NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2008 KA 0648

STATE OF LOUISIANA

VERSUS

COLUMBUS CHRISTOPHER WILLIAMS, JR.

Judgment Rendered: October 31, 2008

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Appealed from the
Thirty-Second Judicial District Court
In and for the Parish of Terrebonne, Louisiana
Trial Court Number 423,851

Honorable Randall E. Bethancourt, Judge

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In Proper Person
Defendant – Appellant

* * * * * *

BEFORE: PARRO, McCLENDON, AND WELCH, JJ.

McClendon, J. concurs.

WELCH, J.

The defendant, Columbus Christopher Williams, Jr.,[1] was charged by bill of information with three counts of terrorizing[2] (Counts 1, 2, and 3), a violation of La. R.S. 14:40.1, and five counts of retaliation against a public official (Counts 4, 5, 6, 7, and 8), a violation of La. R.S. 14:122(B). The defendant pled not guilty. After the appointment of a sanity commission and a hearing, the trial court concluded the defendant was unable to assist in his defense. Several months later, based on a stipulation between the State[3] and the defendant that doctors, if called to testify, would state the defendant was competent, the trial court ruled the defendant was competent to proceed to trial.

After a trial, the jury returned the verdict of guilty as charged on all counts. Polling of the jury revealed the verdicts were unanimous. After the appropriate delays, the trial court imposed individual sentences on each count: fifteen years at hard labor for Counts 1, 2, and 3, and five years at hard labor for Counts 4, 5, 6, 7, and 8. The sentences were to be served consecutive to each other and to any other sentence the defendant was serving. The defendant appeals. For the reasons that follow, we affirm the defendant's convictions and sentences.

FACTS

In 2004, the defendant made a telephone call and wrote letters containing threats to kill or harm numerous Terrebonne Parish elected officials, including District Attorney Joseph L. Waitz, Jr., First Circuit Court of Appeal Judge Edward

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[1] Although the defendant advised the trial court that his name was Columbus Williams, Jr. and the State amended the bill of information to reflect that name, the defendant has been referred to in court pleadings and proceedings by numerous names, including Chris Williams, Christopher Williams, Columbus Williams, Christopher Columbus Williams, and Columbus Chris Williams.

[2] The defendant was charged, convicted, and sentenced under that version of the statute which existed prior to amendment by 2008 La. Acts, No. 451, § 2.

[3] Because the district attorney was a victim in this matter, the Louisiana Attorney General's Office handled the prosecution.

"Jimmy" Gaidry,[4] 32nd Judicial District Court Judges John Walker and Timothy Ellender, and Terrebonne Parish Sheriff Jerry Larpenter. In a voice message left on the telephone answering machine of the Terrebonne Parish District Attorney's Office, the defendant threatened to kill the district attorney, the President of the United States of America, and an unnamed 32nd Judicial District Court judge. In numerous letters written between February 29 and March 5, 2004, and mailed to the district attorney, a reporter at The Houma Daily Courier, and others, the defendant wrote about murder, killing, and holy wars. One threatening letter included a list of initials, and trial testimony indicated the initials referred to specific people including Terrebonne Parish public officials. In one letter, the defendant wrote that "flattening or blowing up the courthouse and courthouse annex may cause the death of many children at St. Francis [a school located across the street from the courthouse]." The defendant also listed (but did not name) his enemies as three of the five judges of the 32nd Judicial District, one court of appeal judge, one or more persons in the district attorney's office, one or more persons in the sheriff's office, and possibly someone in the clerk of court's office.

Trial testimony revealed that the defendant had pending civil lawsuits against Terrebonne Parish officials, had prior convictions and was serving sentences based on prosecutions initiated by Mr. Waitz's office, that Judges Gaidry, Walker, and Ellender had been the presiding judges in some of the defendant's prior criminal prosecutions, and that the defendant was housed in the Terrebonne Parish jail, which was supervised and maintained by Sheriff Larpenter. Judge Walker testified that the defendant had personally confronted him in the basement of the courthouse about a situation involving the defendant's bail bonding company.

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[4] Judge Gaidry, prior to becoming a member of this court, served as a judge in the 32nd Judicial District Court for many years.

