

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

JAMES WILLIAMS,

Appellant,

v.

Case No. 5D22-103

LT Case No. 2019-CF-001447-A

STATE OF FLORIDA,

Appellee.

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Opinion filed July 22, 2022

Appeal from the Circuit Court  
for Sumter County,  
Mary Hatcher, Judge.

Matthew J. Metz, Public Defender,  
and Natalie R. Gossett, Assistant Public  
Defender, Daytona Beach, for Appellant.

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

ON CONFESSION OF ERROR

PER CURIAM.

Based upon the State's proper confession of error, we reverse and remand for a competency hearing and a *nunc pro tunc* determination, if possible, as to whether Appellant was competent to proceed to trial. See

Yancy v. State, 280 So. 3d 1112, 1113 (Fla. 5th DCA 2019); Mann v. State, 254 So. 3d 1131, 1132 (Fla. 5th DCA 2018). If the court finds that Appellant was competent at the time of trial, it must enter a *nunc pro tunc* order memorializing that finding with no change in the judgment or sentence. Yancy, 280 So. 3d at 1113. If a retroactive determination is not possible, or if the court finds that Appellant was incompetent, Appellant will be entitled to a new trial if and when competent to proceed. Id. at 1113–14.

REVERSED and REMANDED with Instructions.

WALLIS, HARRIS AND SASSO, JJ., concur.