

(2) (i) "Incompetent" means the state of mind of an inmate who, as a result of a mental disorder or mental retardation, lacks awareness:

1. Of the fact of his or her impending execution; and
2. He or she is to be executed for the crime of murder~~§.§~~;

(ii) An inmate is not incompetent merely because his or her competence is dependent upon continuing treatment, including the use of medication.

(b) The State may not execute the death sentence against an inmate who has become incompetent.

(c) (1) The following individuals may file a petition alleging that an inmate is incompetent and seeking to revoke the warrant to execute the death sentence against the inmate:

- (i) The inmate;
- (ii) If the inmate is represented by counsel, counsel for the inmate; or
- (iii) If the inmate is not represented by counsel, any other person on the inmate's behalf.

(2) (I) The petition shall be filed in the circuit court of the county in which the inmate is confined.

(II) UPON THE FILING OF SUCH A PETITION, THE COURT MAY IN ITS DISCRETION STAY ANY WARRANT OF EXECUTION THAT WAS PREVIOUSLY ISSUED AND HAS NOT YET EXPIRED.

(3) The petition 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; and
- (ii) The pertinent facts on which the opinion is based.

(4) A copy of the petition shall be served on the Attorney General and the Office of the State's Attorney who prosecuted the inmate, in accordance with the service requirements of the Maryland Rules.

(5) Unless the inmate is already represented by counsel, the court shall promptly appoint the public defender, or, if the public defender for good cause declines representation, other counsel to represent the inmate in the proceeding.

(6) Unless the State stipulates to the inmate's incompetence, it shall cause the inmate to be examined and evaluated by one or more psychiatrists of its choosing.

(7) The inmate is entitled to be independently examined by a psychiatrist of the inmate's choosing, provided the request is reasonable and timely made.