There was testimony from the victims that the defendant's threats were taken seriously and that they feared for the safety of their families and themselves. Parish authorities also testified that there was great concern in the community about the threats, and because the defendant was scheduled to be released soon from jail, the public needed to be reassured that an investigation had been undertaken regarding the threats. Mr. Waitz also testified he had no doubt that the threats were retaliation for his previous prosecutions against the defendant.

The defendant testified that he was advised by his first appointed attorney to write the statements in the letters, that his letters were meant as a joke, that he wrote the letters because he liked to get "under people's skin," that his statements were a result of watching television programs and quoting articles, and that he was planning on writing a book. He further contended he never had any criminal intent when he wrote the letters. The defendant called his former attorney as a witness on his behalf, but the attorney denied telling the defendant to make the threats.

WAIVER OF RIGHT TO COUNSEL

In the sole counseled assignment of error, the defendant argues the trial court erred in denying his right to counsel and in forcing him to act as his own counsel.[5] He specifically contends that there was no formal **Faretta**[6] hearing in which he made a knowing and intelligent waiver of his right to counsel before he was allowed to represent himself. The defendant further argues the jurisprudence requires that the assertion of the right to self-representation be clear and unequivocal, but his requests to represent himself were equivocal. Moreover, he contends that while the trial court may have been correct that he was competent to

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[5] At two hearings involving contempt proceedings which arose out of words the defendant used in pleadings he filed in this criminal matter, the defendant asked for a lawyer to represent him. There is no indication that the defendant sought review of the rulings in those contempt proceedings. Nor does he complain here of the failure to appoint an attorney to represent him in those matters.

[6] **Faretta v. California**, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975).

proceed to trial, there was never a determination that he was competent to represent himself.

The State counters that there is no "magic-word formula" for determining the validity of the defendant's waiver of right to counsel, that the inquiry into the validity of the waiver must take into account the totality of the circumstances, and that in this case, it took a significant amount of time, through numerous hearings, for the trial court to make a determination that the defendant knowingly and intelligently waived the right to counsel. The State further argues that the defendant repeatedly asked to represent himself, that the trial court sufficiently advised the defendant that he had no right to choose his court appointed attorney, and that the defendant had the mental capacity to represent himself.

A defendant's right to the assistance of counsel is guaranteed by both our state and federal constitutions. See U.S. Const. amends. VI & XIV; La. Const. art. I, § 13; **State v. Brooks**, 452 So.2d 149, 155 (La. 1984) (on rehearing) (citing **Gideon v. Wainwright**, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)). The federal constitution further grants an accused the right of self-representation. **Faretta v. California**, 422 U.S. 806, 807, 95 S.Ct. 2525, 2527, 45 L.Ed.2 562 (1975); **State v. Penson**, 630 So.2d 274, 277 (La. App. 1st Cir. 1993). An accused has the right to choose between the right to counsel and the right to self-representation. **State v. Bridgewater**, 2000-1529, p. 17 (La. 1/15/02), 823 So.2d 877, 894, cert. denied, 537 U.S. 1227, 123 S.Ct. 1266, 154 L.Ed.2d 1089 (2003). A defendant who exercises the right of self-representation must knowingly and intelligently waive the right to counsel. **Penson**, 630 So.2d at 277; see also **State v. Dupre**, 500 So.2d 873, 877 and 879-80 n.4 (La. App. 1st Cir. 1986), writ denied, 505 So.2d 55 (La. 1987). When a defendant requests the right to represent himself, his technical legal knowledge is not relevant in determining if he is knowingly exercising the right to defend himself. A trial judge confronted with an accused's

unequivocal request to represent himself need determine only if the accused is competent to waive counsel and is "voluntarily exercising his informed free will." **State v. Santos**, 99-1897, pp. 2-3 (La. 9/15/00), 770 So.2d 319, 321 (per curiam) (quoting **Faretta**, 422 U.S. at 835, 95 S.Ct. at 2541).

