**971.14 Appeals: Pretrial Competency Rulings in Criminal Cases**

(SCOW order creates 809.109 and amends 809.10(1)(d) & 809.801(5)(c) to establish an expedited appeals procedure from 971.14 orders)

**Effective July 1, 2024**

**Trial Attorneys**

* You **MUST** consult with your client on whether or not they want to appeal
* Remind court of automatic 14-day stay for involuntary med orders – 809.109(7)(a)
* Within 3 days of med order: request relevant transcript(s) – 809.109(2)(f)1.
* Within 14 days from ANY order under 971.14 determining competency to proceed or ordering involuntary medication: file NOI **in circuit court** – 809.109(2)(b)
  + Standard form (CA-110) located [here](https://www.wicourts.gov/formdisplay/CA-110.doc?formNumber=CA-110&formType=Form&formatId=1&language=en)
  + must serve DA (done via e-filing), any other party, and DHS
    - DHS served by e-mailing the NOI and an [Admission of Service](https://www.wispd.gov/_files/ugd/a08528_1038c5b263484ebea650e65ae68e3302.docx?dn=Admission%20of%20Service%206.24.docx) to [DHSch971Service@dhs.wisconsin.gov](mailto:DHSch971Service@dhs.wisconsin.gov)
* Along with filing NOI, file a [Notice to Continue Stay](https://www.wispd.gov/_files/ugd/a08528_0114d7bbfa7047039927419b82b995d0.docx?dn=Motion%20to%20Continue%20Stay%206.24.docx) pending postdisposition proceedings and appeal **in COA** – 809.109(7)(b)
  + Template available [here](https://www.wispd.gov/competency) (use initials in the caption)
  + [Instructions for filing pre-appeal motion in COA](https://efilinghelp.zendesk.com/hc/en-us/articles/25560920866061-Appellate-court-eFiling-File-a-pre-appeal-motion-with-the-Court-of-Appeals-or-Supreme-Court)
  + must serve DA (done via e-filing), any other party, and DHS
    - DHS served by e-mailing the Notice and an [Admission of Service](https://www.wispd.gov/_files/ugd/a08528_1038c5b263484ebea650e65ae68e3302.docx?dn=Admission%20of%20Service%206.24.docx) to [DHSch971Service@dhs.wisconsin.gov](mailto:DHSch971Service@dhs.wisconsin.gov) (can use single Admission for NOI and Notice to Continue Stay)
* Send NOI and Notice to Continue Stay to madisonappintake@opd.wi.gov

**Appellate Attorneys**

* Clerk to send SPD materials within 5 days of NOI being filed
* SPD will appoint appellate attorney within 15 days of receiving materials from clerk and request court record and transcript (if transcript not already requested) – 809.10(2)(d)

Med Orders

* Transcript will be provided within 14 days of request by trial counsel – 809.109(2)(f)1.
* Check to ensure notice of motion to continue stay pending postdisposition proceedings and appeal was filed in COA – 809.109(7)(b)
  + Stay continues upon filing the notice and until motion is decided by the court– 809.109(7)(b)1
* Within 11 days of receiving med order transcript: File memorandum in support of stay motion – 809.109(7)(b)2. (will need redacted appendix)
* Within 11 days of filing memo: Response due– 809.109(7)(b)3
* Within 14 days of Response: Court shall issue a decision on stay motion – 809.109(7)(b)4

All Appeals

* NOA and all other documents must use initials/pseudonym – 809.109(6)
* Transcripts (other than med order transcript) and court record will be provided within 30 days of request – 809.109(2)(f)2.
* 30 days after service of last transcript or court record (whichever is later): File Notice of Appeal (NOA)/Postdisposition Motion (PDM) in circuit court – 809.109(2)(g); or
  + File notice of abandonment of appeal – 809.109(2)(j) (must serve circuit court, DA, DHS)
    - DHS served by e-mailing the NOI and an [Admission of Service](https://www.wispd.gov/_files/ugd/a08528_1038c5b263484ebea650e65ae68e3302.docx?dn=Admission%20of%20Service%206.24.docx) to [DHSch971Service@dhs.wisconsin.gov](mailto:DHSch971Service@dhs.wisconsin.gov)

PDM

* Within 30 days of filing PDM: Circuit court must decide PDM– 809.109(2)(h)
* Requests for transcript of postdisposition proceedings will be provided within 10 days of request – 809.109(2)(f)2
* Within 5 days of Circuit Court’s order on the PDM: File NOA – 809.109(2)(i)

Briefing

* Within 15 days of filing record on appeal: File BIC – 809.109(5)(a)
* Within 15 days of filing BIC: Respondent’s brief due – 809.109(5)(b)
* Within 11 days of Response: File Reply – 809.109(5)(c)
* Within 30 days of Reply: COA Decision– 809.109(5)(d)
* Within 30 days of COA Decision: File PFR – 809.109(5)(e)

NMR

* Within 15 days of filing record on appeal: File NMR – 809.109(4)
* Within 10 days of receiving NMR: Appellant may file response – 809.109(4)
* Within 10 days of receiving NMR response: File Supp. NMR – 809.109(4)

**Support Staff**

* No docketing statement – 809.10(1)(d)
* Notice of abandonment must be provided to circuit court, DA, and DHS – 809.109(2)(j) (see above)
* NOA and all other documents must use initials/pseudonym – 809.109(6)
* Appendix for Memorandum in Support of Continuing Stay (transcripts and orders) will need to have client’s name redacted
* NOA still filed in circuit court – 809.109(5)(c)
* Within 5 days of NOI being filed: clerk to send materials to SPD
* Within 15 days of receiving materials from clerk: appoint counsel; request court record and transcript (if transcript not already requested) – 809.10(2)(d)
* Within 5 days from filing NOA: request transcripts for other parties (including transcript for any Postdisposition Motion for us) – 809.109(2)(k)
* Within 5 days from filing NOA: file Statement on Transcript – 809.109(2)(L)
* When NMR filed: serve client w/ copy of transcript(s) and court record – 809.109(4)