

The Standard of Review for Competency Challenged

On January 24, 2005, the Georgia Supreme Court heard oral arguments in the case of *Sims v. State of Georgia* which originated in Clarke County. In granting certiorari, the Court asked the parties to define the appropriate standard of review for appellate cases arising from competency proceedings at the criminal trial court level.

Attorney Jo Carol Nessel-Sale gave a wonderful argument on behalf of Willie Sims. While conceding the importance of appellate courts' deference to jury verdicts, she urged the Court to apply non-deferential review when an expert's testimony influencing a special competency jury's findings was based on a flawed understanding of the law. In this case, the expert for the State testified before the competency jury that although Sims had an IQ of 45 and functioned at a low level, it was the attorney's role to tell the defendant what he should do and the defendant need only cooperate and "do what he was told." Nessel-Sale argued that the State's expert did not know that certain decisions belong solely to the client and he must therefore be competent to make those fundamental decisions about his case.

This case is one of several cases that will shape the future rights of mentally ill defendants. Congratulations on a job well-done, Jo Carol Nessel-Sale! Sidney Leighton Moore III and John Bonds joined her in representing Mr. Sims, and Jim Bonner of GPDSC, Sabrina Rhinehart of OMHA, Sarah M. Shalf, and Michael Brian Terry also filed an Amicus brief on Mr. Sims' behalf.