Because the right to counsel is a fundamental one, the jurisprudence has engrafted a requirement that the assertion of the right to self-representation must be clear and unequivocal. Requests that vacillate between self-representation and representation by counsel are seen as equivocal. See **State v. Leger**, 2005-0011, p. 53 (La. 7/10/06), 936 So.2d 108, 147, cert. denied, ___U.S.___, 127 S.Ct. 1279, 167 L.Ed.2d 100 (2007); see also **Bridgewater**, 2000-1529 at pp. 17-18, 823 So.2d at 894.

Because there are no inflexible criteria or a magic-word formula for determining the validity of a defendant's waiver of the right to counsel, the inquiry into validity of the waiver must take into account the totality of the circumstances in each case. The question of whether an accused has knowingly and intelligently waived his right to counsel depends on the facts and circumstances of each case, including the age, education, background, experience, competency, and conduct of the defendant. **State v. Stevison**, 97-3122, p. 2 (La. 10/30/98), 721 So.2d 843, 844-45 (per curiam); see also **State v. Warner**, 594 So.2d 397, 402 (La. App. 1st Cir. 1991), writs denied, 596 So.2d 196 and 600 So.2d 668 (La. 1992) (citing **Johnson v. Zerbst**, 304 U.S. 458, 464, 58 S.Ct. 1019, 1023, 82 L.Ed. 1461 (1938)). The trial court has much discretion in determining whether the defendant's waiver is knowing and intelligent, and an appellate court should not reverse such a ruling unless an abuse of that discretion is shown. **Warner**, 594 So.2d at 403.

When a defendant has exercised his right to self-representation, the court may appoint "standby counsel" to aid the defendant and to be available to represent

the defendant in the event the right of self-representation is terminated. See **Faretta**, 422 U.S. at 834 n.46, 95 S.Ct. at 2541 n.46. When the trial court allows this kind of arrangement, the defendant acts as his only legal representative, and counsel merely advises the defendant. When an attorney is appointed as an advisor under these circumstances, the accused must knowingly abandon his right to be represented by counsel. **Dupre**, 500 So.2d at 877.

While a defendant has the right to counsel as well as the right to self-representation, he has no constitutional right to be both represented and representative. **State v. Bodley**, 394 So.2d 584, 593 (La. 1981); see also **McKaskle v. Wiggins**, 465 U.S. 168, 183, 104 S.Ct. 944, 953, 79 L.Ed.2d 122 (1984) ("**Faretta** does not require a trial judge to permit 'hybrid' representation of the type [petitioner] was actually allowed"). Under a "hybrid" form of representation, the defendant and counsel act as co-counsel with each speaking for the defense during different phases of the trial. See W. LaFave & J. Israel, Criminal Procedure § 11.5(g), at p. 765 (2007).

Although a trial court is not prohibited from using hybrid arrangements, such arrangements present inherent difficulties. If the defendant has not waived the right to counsel and the attorney provides only partial representation, the issue of whether or not the accused was afforded adequate legal representation might be raised. If the accused has adequately waived his right to counsel, but counsel actively participates in the defense, questions of violation of the accused's right to self-representation might result. See **Dupre**, 500 So.2d at 878. These hybrid representation issues arise when the arrangement allowed by the trial court falls somewhere between counsel providing the entire legal defense and the defendant acting as his only legal representative.

In this case, the record reflects that prior to arraignment, the defendant was represented by Mr. Karl Lewis, appointed counsel with the Terrebonne Parish

Indigent Defender Board (IDB). Mr. Lewis was allowed to withdraw as counsel, and another IDB attorney, Mr. Robert Pastor, was appointed to represent the defendant at arraignment in April 2004. The minute entry of this proceeding indicates that the defendant "stated that [Mr. Pastor] will assist in representing him and he will represent himself." The record does not contain the transcript of the arraignment.

In May 2004, the trial court appointed a sanity commission to determine the defendant's competency to proceed,[7] and shortly thereafter, the defendant began mailing the first of a massive number of pro se motions filed in this matter. At trial, the defendant testified he had filed approximately 6,000 motions,[8] because he had nothing to do. In numerous motions, the defendant asserted his right to represent himself.

