



The Difference between NGRI and ITP

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DESCRIPTION

Not guilty due to insanity? Incompetent to proceed? What does this mean? Does this mean the charges are dropped? Not exactly. Both are legal terms and mean different things. They both have different implications in what could happen with the trial and even determining if there will be a trial that includes evidence and testimony. Be aware that even if there is no trial, testimony can still be used and anything you do and say can and will be used against you in a court of law. I work in the Florida court system in a forensic diversion program as a therapist. I routinely oversee and work with individuals found incompetent to proceed to restore their competency and I also work with not guilty due to reason of insanity who are on a conditional release that have been ordered to complete a forensic diversion program as well.

I am not a lawyer, but I am familiar with the statutes and Florida law but not to the extent that a lawyer would be. I work in Florida so I understand Florida processes and laws which will likely be different than other states processes and laws as well as other countries laws. I am not able to give legal counsel and would have to refer you to a lawyer, my point of this article is not to provide legal counsel but a better understanding of the meanings behind not guilty due to reason of insanity and incompetent to proceed.

Not guilty due to reason of insanity

Not guilty due to reason of insanity usually ends up court ordered into a state hospital such as Northeast Florida State Hospital. There will be no trial on an NGI because the defendant was not able to understand what they were doing at the time of the crime due to a loss of contact with reality. The Florida statute associated with this statute is FL Statute 916.15. Involuntary commitment of defendant adjudicated not guilty by reason of insanity.

Incompetent to proceed

This is not a plea. Most cases start as incompetent to proceed before potentially becoming an NGI. This typically is used when

a defendant seems to potentially be in a state of temporary psychosis due to any kind of trauma or mental health issue that they are suffering from at the time they stand before the judge. Careful work is done by forensic experts, counselors and psychologist to prevent malingering, where a defendant pretends to have a mental illness to attempt to avoid the consequence for their actions, as well as masking, which is where a defendant masks their mental illness and pretends to be competent. The Florida statute associated with ITP is FL statute 916. Involuntary commitment of defendant adjudicated incompetent. Some highlights of ITP include but are not limited to:

So, you may be asking yourself. Why does this matter? It matters because it changes the course of the way the case is handled and viewed by the court. In essence, if a defendant is deemed not guilty due to reason of insanity, it is very possible that they could spend the rest of their life in either a state hospital or forensic programs due to being deemed not safe to go into the community for either themselves, the general public or the victim involved in the crime they committed. Many think that malingering, or making an illness seem much worse than it really is, can be a way of avoiding a serious charge for a serious crime when there is really "time served" or reduction in time unless the judge orders credit for time served while in the forensic diversion program or state hospital and decides it counts in ITP case in which the person is found competent and then has to stand trial.

CONCLUSION

To conclude, this article is more written for psychologist or counselors who may be unfamiliar with the forensic system yet get a client who is court ordered under one of these statutes to do therapy on what is called a "conditional release." A conditional release is just what you might think it is; It is a set of conditions that a defendant must follow if they are a, released during an ITP or NGI. During a conditional release the court will usually ask for reports from the agency or counselor that the defendant is seeing.

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