Written by Debbie Gregory
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When Criminal Court met in special session on Thursday, July 5th, the case of the State vs. Johnny Ray Swack, who is charged with 1st degree murder in the death of his former wife, came before Judge John Wootten. The defendant was not brought out, however, Assistant District Attorney General Justin Harris addressed the court, with affidavits from several certified professionals who stated that Mr. Swack is mentally ill, therefore he is deemed incompetent to stand trial at this time.

The *Macon County Chronicle* first reported the story in the fall of 2011, when 52-year-old Johnny Swack was arrested and charged with shooting his former wife, 36-year-old Reinalda Ann Dupont England, in the face with a pistol at 412 Meador Drive on Wednesday, September 7th.

When General Harris approached the judge he said the State was going to make a motion that Mr. Johnny Swack be ordered to judicial hospitalization under involuntary commitment. “After hearing from Mr. Bilbrey that he had Mr. Swack evaluated, the State made a motion for its own evaluation,” said Harris. He also said that they had received two certified copies of evaluations by two doctors from Middle Tennessee Mental Health, saying that Mr. Swack is not competent to stand trial.

“They, of course, are going to attempt to make him competent, but they are asking that he be involuntarily committed for them to be able to do that treatment for Mr. Swack,” said Harris.

After Judge Wootten discussed the subject further with the Attorney General Harris and Defensive Attorney Tom Bilbrey, he said “under the law, Mr. Swack is entitled to a hearing on

the involuntary commitment, but I'm not sure what purpose that would serve."

"Well, I don't really either, Your Honor," said Bilbrey, "because as you probably recall, I had some concerns about the mental issues with Mr. Swack, and I asked for and you granted expert services of a clinical psychologist, who in turn, was also of the opinion that he was incompetent to stand trial."

Judge Wootten said, "So your very own expert concurs?"

"My very own expert confirms what the State has now reiterated, Your Honor," said Bilbrey.

Bilbrey went on to say that it was strong proof that his client was incompetent and he didn't think he could go forward in defending him, so he would not require the state to have these professional witnesses testify in person.

"General Harris, what about, given the nature of this charge," said Judge Wootten, "what about the people involved in terms of the family of the victim?"

Harris stated that the family of the victim was there and were seated in the second row. He did meet with them on Tuesday morning and explained what was going to happen that day. He also explained to them this case would not be dismissed and the case is continued in hopes that Mr. Swack will be found competent at some point in the future and they understand that. He said the family wasn't happy, of course, but they understand the situation.

Mr. Bilbrey noted, "I have talked with Mr. Swack this morning, and I have advised him of what I have said here in Court, and he kind of disagrees with it, but again, I've told him that I don't think I have any other option, so he has been advised of what's going on and what's going to probably happen at this point as far as the options in the future depending on his improvement or not improvement of his mental health."

“I think I probably need to make some observations for the record here,” said Judge Wootten. “First of all, the case is not being dismissed, and this Court should note that competency is—can be a moving target. People can develop an inability to cooperate with their own defense or inability to mentally stand trial and this is something that is present today based upon what I have heard from the State and these affidavits and also from the defendant’s own doctor, however, competency can be reacquired later on, so the case is not being dismissed.”

“It will be subject to judicial review, since this is an involuntary commitment, and he will be in a special needs place, and this Court is given periodic reports as well as the Attorney General is, and I assume you are as well, Mr. Bilbrey.”

“I would think so,” agreed Bilbrey.

Wootten said, “And if his condition changes where this matter can be set on a trial docket, then I’ll do so. But if it doesn’t and he remains in the custody of the State and they don’t really have the power to just turn him loose without just cause, and not necessarily in this case, but in any other cases this Court has had hearings, Mr. Bilbrey, you’re probably aware of those, and General, you probably are also aware wherein I have reviewed release plans and have denied them in the past, so this gentleman is still under the jurisdiction of this Court. The case, is, in effect, just put on hold for a period of time to see how these periodic reviews come about.”

“So I have noted what you said. Our record contains that, Mr. Bilbrey, and this is not an agreed order, obviously.”

Mr. Bilbrey, “Yes, Your Honor.”

“But given the nature of it,” said the Judge, “you have signed the order and I’m going to sign it, and we’ll just have it subject to review. It’s not going to come up on any docket. I might look at it next year in September, General Harris. I’m not going to require anybody to be here, but I will have gotten a couple of reports by then to see where we are and if there are any changes.”