Either because of the massive amount of the pleadings mailed by the defendant to the Terrebonne Parish Clerk of Court's Office, or because the charged offenses were based in part on letters mailed by the defendant, and/or because of the manner in which the envelopes containing the pleadings were addressed, the motions which the defendant attempted to file were forwarded by the Clerk's Office to Assistant Attorney General Julie Cullen until approximately the middle of 2006. The failure to file these pleadings and the State's inability to adequately respond to the volume caused the defendant to file more pleadings and created many discussions during several court proceedings.

At the June 29, 2005 proceeding (after appointment of the sanity commission and prior to the court's ruling of incompetency), Ms. Cullen raised the

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[7] In March 2005, the trial court determined the defendant was competent. However, because a report of one doctor was unavailable at the time, the court allowed the defense counsel and the assistant attorney general to reserve the right to file this report. Another competency hearing was held, and in August 2005, the trial court determined that the defendant was unable to assist in his defense. On March 23, 2006 (the minute entry erroneously states the year was 2005), the trial court ruled that the defendant was competent to proceed.

[8] Although this estimate may have been exaggerated, the motions are too numerous to count.

issue of whether the defendant was being represented by counsel. The trial court found the State's request that Mr. Pastor prepare and file the defense motions, if he were counsel of record and not just assisting the defendant, was a fair request. The trial court then advised the defendant that Mr. Pastor was his attorney. The defendant disagreed and when the trial court asked if he had a law degree, the defendant responded that he was a civil litigator, that he was prepared to be his attorney, that he wanted a jury trial, and that he did not want Mr. Pastor. The trial court acknowledged that the defendant felt as though he were educated enough and responded that the defendant could have a jury trial, but with Mr. Pastor as counsel. When the trial court advised the defendant he must have an attorney, the defendant disagreed, and Mr. Pastor intervened to argue the defendant's constitutional right to self-representation. Ms. Cullen noted that she had prematurely raised the issue because the defendant's competency to proceed had not yet been determined.

The minutes of the August 19, 2005 proceeding indicate the defendant argued that "he is allowed to represent himself and file motions."[9] The transcript indicates both the defendant and Mr. Pastor were present in court. The defendant restated that he had a constitutional right to represent himself and to file motions. Mr. Pastor noted that any motions "lacked standing" until there was a ruling on the defendant's competency to proceed.

After ruling at the March 23, 2006 proceeding that the defendant was competent, the trial court granted Ms. Cullen's request that she be allowed to file in the clerk's office all of the defendant's pro se motions in her possession. The trial court also ordered that any future motions filed by the defendant be processed by the clerk's office. The trial court also addressed the motion to allow the

[9] We note that district courts must accept and consider pro se filings from represented defendants in a pre-verdict context whenever doing so will not lead to confusion at trial. All courts retain the discretion to grant or withhold co-counsel status, after or before verdict. **State v. Melon**, 95-2209 (La. 9/22/95), 660 So.2d 466, 467.

defendant to act as his own counsel and the issue of self-representation. The defendant stated his desire "[t]o be chief counsel representing myself under the United States Fifth Amendment." Mr. Pastor informed the trial court that from his conversations with the defendant, he believed the defendant was aware of the charges against him, of the law and the foundation for the charges, and of the caveats of being his own attorney. The trial court asked Mr. Pastor for a legal basis to retain his assistance for the defendant. Mr. Pastor noted that the defendant was facing serious charges, may not know all the necessary procedures, and that justice demanded someone to help him in a jury trial. The trial court then advised the defendant that he could represent himself and that Mr. Pastor was going to assist as needed. When other matters were addressed, the trial court advised the defendant that he needed to abide by all the local district court rules if he wanted to represent himself. At a July 26, 2006 motion hearing, Mr. Pastor appeared and waived the defendant's appearance. Mr. Pastor was unsure if the defendant chose not to appear or if he was not transported to court by the authorities.

Despite the trial court's ruling in March of 2006 that the defendant could represent himself, the transcript of the October 9, 2006 hearing on the preliminary examination and motion to suppress reflects that Mr. Pastor was serving as the defendant's counsel. The defendant was present, but Mr. Pastor stated on the record he was appointed counsel for the defendant. Mr. Pastor handled the questioning of witnesses and argument on the preliminary examination and at the conclusion of the hearing addressed several pretrial matters on the defendant's behalf, including pro se subpoena requests. Mr. Pastor further requested that the defendant and the trial court send all communications to him. He advised that he had previously discussed the issue with the defendant when he "wanted to be his own attorney and then withdrew that." Ms. Cullen asked the trial court to advise the clerk's office to forward mailings from the defendant to his attorney, Mr.

