

Adjudicative Competence in the Context of a Defendant's Absence from Trial after a Suicide Attempt

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Defendants who are facing criminal charges in the United States have a constitutional right to be present at trial. This right can be voluntarily waived; for such a waiver to be valid, the defendant must be competent to waive the right to be present at trial. There have been several cases where a defendant is absent from trial because of a suicide attempt, and in these cases the courts must determine whether it is necessary to pause the criminal trial to allow for a competence hearing to take place. The U.S. Supreme Court offered guidance on this matter in its ruling in *Drope v. Missouri*; however, the Court did not clearly define the threshold for requiring a competence hearing when defendants attempt suicide during trial. Subsequent judicial rulings have provided insights into how courts might proceed when a criminal defendant is absent from trial following a suicide attempt. This topic has relevance to forensic psychiatry, as forensic psychiatrists may be called upon to participate in evaluations of adjudicative competence in these scenarios.

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Individuals in the United States who are facing criminal charges have a right to be present during their trial. This right is protected by the 5th, 6th, and 14th Amendments to the U.S. Constitution and is codified in Rule 43 of the Federal Rules of Criminal Procedure.¹ Once the trial is underway, a defendant's right to be present at trial is not absolute. According to Rule 43, this right is waived when the defendant is voluntarily absent after the trial has begun, regardless of whether the court informed the defendant of an obligation to remain through the course of the trial. Rule 43 has been in effect since the adoption of the Federal Rules of Criminal Procedure in 1945, and the U.S. Supreme Court confirmed the constitutionality of proceeding with the trial following a defendant's voluntary absence from court in *Diaz v. United States*² and *Taylor v. United States*.³ For such a waiver to be valid,

however, the defendant must be competent to waive this right. There have been several documented instances of criminal defendants being absent from trial following a suicide attempt, raising the question of whether such absences should be considered voluntary waivers of the defendants' right to be present at trial. In cases involving a defendant who is absent from trial because of a suicide attempt, a critical matter for the court to resolve is whether the proceedings should be paused to allow for a competence hearing to occur.

Competence to stand trial, also referred to as adjudicative competence and fitness to stand trial, is defined as the legally determined capacity of a defendant to proceed with criminal adjudication, and thus it refers to a defendant's ability to participate in legal proceedings associated with an alleged criminal offense.⁴ The conviction of defendants who are legally incompetent violates their due process right to a fair trial. The constitutional standard for adjudicative competence was established in *Dusky v. United States*, when the U.S. Supreme Court held that defendants must have sufficient present ability to consult with their lawyers with a reasonable degree of rational

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understanding and possess a rational and factual understanding of the proceedings against them to be fit to stand trial.⁵ In *Pate v. Robinson*, the U.S. Supreme Court ruled that defendants are entitled to a competence hearing when there is doubt as to their fitness to stand trial, regardless of whether such a hearing is formally requested by the defendants or their counsel during trial.⁶ In a subsequent case (*Medina v. California*), the U.S. Supreme Court indicated that defendants claiming incompetence to stand trial bear the burden of proving so by a preponderance of the evidence.⁷ It is not uncommon for U.S. criminal courts to request evaluations for competence to stand trial; a recent estimate has placed the annual number of competence evaluations at 94,000, making this the most common type of forensic mental health assessment performed within the U.S. legal system.⁸ To understand the factors considered when determining if a trial should be delayed and a competence hearing conducted, it is necessary to review how American courts have handled the matter. The list of cases included below, while not exhaustive, provides insights into how courts have addressed the subject of adjudicative competence following a suicide attempt.

Review of Relevant Case Law

Drope v. Missouri (1975)

In the landmark case *Drope v. Missouri*, the U.S. Supreme Court addressed the topic of a defendant's competence to waive the right to be present at trial following a suicide attempt. James Drope was indicted for the rape of his wife. During trial in June 1969, the court was presented with a report from an evaluating psychiatrist who recommended that Mr. Drope engage in psychiatric treatment. Mr. Drope's wife was called to testify as a witness, and she informed the court of her belief that he was mentally ill and in need of psychiatric care. Mr. Drope shot himself in the abdomen during the trial. Mr. Drope's attorney moved for a mistrial on the basis that he was hospitalized as a consequence of the suicide attempt and could not attend the ongoing trial. The trial judge denied the motion, concluding that Mr. Drope's absence was due to his own voluntary act in shooting himself, done for the purpose of avoiding trial. Mr. Drope's trial continued without him and he was convicted of the offense. The Missouri Court of Appeals and the Missouri

Supreme Court affirmed the trial court's decision to proceed without making an inquiry into Mr. Drope's competence and asserted that, as a matter of law, an attempt at suicide does not create a reasonable doubt of a defendant's adjudicative competence. Mr. Drope appealed to the U.S. Supreme Court on the grounds that he could not voluntarily waive his right to be present at trial if he were incompetent at the time. The U.S. Supreme Court reversed the lower courts' rulings and overturned the conviction.

