

IN THE COURT OF APPEALS OF IOWA

No. 9-153 / 97-2228
Filed April 30, 1999

FILED

STATE OF IOWA,
Appellee,

vs.

GIRMA FENTE CASA, a/k/a HAGOS HAILU BERHE, a/k/a GIRMA HAILU,
a/k/a BERHE HAGOS HAILU,
Appellant.

Appeal from the Iowa District Court for Buena Vista County, Patrick M. Carr
and John P. Duffy, Judges.

Girma Casa appeals his conviction and sentence for first-degree murder,
arguing the district court erred in finding him competent and in refusing to hold a
second competency hearing. **AFFIRMED.**

*Linda Del Gallo, State Appellate Defender, and Patricia Reynolds, Assistant
State Appellate Defender, for appellant.*

*Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney
General, and Phil Havens, County Attorney, for appellee.*

Heard by Sackett, C.J., and Vogel and Zimmer, JJ.

VOGEL, J.

Girma Casa appeals his conviction and sentence for first-degree murder, arguing the district court erred in finding him competent and in refusing to hold a second competency hearing. We affirm.

Background facts. Casa was charged with first-degree murder following the stabbing death of his roommate. Prior to trial Casa requested and was granted a hearing under Iowa Code section 812.3 to determine his competency to stand trial. The district court found Casa to be competent, and a jury trial commenced in August of 1997. A mistrial was declared at Casa's request, and a second trial began in October of 1997. The jury found Casa guilty as charged.

Prior to sentencing Casa filed a motion in arrest of judgment, seeking another hearing to determine competency. The district court overruled the motion and Casa now appeals.

I. Competency to stand trial. A defendant may not be tried or convicted while he is incompetent to stand trial or assist in his own defense. *See State v. Edwards*, 507 N.W.2d 393, 395 (Iowa 1993). "To deprive him of this right is to deprive him of due process and a fair trial." *Id.* There is a presumption that a defendant is competent to stand trial. *See State v. Mann*, 512 N.W.2d 528, 531 (Iowa 1994) (citations omitted). It is the defendant's burden to prove otherwise. *Id.* "[I]f the evidence is in equipoise, the presumption of competency prevails." *State v. Pedersen*,

309 N.W.2d 490, 496 (Iowa 1981); *see also State v. Rhode*, 503 N.W.2d 27, 34 (Iowa App. 1993).

II. Scope of review. Due to the constitutional concerns, we review the record de novo where no competency hearing was held below. *See State v. Rieflin*, 558 N.W.2d 149, 151-52 (Iowa 1996). However, where a competency determination is made by the district court, we review for errors of law. Iowa R. App. P. 4; *Id.* at 151. In that case, our inquiry is limited to whether there is support in the record for the competency finding. Iowa R. App. P. 14(f)(3); *Rieflin*, 558 N.W.2d at 151.

III. Initial finding of competency. Casa asserts the district court erred in finding him competent to stand trial. The factors which the court must consider in determining the issue of competency are found in Iowa Code section 812.3:

If at any stage of a criminal proceeding it reasonably appears that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, further proceedings must be suspended and a hearing had upon that question.

The district court had the opportunity to observe and question Casa at the competency hearing, via an interpreter.¹ The court also heard testimony from several jail employees who described Casa's behavior during his incarceration. The only expert medical evidence presented at the hearing was through a letter provided by Dr. Curtis Fredrickson, staff psychiatrist at the Oakdale Medical and Classification

¹ Casa was an immigrant from Ethiopia and had been in the United States for approximately three years at the time of his arrest. He spoke some English, but was not fluent.

Center, and Dr. Paul Loeffelholz, clinical director, who conducted an evaluation of Casa during a three and a half week stay at Oakdale. The letter provided, in part:

Psychiatric assessment at the Iowa Medical and Classification Center established that Mr. Casa is competent to participate in judicial proceedings. He does not have any mental condition which prevents him from appreciating his charge and understanding court proceedings. He is also capable of assisting in his defense or assisting his attorney with an interpreter, if he so chooses. This is matter of his will and not a matter of any mental illness.

