

North Carolina Rules of Professional Conduct Relevant to Representing the Mentally Ill

Rule 1.2(a)(1)

. . . In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.



Rule 1.2(a)(3)

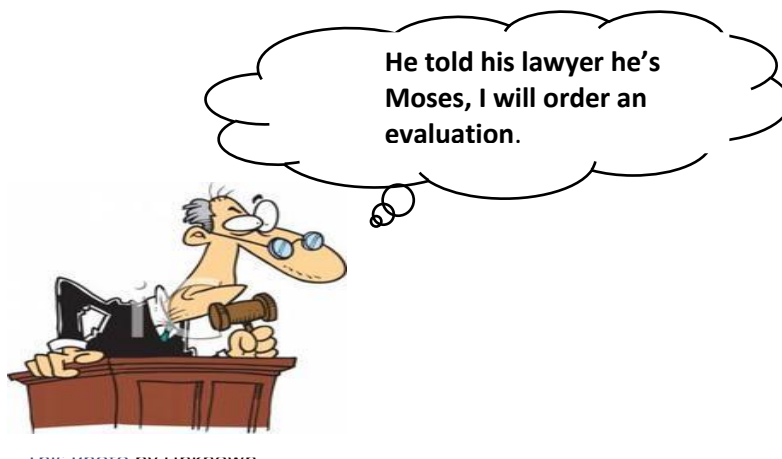
In the representation of a client, a lawyer may exercise his or her professional judgment to waive or fail to assert a right or position of the client

Comment [1]: Attorney may consent to opponent's request for an extension of time.

Comment [4]: In a case where the client appears to be suffering from diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Rule 1.14: Client With Diminished Capacity

- (a) When a client's capacity to make adequately considered decisions in connection with representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.**
- (b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem or guardian.**
- (c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a), to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.**





See also:

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Representation of Client Resisting Incompetency Petition

Opinion rules that a lawyer may represent a person who is resisting an incompetency petition although the person may suffer from a mental disability, provided the lawyer determines that resisting the incompetency petition is not frivolous.