

## Habeas Relief After Failure to Order a Competency Hearing

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**Trial court's failure to order a competency hearing in presence of bona fide doubt of competency violates established federal law**

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In *Anderson v. Gipson*, 902 F.3d 1126 (9th Cir. 2018), the Ninth Circuit Court of Appeals determined if the trial court's failure to order a competency hearing in the face of multiple indicia of the defendant's incompetence was grounds for granting *habeas* relief.

### Facts of the Case

In 2007, Aaron Anderson physically assaulted his girlfriend and kicked out a police vehicle window. At trial, Mr. Anderson initially refused to appear in court and, once present, refused to change out of jail attire. His counsel raised concerns about his competency, citing that Mr. Anderson had not been taking his antidepressant medication. The defense counsel's request for a continuance was denied. Mr. Anderson voiced additional concerns to the judge. He stated that he did not understand the proceedings, that he was no longer taking his medication, and that the stress of the proceedings might render him unable to attend. The judge concluded that Mr. Anderson had an adequate understanding of the proceedings, and that his stress level was not beyond what might be expected for a defendant. Despite the court finding no need to restrain Mr. Anderson, he asked to remain in shackles during the proceedings, which the court obliged. The following weekend on the eve of his trial, Mr. Anderson attempted suicide in jail.

After three months of continuances, the case proceeded before another judge. Mr. Anderson was permitted to represent himself. Despite Mr. Anderson's objection to restraints at that hearing, he remained

chained to his chair. He did not meaningfully participate in jury selection, resulting in an all-female jury, two of whom had themselves been affected by domestic violence. During the first witness testimony, Mr. Anderson claimed that he was unprepared and unable to participate due to his stress and insufficient legal knowledge. The judge called for a recess to allow Mr. Anderson a few days' access to the prison law library to prepare. When the alleged victim testified, Mr. Anderson behaved unconventionally, with frequent interruptions, name-calling, and accusations that the alleged victim was lying. Shortly thereafter, Mr. Anderson requested for counsel to be reinstated and a mistrial to be declared. Defense counsel was reinstated, but the court did not order a mistrial or a competency hearing. Mr. Anderson was subsequently convicted of domestic violence, assault, and vandalism. He was sentenced to 54 years to life in prison.

Mr. Anderson appealed his conviction on several grounds, including the judge's failure to order a competency hearing despite his erratic behavior during his trial. The California Court of Appeal rejected his claims, dismissing Mr. Anderson's behaviors as an expected response to the stressors of self-representation. The California Supreme Court did not grant *certiorari*. Mr. Anderson petitioned the federal district court for *habeas* relief. The district court ordered the state of California to provide medical records from the mental health evaluation Mr. Anderson received following his suicide attempt. His counsel indicated that no records of this evaluation existed as it had not raised concerns about his competency. The district court then denied his petition for *habeas* relief. Mr. Anderson appealed to the Ninth Circuit Court of Appeals.

### Ruling and Reasoning

Mr. Anderson claimed that the trial court violated his due process rights by failing to order a competency hearing. The Ninth Circuit held that "the California Court of Appeal's decision denying Anderson relief on this claim involved 'an unreasonable application' of clearly established federal law" (*Anderson*, p 1132, citing 28 U.S.C. § 2254(d) (2012)). The court reversed the opinion of the California Court of Appeal and remanded the case to the district court with instructions to grant *habeas* relief unless Mr. Anderson could be retried "within a reasonable time."

The court noted that the Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996 sets a high

bar for a federal court to grant *habeas corpus* relief to a state prisoner. Such relief may only be granted in two circumstances: if the state proceedings “resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States”; or if those state proceedings “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding” (*Anderson*, p 1133, citing 28 U.S.C. § 2254(d) (2012)).

The court further bifurcated the first criterion into two situations in which *habeas* relief may be granted: if the state court ruling was “contrary to clearly established federal law as determined by the Supreme Court”; or “involved an unreasonable application of clearly established federal law as determined by the Supreme Court” (*Anderson*, p 1133).

Citing *Pate v. Robinson*, 383 U.S. 375 (1966), the court noted that if a defendant displays such indications of incompetence that there is a *bona fide* doubt of his competence to stand trial, the judge must suspend proceedings and order a competency hearing. Failure to do so would be a violation of due process. The court also noted that the Supreme Court later elaborated on this *bona fide* doubt standard, stating 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 further inquiry is required, but that even one of those factors standing alone may, in some circumstances, be sufficient” (*Anderson*, p 1134, citing *Drope v. Missouri*, 420 U.S. 162, 180 (1975)).

The court determined that, according to the standard outlined by the Supreme Court, Mr. Anderson’s irrational behavior, improper decorum, and suicide attempt each were sufficient to raise a *bona fide* doubt of competency. There was contention that Mr. Anderson may have indeed received a mental health evaluation following his suicide attempt, but the court failed to make a record of any such evaluation. Given the *bona fide* doubt of Mr. Anderson’s competency, the Ninth Circuit found that the trial court judge erred in not ordering a competency hearing.

The court determined that “[i]n the face of strong indicia of incompetence, including a *bona fide* suicide attempt on the eve of trial, *Pate* and its progeny demand more than such speculation: they demand a competency hearing” (*Anderson*, p 1135).

The court determined that the California Court of Appeal’s denial of *habeas* relief on the above grounds represented an “unreasonable application” of clearly established federal law. Because the court found error in the state court’s failure to order a competency hearing, the court did not address Mr. Anderson’s additional grounds for appeal.

#### Discussion

The AEDPA, enacted in 1996, contains multiple provisions that affect the appeals process in United States courts. Its impact on *habeas* relief is notable for the limited scope in which federal judges may grant relief, requiring a determination that the state court was “unreasonable” in its application of the law. The bar for determining unreasonableness, as set forth in the AEDPA, goes beyond a federal judge’s disagreement with state court judge’s interpretation of the law, when a legitimate legal uncertainty arises in the proceedings. Rather, a federal judge must determine that no “fair minded jurist” would have agreed with the state court’s determination (*Anderson*, p 1133, quoting *Yarborough v. Alvarado*, 541 U.S. 652, 664 (2004)). The Ninth Circuit held that *Anderson* was one such scenario. The *Anderson* opinion also reaffirms the broad principle that a court must order a competency evaluation whenever there is a *bona fide* doubt about the defendant’s competence. Failure to do so is a clear, unambiguous violation of due process.

## Does Counsel’s Failure to Request a Competency Evaluation Always Amount to Ineffective Assistance?

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***Counsel’s opposition to a court-ordered mental health evaluation is a reasonable defense strategy and failure to request a competence evaluation is not necessarily ineffective legal counsel***

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