

Circuit Court for Somerset County  
Case No. 19-K-06-008068

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1705

September Term, 2017

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CHASTIAN DEVON TERRELL

v.

STATE OF MARYLAND

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Meredith,  
Kehoe,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Zarnoch, J.

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Filed: March 14, 2019

\*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

Appellant Chastian Terrell (“Terrell”) raises a single issue for our consideration: whether the trial court abused its discretion in not *sua sponte* reconsidering whether he was competent to stand trial. For reasons stated below, it is our opinion that the answer to that question is no. Therefore, we affirm the post-conviction decision of the Circuit Court for Somerset County.

### **BACKGROUND & PROCEDURAL HISTORY**

On November 6, 2005, Terrell was arrested on a warrant. During a search incident to arrest, a police officer found a digital scale and plastic bags containing 11.2 grams of cocaine. Terrell was charged with multiple counts of possession of cocaine and possession with intent to distribute.

On August 17, 2006, the circuit court granted the State’s motion to consolidate these charges with those previously lodged against Terrell for first-degree assault, reckless endangerment, wearing or carrying a handgun, attempted fourth-degree burglary, and failure to obey a lawful order.

At a hearing the same day, the circuit court considered whether Terrell had the capacity to stand trial. A report had been prepared for the court by a physician “forensic evaluator” that concluded that Terrell was competent to stand trial “as he is able to understand the nature and purpose of the proceedings against him and to cooperate

adequately with his attorney in his own defense.”<sup>1</sup> Relying on this report, the court concluded that Terrell was competent to stand trial. Defense counsel did not object to this competency finding.

Another issue resolved at the August 17<sup>th</sup> hearing was appellant’s waiver of his jury trial right. The circuit court engaged in a colloquy with Terrell to determine the adequacy of his waiver. Appellant responded to all of the court’s questions (including whether he was under the influence of drugs). As a result, the court found that Terrell had knowingly and voluntarily waived his right to a jury trial.

Just four weeks later, on September 14, 2006, Terrell appeared for trial. Apparently his attorney wanted to enter a guilty plea, but advised the court:

Your Honor, I have given Mr. Terrell my best advice. I’ve tried to tell—counseling him in the best way I know how. He is very indecisive, confused, not super—I don’t want to say he’s uncooperative, I think sometimes he just gets confused and I don’t know if he can see the big picture. But I have done the best I can with trying to get him to come to a decision.

The circuit judge asked Terrell whether he wanted to plead guilty or not guilty to the drug charges. Because the court could not hear his response, it entered a not guilty plea. Defense counsel then advised the court that Terrell “wants to know about the package [offer], since you called one case at a time.” Counsel added that Terrell was trying to find

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<sup>1</sup> At this hearing, Terrell’s counsel stated that appellant “can cooperate with his defense and I think he does understand what he’s charged with . . .”

out “why are we doing one case at a time if we had worked out a plea deal. That’s what he’s confused about.”

Before the court broke for lunch, Terrell, in response to a question from his counsel, said, “I understand that I’m guilty.” After lunch, defense counsel advised the court that appellant wanted to proceed by Alford plea in two of the cases.<sup>2</sup> During the colloquy that followed, the circuit judge had difficulty hearing Terrell. He was able to tell the judge that he had been treated for a mental disorder, and that “all kind of things [were] going through my head all at one time.” But he had continual difficulties in being heard on whether he wanted to plead guilty. Therefore, the court ordered a trial on the drug charges.

Terrell testified in his defense, again with frequent bouts of inaudible responses.<sup>3</sup> However, he was able to communicate his principal defense that he was not a dealer and possessed the seized cocaine for his personal use. After closing arguments, the court found Terrell guilty of three of the drug counts. At that point, Terrell pleaded guilty to “the handgun charge.” He responded to all of the judge’s inquiries and his plea was accepted “as being made freely, knowingly, voluntarily, and understandingly.”

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<sup>2</sup> Terrell was also charged in a third case, which was not resolved at the September proceeding and which is not involved in this appeal.

<sup>3</sup> The trial judge believed that Terrell could speak louder and observed, “I think he’s playing games with me.”

On January 11, 2007, Terrell appeared in the circuit court to plead guilty to a probation violation and to be sentenced on the convicted charges. He responded to all questions of the judge's colloquy. Before sentencing, Terrell made a rambling statement about his mental condition, which included the following:

Sometimes, I mean, I think I'm a prophet. Sometimes I—I mean, I feel as though that I'm special because people come and talk to me and the devil came and talked to me one time. I called him a liar. I called the devil a liar. And I even heard him. And then I would pray in the name of Jesus Christ and that's when I hear the angels.

And, then—and then some friends of mine would come and talk to me in my head and I just sit back and listen to them. It sound like it's a tape recorder. And—or a TV inside my head.

On the drug charges, the court sentenced Terrell to 15 years, with all but seven years suspended. He also received 18-month sentences in the two additional cases.

After Terrell was denied relief in a post-conviction hearing, the circuit court granted him an appeal on October 26, 2017.

### **DISCUSSION**

A defendant is incompetent to stand trial if he or she is not able: 1) to understand the nature or object of the proceeding or 2) to assist in one's defense. Md. Code (2001, 2018 Repl. Vol.), Crim. Proc., § 3-101(f). Section 3-104 also provides:

- a) If, before or during a trial, the defendant in a criminal case or a violation of probation proceeding appears to the court to be incompetent to stand trial or the defendant alleges incompetence to stand trial, the court shall determine, on evidence presented on the record, whether the defendant is incompetent to stand trial.
- b) If, after receiving evidence, the court finds that the defendant is competent to stand trial, the trial shall begin as soon as practicable or, if already begun, shall continue.

- c) At any time before final judgment, the court may reconsider the question of whether the defendant is incompetent to stand trial.

With respect to § 3-104(c), the Court of Appeals has said that a court is required to raise, *sua sponte*, the issue of competency during trial if it has a bona fide doubt created by evidence on the record that the defendant is incompetent. *Wood v. State*, 436 Md. 276, 290-91 (2013). Evidence relevant in determining whether there existed a bona fide doubt as to an accused's incompetence includes evidence of a defendant's irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial. *Id.* at 291.

In our view, the circuit judge's actions were completely consistent with these requirements. He *sua sponte* ordered an evaluation of Terrell, which determined he was competent to stand trial. At the August 2006 hearing on Terrell's waiver of a jury trial, he appeared perfectly rational. While he made some bizarre statements at the September 2006 proceeding, he was able to contribute to his defense by contending that he possessed the drugs only for personal use. His confusion about the charges to which he proposed to plead guilty stemmed from his understandable concern about resolving all of the charges against him. In addition, after the trial, he was perfectly capable of making a guilty plea to the gun charge. And except for one episode, his behavior at the probation/sentencing proceeding in January 2007 reinforced his understanding of the nature of the charges against him and his cooperation in his defense. Finally, Terrell's counsel never expressed a doubt that his client could cooperate in his own defense and understand the charges.

In short, the circuit court did not err in not *sua sponte* reconsidering whether Terrell was competent to stand trial.

**JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANT.**