

FLORIDA THIRD DISTRICT COURT OF APPEAL

Daryl McGee v. State of Florida

McGee · No. No. 3D25-1488 · Decided September 17, 2025

SUMMARY

The Third District Court of Appeal of Florida denied Daryl McGee’s petition for writ of certiorari challenging an order involuntarily committing him for competency restoration treatment. The court held that clear and convincing evidence supported a substantial probability that McGee’s competency would be restored through medication and treatment in a structured setting. The court found no departure from the essential requirements of law.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Miller, J.; Emas, J.; Bokor, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	September 17, 2025
DOCKET	No. 3D25-1488
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for writ of certiorari seeking to quash an order involuntarily committing McGee for competency restoration treatment under section 916.13, Florida Statutes, and Florida Rule of Criminal Procedure 3.212.
STANDARD OF REVIEW	Certiorari review asks whether the lower court departed from the essential requirements of law, causing material injury for the remainder of the case that cannot be corrected on plenary appeal. Involuntary commitment orders are reviewable by certiorari.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Daryl McGee v. State of Florida

TOPICS

- writ of certiorari
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court departed from the essential requirements of law by involuntarily committing McGee for competency restoration without clear and convincing evidence of a substantial probability that his mental illness would respond to treatment and that he would regain competency in the reasonably foreseeable future.
2. Whether the evidence from the two forensic psychologists supported the circuit court's competency-restoration commitment order.

HOLDINGS

1. A petitioner challenging an involuntary competency-restoration commitment order by certiorari must demonstrate a departure from the essential requirements of law, material injury for the remainder of the case, and harm that cannot be corrected on plenary appeal.
2. Section 916.13(1)(c), Florida Statutes, permits involuntary commitment of an incompetent criminal defendant only upon clear and convincing evidence that the mental illness causing incompetence has a substantial probability of responding to treatment and that the defendant will regain competency in the reasonably foreseeable future.
3. The evidence supported the involuntary commitment order because both experts opined that McGee's condition was responsive to treatment and that competency restoration was reasonably foreseeable in a structured setting; therefore, the circuit court did not depart from the essential requirements of law.

KEY QUOTATIONS

“It is axiomatic that a “finding that [a defendant] ‘might’ be restored to competency . . . does [not] satisfy the statutory requirement of clear and convincing evidence that there be a ‘substantial probability’ that the [defendant] will regain competency in the foreseeable future.”” (at 5)

“A Certiorari is an extraordinary remedy that should be sparingly granted.” (at 4)

FACTUAL BACKGROUND

McGee had a lengthy mental-health history, including schizoaffective disorder, active psychosis, borderline intellectual functioning, and substance-abuse history. Two forensic psychologists evaluated him multiple times and concluded that he was incompetent to proceed, but both opined that his symptoms would improve with proper medication, abstinence from controlled substances, and treatment in a structured setting. Both experts noted that McGee had previously been restored to competency under similar circumstances, and one or both found that he met the criteria for involuntary hospitalization and presented a danger to others.

PROCEDURAL HISTORY

McGee was charged in three separate pending felony cases and evaluated by two court-appointed forensic psychologists. After a competency hearing at which McGee waived his presence, the circuit court ordered his

involuntary commitment for competency restoration treatment. McGee petitioned the Third District Court of Appeal for certiorari, asserting that the evidence did not establish a substantial probability that his competency would be restored in the reasonably foreseeable future. The court denied the petition.

DISPOSITION

writ_denied

CASES CITED

- Dusky v. United States, 362 U.S. 402 (1960)
- Valencia v. PennyMac Holdings, LLC, 317 So. 3d 178, 180 (Fla. 3d DCA 2021)
- University of Florida Board of Trustees v. Carmody, 372 So. 3d 246, 252 (Fla. 2023)
- D.L.D. v. State, 397 So. 3d 1160, 1161 (Fla. 5th DCA 2024)
- Horton v. Judd, 80 So. 3d 439, 440 (Fla. 2d DCA 2012)
- Department of Children and Families v. Pierre, 373 So. 3d 1272, 1275 (Fla. 2d DCA 2023)
- Department of Children and Families v. Rodriguez, 267 So. 3d 1087, 1088 (Fla. 5th DCA 2019)
- Department of Children and Families v. Musa, 321 So. 3d 908, 910 (Fla. 2d DCA 2021)
- Dougherty v. State, 149 So. 3d 672, 677 (Fla. 2014)

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