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# Recent Developments: Roberts v. State: Parties Must Be Afforded an Opportunity to Present Evidence Regarding Competency to Stand Trial

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***Roberts v. State:***

**Parties Must Be Afforded An Opportunity To Present Evidence Regarding Competency to Stand Trial**

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By Victor A. Lembo

The Court of Appeals of Maryland held that when a defendant makes an allegation of incompetency to stand trial and there is no evidence in the record as to the defendant's incompetency, an accused must be afforded an opportunity to present evidence upon which a valid determination can be made. *Roberts v. State*, 361 Md. 346, 761 A.2d 885 (2000). In so holding, the court ruled that the trial court erred in denying an attorney's motion for a mental examination of the defendant for competency to stand trial where the motion included a proffer sufficient to overcome the presumption of competency. *Id.*

In July 1996, Dr. Stephen Olowu ("Dr. Olowu") was found dead in Bonnie Roberts' ("Petitioner") home in St. Mary's County, Maryland. The cause of death was determined to be a single, close-range gunshot wound to the chest. The gun used in the shooting belonged to Petitioner and, according to some accounts, was found lying in the victim's hands. At trial, the defense argued that Dr. Olowu accidentally shot himself while cleaning the gun, while the State contended that Petitioner murdered Dr. Olowu and staged

the crime scene to look like an accident. Various witnesses, including neighbors and emergency response personnel, testified as to their discovery of the body and the crime scene. Ballistics experts confirmed that the fatal shot was fired inside the house from Petitioner's gun.

Petitioner was subsequently arrested and brought to trial for Dr. Olowu's murder. In February 1999, Petitioner's attorney filed a motion requesting a mental examination of Petitioner in the Circuit Court for St. Mary's County. The motion included a long history of Petitioner's psychiatric problems and a request for a competency evaluation. In its answer to the motion, the State argued that the Petitioner had not properly raised the preliminary threshold of mental incompetency, in that a plea of not criminally responsible by reason of insanity should have been entered pursuant to Maryland Rule 4-242. The trial court denied the motion without a hearing, and a trial on the merits commenced. The jury found the Petitioner guilty of second-degree murder and use of a handgun in the commission of a felony. Petitioner was sentenced to consecutive terms of

imprisonment of twenty and ten years. Petitioner appealed to the court of special appeals, which affirmed the conviction in an unreported decision.

Before the court of appeals began its analysis, it examined the Maryland Code and clarified the distinction between competency to stand trial and responsibility for a criminal act. *Roberts*, 361 Md. at 357, 761 A.2d at 891. The State had argued that Petitioner did not properly raise the preliminary threshold of mental incompetency since she did not enter a plea of not criminally responsible. *Id.* However, the court stated that this was an improper interpretation of Maryland law, and agreed with the court of special appeals in that "the sole issue of competency to stand trial is not raised by a plea and its determination is a matter resting exclusively in the court." *Id.* (quoting *Strawderman v. State*, 4 Md. App. 689, 695, 244 A.2d 888, 891 (1968)).

The United States Supreme Court stated "it is well established that the Due Process Clause of the Fourteenth Amendment prohibits the criminal prosecution of a defendant who is not competent to stand trial." *Id.* at 359, 761 A.2d at 892. In

accordance with this principle, section 12-103 of the Health General Article of the Annotated Maryland Code provides the standard for court determination of competency. *Id.* It states that if the defendant in a criminal case appears to be incompetent or alleges to be incompetent, the court shall determine, on evidence presented on the record, whether the defendant is incompetent to stand trial. *Id.*

In order to determine if Petitioner was competent to stand trial, the court reviewed the legislative intent behind the statutory enactment of section 12-103. *Id.* at 360, 761 A.2d at 892. The primary intent can be found in the plain language of the statute, with the words given their ordinary and natural meanings. *Id.* at 360, 761 A.2d at 893. In addition, the court used the general policy or purpose behind the statute, as well as the development of the statute, to discern intent that might not be initially evident. *Id.* at 360-61, 761 A.2d at 893.

The court examined the statute and found that the Maryland Legislature intended for court determination of competency, which is generally accomplished through a hearing. *Id.* at 363-64, 761 A.2d at 894-95. The language of section 12-103 (a) mandates trial courts undertake three steps when an accused's competency is properly called into question. *Id.* at 364, 761 A.2d at 895.

First, a determination of competency may be made at any time before or during a trial. *Id.* Petitioner's motion was filed before trial, in accordance with the time limitations

of section 12-103. *Id.* at 369, 761 A.2d at 897.

Second, the trial court has a duty to determine competency when the defendant in a criminal case appears to be incompetent or the defendant alleges incompetence to stand trial. *Id.* at 364, 761 A.2d at 895. This duty is triggered in one of three ways: 1) upon motion of the accused, 2) upon motion of the defense counsel or 3) upon a *sua sponte* determination by the court that the defendant may not be competent to stand trial. *Id.* (citing *Thanos v. State*, 330 Md. 77, 85, 622 A.2d 727, 730 (1993)). If triggered, then the second step also creates a mandate from the Legislature to the trial judge to determine whether the defendant is incompetent to stand trial. *Id.* at 365, 761 A.2d at 895. The defense counsel filed the motion to request a mental examination, thus, calling the Petitioner's competency into question and overcoming the presumption that Petitioner was competent to stand trial. *Id.* at 369, 761 A.2d at 897.

The third step requires the determination of competency to be done "on evidence presented on the record." *Id.* at 366, 761 A.2d at 896. The court reviewed both the language of the statute and legislative history and determined that a finding of competency, made without an opportunity for evidence to be presented, was invalid. *Id.* Furthermore, the court recognized that it must find beyond a reasonable doubt that the defendant is competent to stand trial. *Id.*

The court examined Petitioner's

motion and stated there was no evidence on the record upon which a determination could be made beyond a reasonable doubt. *Id.* at 367, 761 A.2d at 896. The court held that although the statute did not require it, a special or formal hearing to present evidence was appropriate to provide an adequate record upon which a valid determination of competency could be made. *Id.* at 367-68, 761 A.2d at 896-97. Therefore, the trial court's determination of competency was neither made from evidence on the record, nor was any opportunity afforded for the presentation of such evidence, thus, constituting reversible error. *Id.* at 369, 761 A.2d at 897-98. The court ruled that a failure to meet the requirements of section 12-103 (a) nullified not only the determination itself, but also the trial and resulting conviction. *Id.* at 370, 761 A.2d at 98.

In *Roberts v. State*, the court held there must be an opportunity to present evidence upon which a valid competency determination can be made. Enabling parties to utilize all of their constitutional rights must not be a speedy process in which the courts deny protected liberties. Therefore, it is important to ascertain statutory intent and observe court procedures in order to effectuate justice throughout the adversary system.