



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ISMAR H. CHUN CASTRO,)	
)	
Defendant Below,)	
Appellant,)	
)	
v.)	No. 135, 2024
)	
STATE OF DELAWARE,)	
)	
Plaintiff Below,)	
Appellee.)	

APPELLANT'S REPLY BRIEF

**ON APPEAL FROM THE SUPERIOR COURT
IN AND OF NEW CASTLE COUNTY**

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DATE: March 25, 2025

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I. THE DEFENDANT’S DUE PROCESS RIGHTS WERE VIOLATED WHEN THE TRIAL COURT DEEMED HIM TO BE COMPETENT TO STAND TRIAL DESPITE HIS INABILITY TO ASSIST DEFENSE COUNSEL IN PREPARATION FOR TRIAL AND AN IRRATIONAL UNDERSTANDING OF THE PROCEEDINGS AGAINST HIM

The State’s opening argument is perhaps the most dubious of all. In its answering brief, the State argues that Chun Castro waived his competency argument by not renewing his argument in the hearing held on April 26, 2023. Ans. Br. at 12. More specifically, the State contends that although defense counsel challenged competency prior to April 26 and again at the hearing, he somehow waived it because he did not have Castro assessed by another doctor and “stated that he needed more time to discuss the issue with his client.” Ans. Br. at 13. The absurdity of this argument lies in the fact that defense counsel challenged the competency of his client at nearly every stage of the case.

As early as February 17, 2022, defense counsel informed the court of Castro's inability to consult rationally with his attorney. On December 2, 2022, defense counsel reiterated his concerns that going to trial defied all rational thought for Castro given the sentence that would inevitably follow. A40. Again, on April 26, 2023, counsel expressed to the Court their confusion and bewilderment that despite Tan’s report showing the same or similar findings as Mesiarik, the conclusion was that competency had been restored. A58. Counsel expressed to the

court his concern that Castro lacked a rational thought process with no back and forth between the two of them. A23. Defense counsel even informed the court of his observations up through sentencing. A114.

Given the aforementioned, it is astonishing that the State contends that Castro waived competency simply because defense counsel did not seek another psychological evaluation and wanted additional time to discuss the issue with his client. First and foremost, it could not be clearer from the record that defense counsel never wavered in his challenge or concerns. During defense counsel's discussion with the Court at the April 26 hearing, he reiterated "I just want to put it out there. My same concern that I had before is still here." A60. Moreover, as pointed out in Castro's Opening Brief, the case was ultimately scheduled for trial because another competency evaluation by a different doctor was not possible. Defense counsel explained to the Court that Castro's family had stopped paying him for his services and did not have the financial means to hire their own expert. A61. Thus, there was nothing deliberate or tactical about Counsel's decision. *Williams v. State*, 98 A.3d 917, 921 (Del. 2014).

The State fails to understand that the very first timely competency challenge preserved the issue on appeal. A single objection, if made timely and recorded, preserves the record for appeal without the need for repeated objections, as long as the court has ruled definitively on the matter. *Trala v. State*, 244 A.3d 989 (Del.

2020). Despite doing so, defense counsel did not need to renew his challenge to Castro's competency once the court ruled definitively.

It is interesting that the State advances *Gibson*¹ for its argument that “there is no requirement that the trial court set forth a detailed analysis of its reasons for determining that a defendant is competent to stand trial.” Ans. Br. at 17. In *Gibson*, the Superior Court dedicated an entire opinion to the defendant's competency determination. Here, the record reflects that at the April 26, 2023 teleconference, the court was immediately prepared to schedule the matter for trial following Tan's DPC report. A58. No factual determinations were made and no proper competency analysis was conducted. Realizing this glaring omission, the State now wants Tan's competency report to double as the Court's decision on Castro's competency to stand trial.

Perhaps sensing it could be effective; the State spends a majority of its Answering Brief simply repeating the results from Mesiarik and Tan's competency assessments. Ans. Br. at 19-30. The State contends that Castro met the test for competency because he had the ability to appraise the roles of the trial participants, was able to distinguish between pleading guilty and not guilty and possessed a rational understanding of the proceedings against him. Ans. Br. at 30. The record

¹ *State v. Gibson*, 2008 WL 2428191 (Del. Super. Ct. June 16, 2008), aff'd, 981 A.2d 554 (Del. 2009).

suggests otherwise. Castro never fully grasped the consequences of following through with the trial process compared to pleading guilty and resolving the matter through a plea agreement. Castro always seemed to believe that although he would not be released immediately, he would patiently await his eventual release. A52. At times Castro was prepared to serve a ten-year sentence. A52. He never shed his distorted view of the penalties he was facing for the crimes charged. Even during the colloquy with the Court when he elected not to testify at trial, Castro expressed to the trial judge that the Lord told him “[n]ow you are free.” A109.

More importantly, contrary to the State’s contention, Castro never was able to “communicate effectively with defense counsel.” *Cooper v. Oklahoma*, 517 U.S. 348, 368 (1996). Counsel described to the court that Castro had an inability to consult rationally with his attorney and “has kind of a blank look on his face, just kind of staring straight out, this weird serenity.” A23. Defense counsel informed the court of his frustrating observations up through sentencing. It is complete conjecture and highly improbable that these religious delusions that made Castro mentally incapable of participating intelligently in his defense were the result of fasting. Ans. Br. at 32. Moreover, contrary to the State’s quite creative theory, there is nothing in the record to support its position that “[c]onsistent with conventional Christian doctrine, Chun Castro believes that his ultimate salvation can come only by confession and repentance.” Ans. Br. at 33.

Finally, the State posits that “Dr. Tan’s findings distinguish this case from others in which competency was absent, or at least a closer call.” Ans. Br. at 32. The State fails to align any supportive legal authority in support of its position because the Court’s decisions do not support that position which is reflected in the State’s argument.

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Ismar H. Chun-Castro's convictions should be reversed.

\s\ Santino Ceccotti
Santino Ceccotti, Esquire

DATE: March 25, 2025.