In its decision, the U.S. Supreme Court chose not to address the question of whether a defendant's suicide attempt, by itself, creates a reasonable doubt of competence to stand trial. The Court did state that evidence of a defendant's irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial are all relevant in determining whether inquiry into the defendant's competence is necessary. The Court concluded the trial court had access to information that, when considered along with Mr. Drope's suicide attempt, raised sufficient concern about his mental state to warrant inquiry into his competence to stand trial. Specifically, the trial court was aware of the submitted psychiatric evaluation of Mr. Drope as well as his wife's testimony. The U.S. Supreme Court felt that the totality of the available information created a *bona fide* doubt of Mr. Drope's competence, and that it was inappropriate for the trial court to assume he voluntarily waived his right to be present at trial without first determining whether he was competent to proceed.⁹

United States v. Latham (1989)

Frederick Latham was charged with cocaine possession and intention to distribute cocaine. The trial commenced on September 9, 1987, and Mr. Latham failed to appear at court the following day. The court was initially informed that he was absent because of being on a flight to a different part of the country. Mr. Latham's attorney asked for a continuance, and this request was denied as the court had concluded that Mr. Latham had voluntarily absented himself from trial. The trial proceeded in Mr. Latham's absence, and he was found guilty on both counts. Mr. Latham appealed the trial court's guilty verdict, claiming that the court based its decision to proceed in his absence on inaccurate information (Mr. Latham had not been on an airplane; rather, he had been admitted to a hospital for treatment after ingesting a potentially lethal amount of cocaine). The U.S.

First Circuit Court of Appeals reversed the lower court's conviction. The First Circuit accepted Mr. Latham's explanation that his drug ingestion was not a suicide attempt; he used cocaine to calm his nerves and it was his full intention to attend the entire trial. Because he did not intend to miss his trial, the First Circuit concluded that Mr. Latham's ingestion of cocaine did not constitute a voluntary waiver of his right to be present at trial.¹⁰

United States v. Davis (1995)

In 1991, several members of a drug distribution organization based in Mississippi were arrested and charged with drug-related offenses. The trial began in 1993, and one of the defendants, Mary McBride, was absent following the first week of the trial. Ms. McBride had reportedly ingested 50 antidepressant pills and was subsequently admitted to a hospital. The court concluded that Ms. McBride's absence from trial was voluntary and proceeded with the trial in her absence. All the defendants (including Ms. McBride) were convicted of the offenses. On appeal, Ms. McBride claimed that the lower court erred in determining that her absence was voluntary and in not ordering a competence hearing. The U.S. Fifth Circuit Court of Appeals considered the following when determining whether the trial court had erred: whether Ms. McBride's absence was knowing and voluntary, and if so, whether the public interest in the need to proceed clearly outweighed her interest in attending the trial. Records from Ms. McBride's hospitalization indicated that she was experiencing depression and that there was no indication she had experienced a serious overdose; also, the hospital records noted that Ms. McBride had ingested pills because of her concern over the trial. Based upon this information, the Fifth Circuit concluded that Ms. McBride's absence from trial was knowing and voluntary, and thus constituted a voluntary waiver of her right to be present at trial. The Fifth Circuit went on to decide that the burden of having to postpone or possibly retry this multidefendant trial involving several out-of-state witnesses outweighed any possible excuse Ms. McBride could offer for declining to attend the trial. Furthermore, the Fifth Circuit held that the trial court did not err in failing to order a competence hearing, since there was no evidence suggesting that Ms. McBride was unfit to stand trial apart from her ingestion of medication.¹¹

United States v. Loyola-Dominguez (1997)

