

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE MATTER OF

Name _____, Juvenile Case No. _____
Year of Birth _____ A male female

JOURNAL ENTRY OF HEARING
REGARDING COMPETENCY UPON DCF REPORT

Pursuant to K.S.A. 38-2348, 38-2349 and 38-2350

Now, on this _____ day of _____, _____, the Court considers the report from the Secretary of DCF, Judge _____ presiding.

- The State appears by _____ County/District Attorney or designee.
 The juvenile appears in person and not in person, but by the juvenile's attorney, _____ . Attending the proceedings relating to this motion would be injurious to the juvenile's health, and the presence of the juvenile is waived.
 The mother is present is not present.
 The father is present is not present.
 The CSO is present through _____ .
 The Commissioner is present through _____ .
 Also present is/are: _____ .

The Court, having reviewed the file, received the evidence, and heard statements of counsel, makes the following findings, and enters the following orders:

The juvenile named above was previously determined to be incompetent and proceedings pursuant to K.S.A. 59-2901 et seq., were initiated, case number _____. The Secretary of DCF has notified the Court that the juvenile is not a mentally ill person. The juvenile is competent, the suspension of proceedings shall be lifted and prosecution resumed.

or

The juvenile named above was previously determined to be incompetent and proceedings pursuant to K.S.A. 59-2901 et seq., were initiated, case number _____. The Secretary of DCF has notified the Court that the juvenile is not a mentally ill person subject to involuntary commitment. However, the juvenile remains incompetent and shall be discharged from commitment and the charges filed herein shall be dismissed without prejudice.

or

The juvenile named above was previously determined to be incompetent and mentally ill, and was committed to a facility for treatment pursuant to K.S.A. 59-2901 *et seq.*, case number _____ . The treatment facility has notified the Court that the juvenile is no longer a mentally ill person subject to involuntary commitment and that the juvenile is going to be released from the treatment facility. However, the juvenile remains incompetent and shall be discharged from commitment and the charges filed herein shall be dismissed without prejudice.

IT IS SO ORDERED this _____ day of _____, _____.

Judge of the District Court

Authority

K.S.A. 38-2348; 38-2349 and 38-2350.

Notes on Use

If the chief medical officer certified that a probability of attaining competency does not exist, the court must order the state to commence chapter 59 mental illness proceedings. (Form 326). K.S.A. 38-2350 provides that if the incompetent juvenile is determined to not be mentally ill subject to involuntary commitment, then the Secretary of DCF or the treatment facility will report that determination to the court. The Secretary of DCF makes the report if the court in the chapter 59 proceedings determined the juvenile to not be mentally ill subject to involuntary commitment, and the juvenile was not committed to a treatment facility. The treatment facility makes the report if the court in the chapter 59 proceedings determined the juvenile to be mentally ill and committed the juvenile to a state psychiatric hospital for evaluation and treatment. Within 5 days of receiving the report that the juvenile is not mentally ill subject to involuntary commitment, the court shall dismiss the charges and discharge the juvenile, unless the court finds that the juvenile has attained competency (Form 327). A restatement of the statute as a flowchart which may assist in understanding the process is included in the Notes on Use accompanying Form 322.