

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

JUNIOR JOSEPH,

Petitioner,

v.

Case No. 5D18-511

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed May 25, 2018

Petition for Writ of Habeas
Corpus, A Case of Original
Jurisdiction.

Junior Joseph, pro se, Milton.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kristen L. Davenport,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

It appears from the record that a question was raised regarding Petitioner's competency to proceed to trial. Although the record indicates that the trial court appointed experts to evaluate Petitioner and held a competency hearing, it did not enter an order adjudicating Petitioner competent. On the face of the record, appellate counsel was ineffective for not addressing this issue in Petitioner's direct appeal. Accordingly, we

grant the petition for writ of habeas corpus and remand this cause to the trial court to attempt to make a retroactive competency determination, if possible, or, failing which, to grant Petitioner a new trial once he is competent to proceed. *See Camacho v. State*, 225 So. 3d 272 (Fla. 4th DCA 2017).

We deny the petition as to all other grounds.

PETITION GRANTED and CASE REMANDED.

SAWAYA, ORFINGER and TORPY, JJ., concur.