Jacobo Loyola-Dominguez was indicted for violating U.S. immigration law. Mr. Loyola-Dominguez was being detained in jail when the trial commenced in April 1996, and he attempted to hang himself in his jail cell during the initial phase of his trial. The following day, Mr. Loyola-Dominguez's attorney informed the court of this matter and requested a hearing to determine his adjudicative competence. Counsel also indicated that he was being held in segregation at the jail and expressed a concern that the effects of solitary confinement may have contributed to his suicide attempt. The trial court engaged in a brief colloquy with Mr. Loyola-Dominguez to determine whether such a hearing was warranted. Mr. Loyola-Dominguez indicated that he did not know whether he was ready to proceed with trial and that he did not know what was going on as it related to the legal proceedings. After the colloquy, the court denied the motion for a competence hearing and the trial continued, resulting in a conviction. Mr. Loyola-Dominguez appealed his conviction, and the U.S. Ninth Circuit Court of Appeals overturned the conviction on the grounds that since a *bona fide* doubt had been raised concerning Mr. Loyola-Dominguez's fitness to stand trial, the trial court erred in refusing to order a competence hearing. In its ruling, the Ninth Circuit noted that not every suicide attempt inevitably creates a doubt concerning a defendant's competence to stand trial. The combination of Mr. Loyola-Dominguez's recent suicide attempt and his concerning responses during the colloquy was sufficient to warrant pausing the trial for a competence hearing.¹²

United States v. Crites (1999)

Donnell Crites was charged with multiple drug-related offenses, and during the course of his trial he attempted suicide by ingesting a combination of alcohol, methamphetamine, and prescription medications. Mr. Crites was hospitalized following the suicide attempt. His counsel requested a continuance because of his absence, and the court briefly recessed to gather information about the suicide attempt and to question Mr. Crites's attorney about his mental state during trial. Counsel informed the court that Mr. Crites had been able to appropriately assist him in preparing for trial. The court then denied the motion for a continuance, finding that Mr. Crites had

voluntarily absented himself from trial. Mr. Crites was convicted on all counts, and he appealed his conviction on the grounds that his absence was not voluntary. In 1999 the U.S. Eighth Circuit Court of Appeals issued its ruling, affirming Mr. Crites's conviction. The Eighth Circuit indicated that it was clear from Mr. Crites's written suicide note and his actions that he had made a choice not to attend the remainder of his trial, and that he voluntarily took steps to die by suicide and thus absent himself permanently from the court proceedings.¹³

People of the State of Colorado v. Price (2010)

Richard Price was charged with several counts of sexual assault in 2006. On the second day of the trial, Mr. Price did not show up for court after attempting suicide by cutting his wrists and throat, which led to his being hospitalized on a mental health hold. Mr. Price's attorney filed a motion for mistrial which was denied, and the trial continued without Mr. Price's presence in the courtroom. He was convicted of all charges. Mr. Price appealed the decision, claiming that the trial court erred in determining that he had voluntarily absented himself from court and in failing to order a competence hearing. In 2010, the Colorado Court of Appeals affirmed the trial court's decision. The appellate court, relying upon previous federal and state rulings, concluded that a defendant's absence from court can be deemed voluntary if the defendant created the medical necessity to miss trial. The Colorado Court of Appeals noted that the trial court conducted an inquiry into Mr. Price's absence, including a review of his note. The trial court and appellate court both interpreted Mr. Price's suicide note as a confirmation of the act being purposeful and done with the intention of avoiding trial and imprisonment. Furthermore, the Colorado Court of Appeals held that a *bona fide* doubt of Mr. Price's adjudicative competence did not exist, and therefore a competence hearing was not required.¹⁴

Avilesrosario v. State of Florida (2014)

Rafael Avilesrosario was charged with robbery and resisting an officer. A competence hearing was held, and Mr. Avilesrosario was found incompetent to stand trial. Following a period of treatment, Mr. Avilesrosario was determined to be competent to proceed and the trial commenced. Early in the trial, Mr. Avilesrosario's counsel filed a motion for another competence hearing after learning that

Mr. Avilesrosario had seriously cut himself with a razor requiring hospitalization. Counsel indicated that she could not communicate with him after the incident and that he was not mentally stable, based on her interactions with him. The trial court decided to proceed without holding another competence hearing, noting that the court had already deemed Mr. Avilesrosario to be competent. Later in the trial (following his release from the hospital), Mr. Avilesrosario testified that he was not well and that he was under the effects of too much medication for his mental health condition. Mr. Avilesrosario was convicted of the criminal offenses. He appealed the decision, and in 2014 the Fourth District Court of Appeal of Florida held that the trial court abused its discretion in not conducting a competence hearing. The conviction was reversed. The appellate court indicated that Mr. Avilesrosario's recent suicide attempt and hospitalization, his behavior while at trial, and the concerns raised by his attorney created a *bona fide* doubt as to his adjudicative competence, despite the trial court previously determining that he was competent to proceed with trial.¹⁵

