

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D17-5347

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DAVID P. KEVER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Gilchrist County.  
Mark W. Moseley, Judge.

August 23, 2019

PER CURIAM.

Appellant challenges the judgment and sentence for violation of probation raising two issues. We affirm Appellant's claim of an inadequate *Faretta*\* hearing without further comment. Appellant's other claim is that after the court raised the issue of Appellant's competency, the court failed to conduct a hearing on the issue. *See Fla. R. Crim. P. 3.210(b)*. The record shows otherwise. The court appointed an expert to assess competency, received the report, and determined that Appellant was competent to proceed in a hearing where all parties were present. Appellant never challenged the adequacy of the hearing during any trial level

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\* *Faretta v. California*, 422 U.S. 806 (1975).

proceedings or the briefs in this appeal. Accordingly, he waived any appellate challenge to the adequacy of the hearing. *Rosier v. State*, 44 Fla. L. Weekly D1686, 2019 WL 2710739 (Fla. 1st DCA June 28, 2019) (en banc). However, the case is remanded for the trial court to enter its written order *nunc pro tunc* to memorialize the court's oral pronouncement of Appellant's competency which occurred at the hearing held April 13, 2017. See *Lucas v. State*, 238 So. 3d 1290 (Fla. 1st DCA 2018); *Merriell v. State*, 169 So. 3d 1287 (Fla. 1st DCA 2015).

AFFIRMED; REMANDED with directions.

LEWIS, MAKAR, and BILBREY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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Andy Thomas, Public Defender, and Kasey Lacey, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Julian E. Markham, Assistant Attorney General, Tallahassee, for Appellee.