

IN THE LONOKE COUNTY CIRCUIT COURT OF ARKANSAS

HEATH STOCKS

PETITIONER

VS

CASE NO. CR-97-9

STATE OF ARKANSAS

RESPONDENT

**REPLY TO STATE'S RESPONSE TO MOTION FOR PSYCHOLOGICAL AND
MENTAL EXAMINATION OF THE PETITIONER.**

Comes now, Heath Stocks, the Petitioner herein, and for his Reply to State's Response to his Motion for Psychological and Mental Examination, does so state;

1. Stocks filed a Motion for the Issuance of the Writ of Error Coram Nobis and Writ of Audita Querela with this Court.
2. Stocks filed a Motion for Psychological and Mental Examination of Petitioner with this Court because competency was at issue prior to Stocks signing the guilty plea agreement.
3. On November 22, 2017 the State filed a response alleging that the motion is premature, however, the State admits that Stocks can file this motion later on in the proceedings.
4. Stocks has presented a prima facie case of probable cause showing that this evidence cast doubt on Stocks competency to stand trial, and the trial court did not conduct a competency hearing prior to Stocks signing the guilty plea agreement. Nevertheless, regardless of any previous psychiatrist's report finding Stocks's competent; the failure to conduct a competency hearing leaves the fact of Stocks's competency in question.

5. The remedy would be as in *Campbell v Lockhart, 1986, 789 F. 2d 644*, which would require this Court to hold a competency hearing in a post-conviction proceeding, when no competency hearing was previously conducted by a trial court.

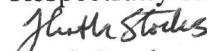
6. A defendant convicted on guilty plea of capital murder was entitled to post conviction review of claim, not resolved by review of record, that once issue of mental competency to stand trial was raised, and psychological evaluation ordered, trial court was precluded from accepting his guilty plea until after psychologist's report had been filed and issue of his competency was resolved. *Sandoval-Vega v State, 2011, 384 S. W. 3d 508, 2011 Ark. 393*.

7. A circuit court judge has power, to issue the writ of error coram nobis to reverse a judgment of conviction in a criminal case, where it appears the defendant was insane at the time of the trial, and the fact was not at that time made known, and upon assignment of such error in fact, if disputed by the State, to cause a jury be impaneled. *Adler v State, 1880, 35 Ark. 517, 37 Am. Rep. 48*.

8. The allegations by the State are "*bare allegations*" unsupported by any documentation, to corroborate anything the State is arguing, in the response to the Motion for Psychological and Mental Examination of Stocks.

9. Therefore, the Motion for Psychological and Mental Examination should be granted.

WHEREFORE, Stocks prays that this Court grant his motion for the psychological and mental examination .

Respectfully submitted,

Heath Stocks

VERIFICATION OF SIGNATURE

I, Heath Stocks do swear and attest that I am filing this Reply to the State's Response to the Motion for Psychological and Mental Examination of the Petitioner, and the facts asserted herein are to the best of my knowledge and is not done in bad faith.

/s/ Heath Stocks
Heath Stocks

State of Arkansas
County of Jefferson

SUBSCRIBED AND SWORN TO BEFORE me a Notary Public on this 5th day of Dec 2017.

My Commission Expires: 01-25-2026

/s/ Ethel Darrough
Notary Public

CERTIFICATE OF SERVICE

I, Heath Stocks hereby certify that I have serviced an exact copy of the foregoing to the Prosecuting Attorney Chuck Graham, Courthouse, 301 N. Center St., Ste. 301, Lonoke AR 72086-2892 on this 5th day of December 2017 by U. S. Mail postage prepaid.

Heath Stocks
Heath Stocks

ETHEL DARROUGH
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 01-25-2026
Commission # 12695985