

[Cite as *State v. Goode*, 2010-Ohio-4154.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	Appellate Case No. 23566
	:	
Plaintiff-Appellant	:	Trial Court Case No. 08-CR-1597
	:	
v.	:	(Criminal Appeal from
	:	Common Pleas Court)
RANDALL T. GOODE	:	
	:	
Defendant-Appellee	:	

.....

OPINION

Rendered on the 3rd day of September, 2010.

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DINKELACKER, J.

{¶ 1} The State of Ohio appeals the decision of the trial court refusing to conduct a hearing pursuant to R.C. 2945.39 on the grounds that it was unconstitutional, as

determined by this court's decision in *State v. Williams*.¹ Since that opinion has subsequently been reversed by the Supreme Court of Ohio,² we reverse.

{¶ 2} Randall Goode was indicted for robbery,³ a felony of the second degree. He was subsequently found incompetent to stand trial and was committed to Summit Behavioral Care for treatment designed to restore him to competence. After six months, he remained incompetent, and the trial court ordered continued treatment for another six months. After that period had also lapsed without Goode's competence having been restored, the State filed a motion under R.C. 2945.39 asking the court to retain jurisdiction. The trial court denied the request, based on this court's prior determination that the statute was unconstitutional. Therefore, the trial court dismissed the indictment and commenced civil commitment proceedings. The State appeals.

{¶ 3} In three assignments of error, the State claims that a commitment under R.C. 2945.39 is civil in nature, and that it does not violate a defendant's right to Equal Protection or Due Process guaranteed under the United States and Ohio Constitutions. In essence, the State asks this court to reconsider its prior decision in *State v. Williams*, noting that the case was pending before the Supreme Court of Ohio.

{¶ 4} After briefing in this case had concluded, the Supreme Court of Ohio released its decision in *State v. Williams*. In it, the court held that "an involuntary commitment under R.C. 2945.39 does not violate principles of equal protection or due process,"⁴ that the statute is civil in nature,⁵ and that "a person committed under the

¹ 179 Ohio App.3d 584, 2008-Ohio-6245, 902 N.E.2d 1042.

² *State v. Williams*, ___ Ohio St.3d ___, 2010-Ohio-2453, ___ N.E.2d ___.

³ R.C. 2913.02(A)(2).

⁴ *Id.* at paragraph one of the syllabus.

⁵ *Id.* at paragraph two of the syllabus.

statute need not be afforded the constitutional rights afforded to a defendant in a criminal prosecution.”⁶

{¶ 5} In light of this decision by the Supreme Court of Ohio, it was error for the trial court not to conduct a hearing pursuant to R.C. 2945.39 on the basis that the statute was unconstitutional. Therefore, we reverse the decision of the trial court and remand this case to allow the trial court to proceed on the merits of the State’s motion to retain jurisdiction pursuant to R.C. 2945.39.

{¶ 6} The judgment of the Montgomery County Common Pleas Court is reversed.

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BROGAN, J. and FAIN, J., concur.

(Hon. Patrick T. Dinkelacker, First District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio).

Copies mailed to:

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⁶ Id.