Mayfield v. State of Texas (2017)

Stephen Mayfield was charged with sexual assault of a child. During the second day of testimony, he did not appear in court; he had ingested medication in an overdose attempt and was hospitalized in a comatose state. The trial court concluded that Mr. Mayfield had voluntarily waived his right to be present, and the trial continued in his absence. Mr. Mayfield was convicted of the charges against him. He then appealed on the grounds that the trial court should have paused the trial to conduct a competence hearing, and the Seventh Court of Appeals of Texas determined that the trial court erred by denying Mr. Mayfield's motion for a competence evaluation. The appellate court remanded the matter to the trial court for a retrospective competence evaluation. The psychologist who conducted this assessment expressed her opinion that Mr. Mayfield was competent to stand trial, and she indicated that Mr. Mayfield had made a considered, rational decision to end his life after concluding that he would be found guilty of the charges filed against him. The trial court signed a judgment of (retrospective) competence, which noted that Mr. Mayfield's absence from trial did not result from his being incompetent to stand trial, and thus his absence was deemed voluntary.¹⁶

State of North Carolina v. Sides (2020)

The North Carolina Supreme Court issued a ruling on a case that involved adjudicative competence in the context of a recent suicide attempt. In 2015 Carolyn “Bonnie” Sides was charged with multiple counts of felony embezzlement. The criminal trial was held in Cabarrus County Superior Court in November 2017. While the trial was underway, Ms. Sides ingested 60 alprazolam tablets in an intentional overdose. After becoming unresponsive, she was evaluated at an emergency department and then admitted on petition for involuntary civil commitment to an inpatient psychiatric facility. The court was made aware of Ms. Sides’ ingestion and psychiatric hospitalization. The court was informed that Ms. Sides had a history of a mood disorder for which she was receiving treatment. The court also reviewed medical opinions from physicians who had assessed Ms. Sides at the hospital; the emergency medicine physician noted that she had been experiencing worsening depression and increased thoughts of self-harm, and the psychiatrist who evaluated her opined that she remained suicidal while in the hospital and that she required inpatient stabilization. The court decided to proceed with the trial in her absence, indicating that Ms. Sides voluntarily waived her right to be present at trial by intentionally overdosing on medication. Ms. Sides’s counsel objected to the court’s ruling on voluntary absence. At no point was an evaluation of Ms. Sides’s adjudicative competence requested. The trial resumed while Ms. Sides remained involuntarily hospitalized and she was convicted of embezzlement. Ms. Sides appealed her conviction to the North Carolina Court of Appeals.

The North Carolina Court of Appeals, in a split decision, upheld the trial court’s conviction. The Court of Appeals agreed with the trial court’s conclusion that Ms. Sides’s medication overdose and subsequent hospitalization constituted a voluntary waiver of her right to be present at trial, and that she was not entitled to a *sua sponte* competence hearing. Ms. Sides then appealed to the North Carolina Supreme Court, claiming that the court erred by not ordering a competence evaluation, and that the court erroneously ruled that she voluntarily absented herself while she was involuntarily committed following a suicide attempt. Disability Rights North Carolina, joined by the North Carolina Psychiatric Association and the North Carolina chapter of the National Alliance on Mental Illness, filed an amicus brief in support of

Ms. Sides’s appeal. In a 4-3 ruling issued on December 18, 2020, the North Carolina Supreme Court reversed the lower court’s decision and remanded the case for a new trial.¹⁷

The North Carolina Supreme Court echoed the U.S. Supreme Court in indicating that defendants cannot be said to have voluntarily waived their right to be present at trial if they lacked the competence to waive this right. The North Carolina Supreme Court then noted the trial court was aware of Ms. Sides’s suicide attempt, her history of a mood disorder, and the opinion of evaluating hospital physicians that she was depressed and suicidal, and held that this amount of information was sufficient to warrant a competence evaluation. The North Carolina Supreme Court did not stipulate that the defendant must show evidence suggestive of acute mental illness while the trial was underway (prior to the suicide attempt). Furthermore, the court did not require evidence of any previous episodes of severe mental illness, as there was no mention in the record of Ms. Sides’s having a prior history of psychiatric hospitalization, involuntary commitment, psychosis, self-injury, or suicide attempt. In so ruling, the North Carolina Supreme Court emphasized protecting a defendant’s right to a fair trial over supporting the state’s interest in seeking adjudication of a criminal trial with minimal delay.

