

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

USA,

Plaintiff,

v.

JOSE INEZ GARCIA-ZARATE,

Defendant.

Case No. [17-cr-00609-VC-1](#)

**ORDER RE COMPETENCY
HEARING**

A criminal defendant is not competent to stand trial if he lacks a rational understanding of the proceedings against him, or if he is unable to consult with his lawyers in a meaningful fashion. *See Dusky v. United States*, 362 U.S. 402 (1960). In such a case, the defendant must be restored to competency before the trial may proceed. Even if the government and defense both contend that a defendant is competent to stand trial, the trial judge has an independent obligation to alleviate any legitimate doubts about the defendant's competency, and may not allow the trial to go forward in the face of such doubt. *See* 18 U.S.C. § 4241; *Torres v. Prunty*, 223 F.3d 1103, 1106-07 (9th Cir. 2000).

In connection with pretrial motions in this case, the Court has been required to watch a video of Garcia-Zarate's police interrogation and a video of his interview with ABC News at the jail several days after his arrest. The Court has also been required to listen to an audio recording of (and review a transcript of) Garcia-Zarate's recent arraignment. In these interactions, Garcia-Zarate's responses to questions are sometimes nonsensical. Other times, he gives definitive "yes" or "no" answers to questions he does not seem to understand. This raised concerns in the Court's mind about Garcia-Zarate's mental condition.

In light of these concerns, the Court has begun collecting records from Garcia-Zarate's prior interactions with the judicial system and prison system. It turns out that, in a criminal case in Texas in 2009, a federal judge ordered Garcia-Zarate evaluated for competency. The evaluator diagnosed Garcia-Zarate with schizophrenia—a diagnosis that Garcia-Zarate had apparently received before. It appears the evaluator concluded that because Garcia-Zarate was properly medicated at the time, he was mentally competent. In addition, while in the prison system, Garcia-Zarate has received a significant amount of evaluation and treatment for serious mental illness. The Court has not yet reviewed the mental health records from the jail where Garcia-Zarate is currently being held while he awaits trial.

Earlier today the Court held a colloquy with Garcia-Zarate, outside the presence of the government but in the presence of his own lawyers. This colloquy did not alleviate the Court's doubts about his competency. It appears that Garcia-Zarate may not understand the charges against him, and it's possible that he's not currently taking any medication for his apparent mental illness.

Accordingly, Garcia-Zarate is ordered to undergo an examination by a court-appointed mental health professional, for the purpose of assessing his competency to stand trial. The evaluation will begin Monday at the Santa Rita Jail, and the evaluator will provide the Court with a report. If the report alleviates any legitimate doubt about Garcia-Zarate's competency, there will only be a short delay in the trial. If the report does not alleviate legitimate doubt about Garcia-Zarate's competency, a full evidentiary hearing on his competency will likely be required, resulting in a longer trial delay.

IT IS SO ORDERED.

Dated: January 10, 2020



VINCE CHHABRIA
United States District Judge