

(8) Unless, with the court's approval, the parties waive a hearing, the administrative judge of the court shall designate a time for an evidentiary hearing to determine the inmate's competence. The hearing shall be held without a jury in court, at the place where the inmate is confined, or at any other convenient place.

(9) At the hearing, the inmate:

(i) Subject to the reasonable restrictions related to the inmate's condition, has the right to be present;

(ii) Has the right through counsel to offer evidence, cross-examine witnesses against the inmate, and make argument; and

(iii) Has the burden of establishing incompetence by a preponderance of the evidence.

(d) (1) The court shall enter an order declaring the inmate to be competent or incompetent and stating the findings on which the conclusion is based.

(2) If the court finds the inmate to be competent [and has previously revoked the warrant to execute the death sentence pursuant to § 75(a) of this article], it shall IMMEDIATELY:

(I) LIFT ANY STAY OF A WARRANT OF EXECUTION THAT WAS PREVIOUSLY ISSUED AND HAS NOT YET EXPIRED; OR

(II) IF ALL PREVIOUSLY ISSUED WARRANTS OF EXECUTION HAVE EXPIRED, notify the court in which the sentence of death was imposed [to] AND REQUEST THAT THE COURT issue a new warrant [for] OF execution.

(3) If the court finds the inmate to be incompetent it shall [revoke the warrant to execute the death sentence and] STAY ANY WARRANT OF EXECUTION THAT WAS PREVIOUSLY ENTERED AND HAS NOT YET EXPIRED AND remand the case to the court in which the sentence of death was imposed, which shall strike the sentence of death and enter in its place a sentence of life imprisonment without the possibility of parole. The sentence shall be mandatory and may not be suspended, in whole or in part.

(4) There is no right of appeal from the court's order. However, either party may seek review in the Court of Appeals by filing an application for leave to appeal in accordance with the Maryland Rules. UPON SUCH A FILING, THE COURT OF APPEALS MAY STAY ANY WARRANT OF EXECUTION THAT WAS PREVIOUSLY ISSUED AND HAS NOT YET EXPIRED.

(e) (1) Not earlier than 6 months after a finding of competence, the inmate may petition the court for a redetermination of competence.

(2) A petition under this subsection must be accompanied by an affidavit of at least one psychiatrist, based, at least in part, on personal examination, attesting:

(i) That, in the psychiatrist's medical opinion, the inmate is incompetent;