Threshold for Ordering a Competence Hearing

There are insights that can be gleaned from a review of these judicial decisions. In the landmark case *Drope v. Missouri*,⁹ the U.S. Supreme Court referenced its earlier ruling in *Pate v. Robinson*⁶ that a competence hearing is necessary when a *bona fide* doubt exists as to whether a defendant is competent to stand trial. This *bona fide* doubt standard has served as the benchmark for cases following *Drope v. Missouri*. The U.S. Supreme Court did not provide a clear explanation of what constitutes a *bona fide* doubt, which has opened the door for differing interpretations of what the threshold should be for ordering a competence hearing and whether the threshold should apply equally in all circumstances. One insight extracted from these rulings is that courts may be inclined to take into consideration the interests of all involved parties in cases where a defendant is absent from trial because of a suicide attempt. Unless there is a compelling reason to doubt a defendant’s adjudicative competence, courts may

not be amenable to pausing the trial to hold a competence hearing in cases that involve multiple defendants or numerous witnesses. Rescheduling this type of trial places a burden on all the participants and may potentially interfere with the other defendants' right to a speedy trial. Another lesson from these cases is that courts may take defendants' intentions into consideration when determining whether they have voluntarily waived the right to be present at trial after a suicide attempt. If the court believes that a defendant's act was done for the purposes of delaying trial, intentionally absents the defendant from trial, or eliminating (through death) any possibility of the defendant being punished or imprisoned following a conviction, then the court may likely view the absence as voluntary unless there is compelling evidence suggesting adjudicative incompetence. Also, these judicial decisions revealed the importance of courts engaging in some amount of fact-finding before concluding that a defendant's absence from trial is voluntary. This may involve colloquy with defendants, ascertaining defense counsels' understanding of their clients' mental state during trial, or obtaining information about the suicide attempt from medical records or hospital physician staff.

One matter that deserves special attention is the question of whether a suicide attempt, by itself, is sufficient to raise a *bona fide* doubt of a defendant's competence. Reasonable arguments can be made in support of both sides of this matter. Research has shown that approximately 90 percent of individuals who die by suicide have a psychiatric disorder, and several psychiatric conditions are associated with an elevated risk of suicide.^{18,19} Given the strong connection that exists between mental illness and suicide, perhaps it is most appropriate that courts, when faced with a defendant's absence from trial following a suicide attempt, should have the defendant's adjudicative competence assessed before concluding that their actions constitute a voluntary waiver of the right to be present at trial. The *bona fide* doubt standard already sets a relatively low bar for ordering a competence assessment, and making this change to the standard may not result in an appreciable increase in the total number of adjudicative competence evaluations being performed. Furthermore, this change to the standard would not be difficult for courts to operationalize. Courts are expected to engage in some manner of inquiry when a defendant fails to

show up after the trial has commenced, and this inquiry will reveal whether a defendant has been hospitalized because of a suicide attempt. In such a scenario, an evaluation of competence to stand trial would be ordered by the court as standard practice. An additional benefit of ordering a competence assessment whenever a defendant is absent after a suicide attempt is that it eliminates the need to solve the ethics conundrum of how to handle situations where the defendant attempts suicide and is then admitted to a hospital on a psychiatric hold or on petition for involuntary civil commitment (which is what happened in Carolyn Sides's trial, described above). In such a case, the court may rule that a defendant has voluntarily waived the right to be present at the trial following a suicide attempt, and this may serve as grounds for an appeal if the defendant expresses a desire to return to court after the attempt but was not permitted to leave the treatment facility.

