

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

TITUS ONESIMUS DODD, a/k/a  
JACQUESSE RODRIGUES,

Petitioner,

v.

Case No. 5D20-1922

STATE OF FLORIDA, and LOUIS A.  
QUINONES, JR., AS CHIEF OF  
ORANGE COUNTY CORRECTIONS,

Respondents.

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Opinion filed September 29, 2020

Appeal from the Circuit Court  
for Orange County,  
Julie H. O'Kane, Judge.

Lisa J. Ramsey, of Ramsey Law, PLLC,  
Lake Mary, for Petitioner.

Ashley Moody, Attorney General,  
Tallahassee, and L. Charlene Matthews,  
Assistant Attorney General, Daytona  
Beach, for Respondents.

PER CURIAM.

Titus Onesimus Dodd, a/k/a Jacquesse Rodrigues, through counsel petitions this Court for a writ of habeas corpus, alleging he is being unlawfully detained at the Orange County jail. We grant the petition and direct the trial court to hold a prompt hearing to determine appropriate conditions of release and to consider ordering a new evaluation to

determine whether Petitioner is now competent to proceed or whether he meets the criteria for involuntary commitment.

In 2018, Petitioner was found to be incompetent to proceed in Orange County Case Nos. 2017-CF-4793 and 2017-CF-7495. Several days later, the trial court entered an amended order adjudicating Petitioner incompetent to proceed due to intellectual disability or autism. The court found that Petitioner did not meet the criteria for involuntary commitment and ordered him released on conditional release. While on conditional release, Petitioner was arrested for fleeing and attempting to elude (Case No. 2018-CF-16199).

The trial court again ordered Petitioner's release on the same conditions that had been previously imposed. Thereafter, the Treasure Coast Forensic Treatment Center ("TCFTC") determined Petitioner was competent to proceed and did not meet the criteria for involuntary commitment. On October 28, 2019, the trial court ordered Petitioner to be committed to the jail based on TCFTC's evaluation that Petitioner "no longer meets the criteria for continued commitment under the provisions of Chapter 916, Florida Statutes and rules of criminal procedure." Following a status hearing, the trial court ordered Petitioner to undergo another competency evaluation to ensure that he was competent to proceed. Petitioner was not evaluated until June 26, 2020, due to Petitioner's transfer to Lake County on a dependency case and the COVID-19 pandemic. That evaluation determined Petitioner was not competent to proceed, but did not meet the criteria for involuntary commitment. Petitioner then filed another motion for conditional release which the trial court denied.

As we said in Smith v. State, 247 So. 3d 77, 78 (Fla. 5th DCA 2018):

“[W]here . . . a defendant has been found incompetent to proceed and is then released upon conditions and commits a new offense, section 916.17(2)[, Florida Statutes,] leaves the trial judge with only two options: modify the conditions of release or involuntarily commit the defendant to DCFS for treatment.” Douse v. State, 930 So. 2d 838, 839 (Fla. 4th DCA 2006); accord Paolercio v. State, 129 So. 3d 1174, 1175–76 (Fla. 5th DCA 2014) (citing Douse, 930 So. 2d at 839).

When the evidence is insufficient to commit a defendant involuntarily, the trial court’s only option is to release the defendant with the necessary conditions. See Smith, 247 So. 3d at 78 (“Here, because there was insufficient evidence at the time Smith was detained for the trial court to find that she qualified for involuntary commitment, the only other option was to release her with appropriate conditions.” (citing § 916.13(1), Fla. Stat. (2017))); see also Dodd v. State, 259 So. 3d 311, 312 (Fla. 5th DCA 2018) (“Nothing prevents the trial court from ordering a new evaluation to determine whether Petitioner now meets the criteria for involuntary commitment; however, Petitioner may not be held in jail solely to complete that determination.”); Johnson v. State, 536 So. 2d 1054, 1054–55 (Fla. 1st DCA 1988) (explaining trial court need to consider evidence of adequate release plan).

We understand the trial court has very limited options available to it in this case. Nonetheless, we grant the petition and direct the trial court to hold a prompt hearing to determine appropriate conditions of release and to consider ordering a new evaluation to determine whether Petitioner is now competent to proceed or whether he meets the criteria for involuntary commitment.

PETITION GRANTED; HEARING ORDERED.

ORFINGER, EDWARDS and HARRIS, JJ., concur.