

Descriptive Comments

Sanity Order 9. Order Dismissing the Charges Against the Defendant and Civilly Committing Him Pursuant to N.J.S.A. 30:4-27.10 Based Upon a Finding That the Defendant Is Dangerous to Self, Others or Property As a Result of Mental Illness

The text of the following proposed order has been drafted for use when the defendant has not regained his fitness to stand trial and the court has determined that the charges should be dismissed because

“continuing the criminal prosecution under the particular circumstances of the case would constitute a constitutionally significant injury to the defendant attributable to undue delay in being brought to trial.”

Under these circumstances, N.J.S.A. 2C:4-6c is inapplicable and the court can only commit the defendant pursuant to the civil commitment statute, N.J.S.A. 30:4-27.10. To do this, the court must find that the defendant is dangerous to self, others or property as a result of mental illness, which is the same standard as that necessary to commit a defendant who has been determined to be unfit to stand trial while charges are pending. However, N.T.S.A. 2C:4-6c can not be used to commit a defendant to an appropriate institution once the court has dismissed the charges against the defendant based upon its findings that “continuing the criminal prosecution under the particular circumstances of the case would constitute a constitutionally significant injury to the defendant attributable to undue delay in being brought to trial.”