Comment *d*, Illustrations 8 and 9.

15 **Illustration:**

16 4. Milo, age 14, is charged as an adult with distribution of marijuana in his high
17 school. Milo could have been adjudicated in juvenile court, but the prosecutor exercised
18 his statutory authority to charge him directly as an adult. Milo is one of several juveniles
19 charged as adults as part of a prosecutorial campaign to get drugs out of the high school.
20 Milo's attorney reports to the judge that Milo seems to be unable to understand
21 consequences of a criminal conviction or to decide whether to accept the prosecutor's plea
22 offer. When his attorney tries to discuss his legal situation with him, Milo becomes very
23 upset and cries incoherently. Milo's attorney is unable to elicit an account of the incident
24 from him and thinks Milo understands little that she said to him. The court orders an
25 evaluation of Milo's adjudicative competence. The evaluator reports to the court that Milo
26 is immature for his age and suffers from extreme chronic anxiety. He is distraught about
27 the criminal prosecution, confused and frightened to be in a criminal trial, and unable to
28 deal with the situation rationally. In the psychologist's opinion, Milo is not competent to
29 proceed, and is unlikely to become competent to proceed in the highly stressful context of
30 a criminal proceeding. The judge finds Milo to be incompetent to proceed and unlikely to
31 attain competence in a reasonable period. She orders Milo to be certified to the jurisdiction

1 of the juvenile court to be adjudicated in a delinquency proceeding. The juvenile court
2 judge orders an evaluation of Milo’s competence to proceed in a delinquency proceeding.
3 The evaluating psychologist finds that Milo’s anxiety is less pronounced after his transfer.
4 In her opinion, if Milo’s attorney provides him with calm and clear explanations of the
5 proceedings and evidence, he can participate competently in the delinquency proceeding.

6 Following reverse certification, the juvenile-court judge can determine whether the
7 juvenile is competent to proceed in a delinquency proceeding. If the juvenile is not competent
8 to proceed in a delinquency proceeding and not likely to become competent in a reasonable
9 period, the court will dismiss the charges. In such a case, the court can initiate civil-
10 commitment proceedings if appropriate. Alternatively, if the juvenile’s parents are unable to
11 exercise adequate supervision to promote the child’s welfare and protect public safety, the
12 court can intervene under its jurisdiction to respond to children in need of supervision or under
13 its dependency and neglect jurisdiction. See § 15.30, Comment *e*.

REPORTERS’ NOTE

14 *Comment a. History and rationale.* In the 1960s and 1970s, the U.S. Supreme Court in
15 several opinions held that the requirement of adjudicative competence is mandated by
16 constitutional due process. See *Drope v. Missouri*, 420 U.S. 162 (1975) (due process requires that
17 defendant be competent); *Pate v. Robinson*, 383 U.S. 375 (1966) (district court’s failure to inquire
18 into defendant’s competence deprived defendant of fair trial). See also *Cooper v. Okla.*, 517 U.S.
19 348 (1996) (rejecting state requirement that defendant prove competence by clear and convincing
20 evidence). For a history of the development of the competence requirement and its application to
21 juveniles, see Elizabeth Scott & Thomas Grisso, *Developmental Incompetence Due Process and*
22 *Juvenile Justice Policy*, 83 N.C. L. REV. 793 (2005); Richard Bonnie & Thomas Grisso,
23 *Adjudicative Competence and Youthful Offenders*, in THOMAS GRISSO & ROBERT SCHWARTZ,
24 *YOUTH ON TRIAL* 73, 76 (2000). For general background on the competence doctrine, see Richard
25 Bonnie, *The Competence of Criminal Defendants: Beyond Dusky and Drope*, 47 MIAMI L. REV.
26 539 (1993). See also DON GRUBIN, *FITNESS TO PLEAD GUILTY IN ENGLAND AND WALES* (1996).
27 See also discussion in § 15.30, Adjudicative Competence in Delinquency Proceedings. Comment
28 *a* and Reporters’ Note thereto.

29 In *Drope*, the U.S. Supreme Court found that the competence requirement was
30 constitutionally required because it is “so fundamental to an adversary system of justice.” 420 U.S.
31 at 185. Courts agree that the competence requirement is essential to the core institutional values of
32 accuracy, legitimacy, and autonomy. For a discussion of the rationales for the doctrine, see Bonnie,
33 *supra*; Scott & Grisso, *supra* at 800.