



concedes, that the trial court erred by failing to conduct a competency hearing and by failing to enter a competency order before he entered a plea to the offenses.

In a previous order, this court relinquished jurisdiction to the trial court to conduct a competency hearing to determine, if possible, whether Mr. Sutton was competent at the time of the plea hearing as there were two psychological evaluations performed before he entered the plea. See Carrion v. State, 235 So. 3d 1051, 1054 (Fla. 2d DCA 2018); Moulton v. State, 230 So. 3d 934 (Fla. 2d DCA 2017). This court directed that if the trial court found that Mr. Sutton was incompetent at the time of the plea hearing or if the court could not make a retroactive determination, the trial court must allow Mr. Sutton to withdraw his plea, so long as Mr. Sutton is competent to do so.

After conducting a competency hearing, the trial court entered an order finding that it is incapable of determining whether Mr. Sutton was competent at the time he entered his plea. We therefore reverse the judgments and sentences and remand this matter for the trial court to allow Mr. Sutton to withdraw his plea, so long as Mr. Sutton is presently competent. See Carrion, 235 So. 3d at 1054 (holding that if trial court could not make a retroactive determination that appellant was competent at the time of the plea or if it found that appellant was incompetent at the time of the plea, the trial court should allow the appellant to withdraw his plea if he is presently competent). We caution Mr. Sutton that, should he withdraw his plea, the State can proceed against him on the original charges.

Reversed and remanded.

KELLY and LUCAS, JJ., Concur.