

Serial: 207886

IN THE SUPREME COURT OF MISSISSIPPI

No. 2014-CT-00434-SCT

**ERIC LAQUINNE BROWN A/K/A ERIC  
L. BROWN**

*Appellant*

v.

**STATE OF MISSISSIPPI**

*Appellee*

**ORDER**

The instant matter is before the Court sitting en banc on the Petition for Writ of Certiorari filed by Eric Laquinne Brown a/k/a Eric L. Brown. The petition was granted by order of the Court signed on February 25, 2016. Upon further consideration, the Court finds that there is no need for further review and that the writ of certiorari should be dismissed.

IT IS THEREFORE ORDERED that the writ of certiorari is hereby dismissed without prejudice on the Court's own motion.

SO ORDERED, this the 30th day of August, 2016.

/s/ Josiah Dennis Coleman

JOSIAH DENNIS COLEMAN, JUSTICE

**TO AGREE: WALLER, C.J., DICKINSON AND RANDOLPH, P.JJ., LAMAR,  
COLEMAN AND BEAM, JJ.**

**KITCHENS, J., OBJECTS WITH SEPARATE WRITTEN STATEMENT JOINED  
BY KING, J.**

**NOT PARTICIPATING: MAXWELL, J.**

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v.

***STATE OF MISSISSIPPI***

**KITCHENS, J., OBJECTING TO THE ORDER WITH SEPARATE WRITTEN  
STATEMENT:**

¶1. With respect, I object to this Court's decision to dismiss the writ of certiorari after grant. In his motion for post-conviction relief, Brown challenged his 1999 convictions for murder and manslaughter on the ground that the trial court had accepted his guilty pleas without holding the required competency hearing. This Court held in *Sanders v. State*, 9 So. 3d 1132, 1136 (Miss. 2009), that Uniform Rule of Circuit and County Court Practice 9.06 requires the trial court to hold a competency hearing after obtaining a mental evaluation of the defendant to assess his competency to stand trial. *Id.* Because *Sanders* did not alter or overrule any prior interpretation of Rule 9.06, I would hold that the Court of Appeals erroneously applied the retroactivity analysis from *Teague v. Lane*, 489 U.S. 288, 109 S. Ct. 1060, 103 L. Ed. 2d 334 (1989), to find that *Sanders* created a new rule of criminal procedure that cannot be applied retroactively. *Sanders* simply articulated what Rule 9.06 plainly provides, which is that, when the trial court has reasonable ground to believe the defendant is incompetent, the trial court shall order a mental evaluation followed by a competency hearing. URCCC 9.06.

¶2. A criminal defendant has federal and state constitutional due process rights not to be tried while incompetent. *Pate v. Robinson*, 383 U.S. 375, 385, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966); *Williams v. State*, 205 Miss. 515, 39 So. 2d 3 (1949) (citing Miss. Const. Art. 3, § 26). Because the trial court ordered a mental evaluation but never afforded Brown the competency hearing required by Rule 9.06, I would reverse and remand for a competency hearing, followed by a new trial if Brown is found competent, or by commitment of Brown to the state hospital or other appropriate mental health facility if he is found incompetent.

**KING, J., JOINS THIS SEPARATE WRITTEN STATEMENT.**