

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-037

MARCH TERM, 2021

State of Vermont v. A.W.*	}	APPEALED FROM:
	}	
	}	Superior Court, Franklin Unit,
	}	Criminal Division
	}	
	}	DOCKET NO. 1592-11-19 Frcr

In the above-entitled cause, the Clerk will enter:

Regarding the above appeal from the criminal division’s hospitalization order, the parties have stipulated that the court committed reversible error by not making a finding on defendant’s competency before holding a hospitalization hearing and issuing its hospitalization order. They ask this Court to reverse the hospitalization order and remand the matter to the criminal division for further hearings on competency and hospitalization. Insofar as the record reflects that the criminal division issued its hospitalization order after considering the opinion of defendant’s appointed guardian ad litem without first making a finding on defendant’s competency to stand trial, we grant the parties’ stipulated request to vacate the hospitalization order and remand the matter for a competency hearing and further proceedings. See State v. Hackett, 141 Vt. 223, 226-27 (1982) (concluding that “when competency is put in issue, it should be determined first” and that competent defendants may act for themselves when dealing with their attorneys “and cannot be required to acquiesce in the appointment of a guardian ad litem to act for [the defendant], even at a hospitalization hearing”).

The January 17, 2019 hospitalization order is vacated, and the matter is remanded to the criminal division for further proceedings consistent with this entry order.

BY THE COURT:

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice