

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JAMES E. LONG,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D17-3261

[May 1, 2019]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Okeechobee County; Dan L. Vaughn, Judge; L.T. Case No. 472016CF000332CFAXMX.

Carey Haughwout, Public Defender, and Benjamin Eisenberg, Assistant Public Defender, West Palm Beach, for appellant.

Ashley B. Moody, Attorney General, Tallahassee, and Marc B. Hernandez, Assistant Attorney General, West Palm Beach, for appellee.

KUNTZ, J.

James E. Long raises eight issues in this appeal of his judgment and sentence. Pursuant to *Machin v. State*, No. 4D17-2787, 2019 WL 1549376 (Fla. 4th DCA Apr. 10, 2019) (en banc), we decline to reach seven of the issues at this time.

Long argues the circuit court reversibly erred when it failed to conduct a competency hearing within twenty days of ordering a competency evaluation in accordance with Florida Rule of Criminal Procedure 3.210. The State concedes a competency hearing should have been held and argues remand is appropriate for a nunc pro tunc competency determination.

Consistent with *Machin*, we remand this case. Within sixty days, we direct the circuit court to hold a hearing and make a written determination as to whether a nunc pro tunc determination of Long's competency is possible. There are multiple potential paths on remand. Depending on the outcome of the circuit court's determination, the circuit court shall

proceed with one of the paths outlined in this Court's en banc opinion in *Machin*, 2019 WL 1549376, at *3.

Remanded.

GERBER, C.J., and TAYLOR, J., concur.

* * *

Not final until disposition of timely filed motion for rehearing.