On the other hand, from a practical standpoint it is understandable why the courts should be hesitant to rule that every presumed suicide attempt occurring during trial necessitates pausing trial to conduct a competence hearing. Mandating competence evaluations whenever a defendant attempts suicide will likely result in a greater burden being placed on the mental health system and in additional court delays. Also, if this were the standard, then some defendants may feel inclined to engage in self-injury or other harmful acts, regardless of their underlying mental state, for the purposes of triggering a competence evaluation and thus delaying trial. This aligns with the adaptational model of malingering, which posits that individuals who are confronted with an adverse situation (such as a criminal legal proceeding) will consider their options and conclude that malingering mental illness and feigning a suicide attempt is the best means of avoiding a negative outcome (i.e., conviction).²⁰ Published research supports the notion that malingering is not an uncommon occurrence within criminal justice populations; in fact, the prevalence rate of malingered mental illness in jails may be as high as 66 percent.²¹ Thus, setting a standard that all presumed suicide attempts require evaluation of adjudicative competence may have the unintended consequence of further increasing the incidence of malingering and of self-harm in jails, thereby straining jails' resources that are dedicated to managing mental health conditions and self-injurious behavior.

Implications for Forensic Psychiatry

It is important to analyze adjudicative competence following a defendant's suicide attempt through the lens of forensic psychiatry. As was noted above, competence to stand trial assessments represent the most common type of forensic mental health evaluation conducted in the U.S. legal system, and forensic psychiatrists are often involved in performing these assessments. There are aspects of this topic that are relevant to the practice of forensic psychiatry. One key aspect involves how the forensic psychiatrist should approach such an assessment. Courts ruling on this topic have offered no indication that the standard for adjudicative competence for a defendant who is absent following a suicide attempt is any different than the standard established in *Dusky v. United States*. From a psychiatric perspective, however, the question becomes whether forensic evaluators should alter their approach to the assessment when faced with this scenario. There is precedent for a different standard being applied based upon the circumstances of the case. In *Godinez v. Moran*, the U.S. Supreme Court determined that if a defendant is competent to stand trial, then that defendant is also competent to waive the right to counsel and plead guilty.²² Subsequently, in *Indiana v. Edwards*, the U.S. Supreme Court held that the standard for competence to stand trial is not identical to the competence to forgo counsel and represent oneself; for the latter, the bar is higher (although the U.S. Supreme Court did not explicitly establish a standard for representing oneself at trial).²³ Perhaps forensic psychiatrists, when performing competence evaluations of defendants who were absent from trial after a suicide attempt, should expand the scope of the assessments to include investigations of the intent of the defendants to end their lives as well as the associated act itself (for instance, the lethality of the act). A component of this evaluation necessarily involves an investigation of malingering, since the defendant's motivation for engaging in a suicidal act may be to delay trial or avoid conviction. The forensic psychiatrist should also assess how the defendant's mental state contributed to the decision to attempt suicide. The courts may be inclined to view a defendant's suicide attempt during trial from a narrow perspective: if a defendant engages in an action (suicide attempt) that results in an outcome (hospitalization for monitoring and treatment) that prevents attendance at trial, then that defendant has voluntarily waived the

right to be present at trial. This limited perspective fails to appreciate the role of psychiatric illness in forming the mental state that underlies someone's suicidal behavior. Suicide can be conceptualized as the culmination of an individual's efforts to escape the extreme psychological pain that often accompanies mental illness.^{24,25} According to this theory, an individual will try to escape such mental anguish by engaging in cognitive deconstruction.²⁵ The American Psychological Association defines cognitive deconstruction as a mental state characterized by lack of emotion, the absence of any sense of future, a concentration on the here and now, and a focus on concrete sensation rather than abstract thought.²⁶ Roy Baumeister, a proponent of this escape theory of suicide, noted that the state of cognitive deconstruction is associated with irrationality and disinhibition, thus making drastic measures seem acceptable and potentially the only option available to alleviate intense suffering.²⁵ When considered from this vantage point, a suicide attempt seems less a willful, volitional act and more a manifestation of an irrational thought process rooted in an individual's mental illness. This is an area where forensic psychiatry can offer helpful guidance to the courts. By incorporating an appraisal of a defendant's mental state and the role that mental illness may have played in the suicide attempt into a broader competence evaluation, the forensic psychiatrist can provide information that is crucial in deciding whether a defendant's absence from trial is knowing and voluntary, and thus represents a legitimate waiver of the defendant's right to be present at trial. There is evidence that courts are open to considering this perspective; the North Carolina Supreme Court expressed such an understanding when it noted, in *Petty v. Associated Transport, Inc.*, that, "to say, as a matter of law, that one who intentionally takes his own life acts willfully is to ignore the role which pain and despair may play in breaking down a rational, mental process" (Ref. 27, p 328).

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