

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

RUSSELL NAKIA MASON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D10-4721

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Opinion filed October 6, 2011.

An appeal from the Circuit Court for Escambia County.  
Frank L. Bell, Judge.

Nancy A. Daniels, Public Defender, and Edgar Lee Elzie, Jr., Assistant Public  
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Giselle Denise Lysten, Assistant Attorney  
General, Tallahassee, for Appellee.

PER CURIAM.

We affirm Russell Nakia Mason's conviction and sentence but remand for  
entry of a proper *nunc pro tunc* order finding Mason competent to proceed to

sentencing. Based upon competent substantial evidence, the trial court orally found appellant competent but did not enter a written competency order under Florida Rule of Criminal Procedure 3.212(b) (“If the court finds the defendant competent to proceed, the court shall enter its order so finding and shall proceed.”). Although neither rule 3.212(b) nor rule 3.212(c)(7) (governing a finding of competency after the defendant has previously been found incompetent) expressly require a written order, the decisions of this and other courts require a written order. Francis v. State, 65 So. 3d 103, 103 n.1 (Fla. 5th DCA 2011); Ortez v. State, 55 So. 3d 724 (Fla. 5th DCA 2011); Childs v. State, 44 So. 3d 216 (Fla. 2d DCA 2010); Martinez v. State, 851 So. 2d 832 (Fla. 1st DCA 2003).

AFFIRMED and REMANDED with directions.

DAVIS, VAN NORTWICK, and CLARK, JJ., CONCUR.