Casa argues that this psychological assessment was inadequately supported because he was not administered any psychological tests. Casa asserts that there is no explanation in the record as to why certain tests were not administered, or why they could not have been administered through an interpreter.² However, there is also nothing in the record to indicate what tests should have been or normally are given to adequately evaluate a person's competency. Again, the only expert medical opinion before the court was that Casa was competent, and the only conflicting evidence was provided by lay witnesses who described some of Casa's odd behavior. However, in determining that Casa was competent to stand trial, the court relied not only on the medical evidence, but also on the court's own observation of Casa at the hearing. The court specifically found that Casa appreciated the charge, understood the proceedings and was capable of assisting his attorney in preparing a defense. The court further found that Casa's occasional displays of irrational behavior were insufficient to demonstrate incompetence and concluded that Casa had failed to meet his burden.

² The letter stated that the clinical psychologist had not been able to administer actual psychological tests but had been able to participate in interviews with the interpreter.

We find substantial evidence supports this finding and therefore affirm the district court's determination of competency.

IV. Denial of a post-trial competency hearing. Casa next asserts that the district court erred in denying his request for a second competency hearing. He argues that the evidence already in the record and his behavior at trial demonstrated his inability to understand the proceedings.

The hearing requirement of Iowa Code section 812.3 is triggered where the record "contains information from which a reasonable person would believe a substantial question of the defendant's competency exists." *See Edwards*, 507 N.W.2d at 395 (quoting *State v. Kempf*, 282 N.W.2d 704, 706 (Iowa 1979)). Factors for the court to consider when determining whether an inquiry is required include: (1) the defendant's irrational behavior, (2) any demeanor at the trial that suggests a competency problem, and (3) any prior medical opinion on the defendant's competency to stand trial. *See Id.*(citations omitted).

While acknowledging that Casa did display some odd behavior at trial, the trial court found that he was respectful to the court and jury throughout the four days of trial. The court also found that Casa had conferred appropriately with his counsel and indicated an understanding of some evidentiary nuances that would have been difficult for a layman to comprehend. Relying on the previous finding of competency and Casa's demeanor and behavior at trial, the court concluded that a new hearing was not required. On our de novo review of the evidence, we also find that the record did

not raise a substantial question of Casa's competence. We agree with the opinion of the examining psychiatrists that Casa's irrational behavior appeared to be more manipulative than an indication of any mental illness. Casa's episodes of "acting out" while in jail frequently occurred when he wanted to see his attorney and was impatient with the progress of his case. We note that he calmed down after his attorney visited and as his trial date approached. We conclude the court did not err in denying Casa an additional 812.3 hearing.

Having considered all issues properly before us on appeal, we hereby affirm Casa's conviction and sentence.

AFFIRMED.

No. 97-2228. [9-153] STATE v. CASA

Appeal from the Iowa District Court for Buena Vista County, Patrick M. Carr and John P. Duffy, Judges. **AFFIRMED.** Heard by Sackett, C.J., and Vogel and Zimmer, JJ. Opinion by Vogel, J. (6 pages \$2.40)

Girma Casa appeals his conviction and sentence for first-degree murder for the stabbing death of his roommate. **OPINION HOLDS: *Initial finding of competency.*** The only expert medical evidence presented at a Casa's competency hearing was through a letter provided by two psychiatrists who evaluated Casa during his three-week stay at the Oakdale Medical and Classification Center and determined that he was competent to stand trial. Casa argues that their assessment was inadequately supported because he was not administered any psychological tests. He asserts that there is no explanation in the record as to why certain tests were not administered, or why they could not have been administered through an interpreter. However, there is also nothing in the record to indicate what tests should have been or normally are given to adequately evaluate a person's competency. The only expert medical opinion before the court was that Casa was competent, and the only conflicting evidence was provided by lay witnesses who described some of Casa's odd behavior. The court specifically found that Casa appreciated the charge, understood the proceedings and was capable of assisting his attorney in preparing a defense. We find substantial evidence supports this finding and therefore affirm the district court's determination of competency. ***Denial of a post-trial competency hearing.*** Casa asserts that the district court erred in denying his request for a second competency hearing. He argues that the evidence already in the record and his behavior at trial demonstrated his inability to understand the proceedings. While acknowledging that Casa did display some odd behavior at trial, the trial court found that he was respectful to the court and jury throughout the four days of trial. The court also

found that Casa had conferred appropriately with his counsel and indicated an understanding of some evidentiary nuances that would have been difficult for a layman to comprehend. Relying on the previous finding of competency and Casa's demeanor and behavior at trial, the court concluded that a new hearing was not required. On our de novo review of the evidence, we also find that the record did not raise a substantial question of Casa's competence. We conclude the court did not err in denying Casa an additional 812.3 hearing.