No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

STANLEY R. COOKSTON — PETITIONER,

vs.

THE STATE OF FLORIDA — RESPONDENT(S)

TABLE OF APPENDICES

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

STANLEY COOKSTON,

Appellant,

v.

Case No. 5D21-881
LT Case No. 2017-CF-000576-A

STATE OF FLORIDA,

Appellee.
_____/

Decision filed January 4, 2022

Appeal from the Circuit Court
for Seminole County,
Jessica J. Recksiedler, Judge.

Matthew J. Metz, Public Defender,
and Kathryn Rollison Radtke,
Assistant Public Defender, Daytona
Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Kristen L. Davenport,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED.

APPENDIX A

EVANDER, EDWARDS and NARDELLA, JJ., concur.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

STANLEY COOKSTON,

Appellant,

v.

CASE NO. 5D21-0881
LT CASE NO. 2017-CF-000576-A

STATE OF FLORIDA,

Appellee.
_____/

DATE: March 03, 2022

BY ORDER OF THE COURT:

ORDERED that Appellant's "Motion for Rehearing, Rehearing En Banc, Certification, and/or Written Opinion," filed February 2, 2022 (mailbox date), is denied.

I hereby certify that the foregoing is
(a true copy of) the original Court order.

Sandra B. Williams

SANDRA B. WILLIAMS, CLERK

Panel: Judges Evander, Edwards and Nardella (acting on panel-directed motion(s))
En Banc Court (acting on en banc motion)

cc:

Kristen L. Davenport — Office of the Attorney General — Stanley Cookston

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

STANLEY RAY COOKSTON,

Appellant,

v.

Case No. 5D19-2523

STATE OF FLORIDA,

Appellee.

_____/

Opinion filed July 10, 2020

Appeal from the Circuit Court
for Seminole County,
Jessica J. Recksiedler, Judge.

James S. Purdy, Public Defender, and Louis A. Rossi, Assistant Public Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Nora Hutchinson Hall, Assistant Attorney General, Daytona Beach, for Appellee.

PER CURIAM.

Stanley Cookston was convicted, after a jury trial, of armed burglary of a dwelling. On appeal, he argues that the trial court committed fundamental error when it failed to hold a competency hearing and enter a competency order. We agree.

Prior to trial, defense counsel moved for a competency determination pursuant to Florida Rule of Criminal Procedure 3.210(b). The trial court granted the motion and

appointed an expert to examine Cookston to determine if he was competent to proceed. Defense counsel subsequently "stipulated" that his client was competent to proceed. However, the record does not indicate that any competency hearing was held, nor does the record contain an order adjudicating competency.

If a trial court appoints an expert to determine a defendant's competency to proceed, it must thereafter make an independent determination of the defendant's competency. *Dougherty v. State*, 149 So. 3d 672, 679 (Fla. 2014). Failure to do so constitutes fundamental error. *Alexander v. State*, 254 So. 3d 1157, 1158 (Fla. 5th DCA 2018). Furthermore, a trial court may not simply accept defense counsel's stipulation that his client is competent to proceed. *Dougherty*, 149 So. 3d at 678 ("However, nothing in our precedent or the State's argument persuades us that a defendant can stipulate to the ultimate issue of competency, even where the written reports reach the same conclusion.").

We reverse and remand for the trial court to determine whether it can conduct a hearing to determine Cookston's competency at the time of trial. *See Parcilla v. State*, 257 So. 3d 156, 157 (Fla. 5th DCA 2018). If it is possible to hold such hearing, and the court determines that Cookston was competent, then it shall enter a nunc pro tunc written order adjudicating him competent. *Id.* If the court determines that Cookston was incompetent, or if the court is unable to conduct a hearing, it shall vacate Cookston's judgment and sentence and conduct further proceedings. *Id.*

REVERSED and REMANDED with instructions.

EVANDER, C.J., LAMBERT and GROSSHANS, JJ., concur.

Additional material from this filing is available in the Clerk's Office.