

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

REGULO BOSCAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D18-1080

[February 28, 2020]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Edward H. Merrigan, Jr., Judge; L.T. Case No. 14-16362 CF10A.

Carey Haughwout, Public Defender, and Claire Victoria Madill, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Regulo Boscan appeals his judgment and sentence, raising numerous issues. We decline to reach all but one of the issues at this time for the reasons made apparent by our decision.

Boscan argues that, after entering an order appointing experts to determine competency, the trial court erred by failing to hold a competency hearing and by failing to enter a written determination of competency before proceeding to trial. *See generally* Fla. R. Crim. P. 3.210, 3.212. The state does not contend that a competency hearing was held, and none is apparent from the record before this court.

Accordingly, consistent with *Machin v. State*, 267 So. 3d 1098, 1101 (Fla. 4th DCA 2019), we “temporarily remand the case to the circuit court” for the circuit court to “hold a hearing and issue an order determining whether a nunc pro tunc competency evaluation is possible.” Because this matter is expedited, the circuit court shall have thirty days to make its determination. Depending on the outcome, the circuit court shall proceed

with one of the paths as outlined in this court's opinion in *Machin*. *See id.* at 1101-02.

Remanded with instructions.

LEVINE, C.J., CIKLIN and GERBER, JJ., concur.

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