

**INCOMPETENT / NGRI
CONTINUING COURT JURISDICTION: WHEN DOES IT END?**

I. WHAT'S GOING ON WITH DEFENDANT?

Defendant has been committed because he/she was incompetent and not restorable (R.C. 2945.39) OR NGRI (R.C. 2945.40).

When will the court's responsibility and/or jurisdiction over defendant end? The court retains jurisdiction until "final termination of commitment."

II. ISSUE PRESENTED:

When does "final termination of commitment" occur in your case?

III. RELEVANT STATUTES:

O.R.C. 2945.401(J)(1): A defendant committed pursuant to O.R.C. 2045.39 (incompetent and not restorable) or O.R.C. 2945.40 (not guilty by reason of insanity) will continue to be under the municipal court's jurisdiction until "final termination of the commitment." "Final termination of the commitment" means whichever of the following events first occurs:

- A. Defendant is no longer a mentally ill person subject to hospitalization or a mentally retarded person subject to institutionalization and the trial court makes such a finding;
- B. The maximum jail term the defendant could have received if convicted of the most serious offense charged has expired;
- C. Defendant is found to have become competent to stand trial.

See O.R.C. 2945.401(J)(1) and (2) for greater detail.

IV. PROCEDURES TO FOLLOW – REFERRAL TO OTHER SECTIONS

(In this scenario, the case is already dismissed.)

1. If the hospital or the defendant indicates that defendant is no longer a mentally ill/mentally retarded person subject to hospitalization/institutionalization, the court shall follow the procedures for a "Change in Commitment Status."

If clear and convincing evidence is received to this effect, the court shall make an order stating that the person is discharged or the commitment terminated.

2. If the maximum time defendant would have been incarcerated if sentenced to the maximum number of days has passed, the court shall dismiss the charge without prejudice.

Defendant shall be discharged by court order unless the court or prosecutor files an affidavit with probate court for defendant's commitment.

The court should follow the procedure for “Incompetent to Stand Trial and Unrestorable” and for Civil Commitment.”

3. If the hospital indicates defendant has become competent to stand trial the court shall hold a hearing. The court should follow the procedures for “Change in Commitment Status.”

If clear and convincing evidence is received to this effect, the court shall write an order that the defendant’s commitment to the hospital, facility or program is terminated. The trial on the criminal charges may then be scheduled and proceed.

**IN THE _____ MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

STATE/MUNICIPALITY)	CASE NO. _____
vs.)	JUDGE _____
DEFENDANT)	JOURNAL ENTRY
)	Post NGRI
)	Termination of Commitment and
)	Jurisdiction

On a prior date, defendant was found not guilty by reason of insanity. Defendant's commitment to this court is hereby terminated due to (choose only one):

- Pursuant to hearing held on the _____ day of _____, 20 ____, the court finds defendant is no longer a mentally ill/mentally retarded person subject to hospitalization/institutionalization.

- The maximum term of imprisonment the defendant could have received if convicted of the most serious offense charged in this case has expired.

DATE: _____

JUDGE