Pastor. The trial court considered that request fair and stated Mr. Pastor could "call the shots."

On January 17, 2007, a hearing was held on the State's motion to determine counsel. Ms. Cullen advised the trial court that she filed the motion after receiving correspondence from the defendant saying he had fired Mr. Pastor and made a complaint against him to the attorney disciplinary board. Mr. Pastor indicated that in response to Ms. Cullen's motion, he had written to the defendant and stated he could not provide effective counsel if he was unable to speak with him. Mr. Pastor also advised that if he did not hear differently from the defendant, he would be filing a motion to withdraw as counsel. The trial court then questioned the defendant as to whether he wanted Mr. Pastor to represent him. The pertinent part of the colloquy and discussion is as follows:

BY THE COURT:

> Q. Mr. Williams ... do you want Mr. Pastor to represent you; yes or no?
>
> A. Absolutely not.
>
> Q. Okay ... Now, do you think it would be wise for me to appoint what is referred to as standby counsel; you know what standby counsel is?
>
> A. I understand what standby counsel is, but it's not within my discretion to decide what you can do and can't do.
>
> Q. No, I understand that, what's in my discretion or what is in your discretion. So I'm asking you, if I do that are you going to complain I guess is my question?
>
> A. It depends on who the attorney [is] or whether he communicates with me.
>
> Q. Well, it will be a competent attorney as we do in all cases such as this.
>
> A. Judge, ... the only thing I need an attorney for is just two parts, the attorney can do the picking of the jury, because I'm not interested in picking any jury. I don't have that time to waste. Secondly, the attorney can cross-examine me, because I will testify. But beyond that I do not need an attorney for anything else, because Mr. Pastor

was more interested in putting on a defense for me. I'm not interested in putting on the type defense he's interested in putting on, because I knew what took place, and he didn't have any idea what took place. He informed my family at one period of time that he didn't have time, and I think it's a conflict that he's – even though he's an IDB attorney, he get[s] paid by the State of Louisiana....

. . . .

Q. My question is simple. You feel like you want to represent yourself.

A. I will represent myself.

Q. I've researched the issue, and actually you do have the right to represent yourself.

A. The Sixth Amendment.

THE COURT:

Now, just for the record, so that it will be clear, I actually find absolutely no reason whatsoever why Mr. Pastor is incompetent in any way. Just the opposite is true, Mr. Pastor is a trained, skilled professional who has many years of experience in criminal defense cases. Too bad, so sad you don't want him, because with him you have a wealth of information, years of experience. This ain't his first rodeo is what I'm trying to tell you, Mr. Williams, okay, but that's your choice. Okay, so –

MR. WILLIAMS:

That's your opinion. I understand.

THE COURT:

Right. You're getting what you wanted, you're going to get him off your case, and for right now you're going to be representing yourself, and I may appoint standby counsel at some point. I'm not quite sure what I'm going to do yet....

Ms. Cullen then expressed her concern that considering the defendant's filings and threats against her, if defendant acted as his own counsel and there were no attorney, she was not sure how she would handle the case. The trial court's questioning of the defendant continued as follows:

THE COURT:

Mr. Williams ... through your own admission, you [were] just telling me you can't try this case by yourself. You just told me that,

didn't you?

MR. WILLIAMS:

I don't remember saying [that], but whatever you feel like, Judge.

THE COURT:

Well, you said you needed help for at least the jury selection process and maybe other –

MR. WILLIAMS:

I said I would let an attorney pick the jury because I didn't have time to waste with a jury. But I never said I was incompetent, that I couldn't this or that....

. . . .

THE COURT:

The most practical way that I can think of doing this is appointing IDB as his standby counsel so that the IDB can act as a go-between between you [Ms. Cullen] and the defendant. The defendant has a right to represent himself if he so chooses. This is the only practical way that I can think of at this point to handle this case. The defendant is entitled to have his day in court. And we need to get that accomplished. The way it stands now, without – it seems like we can't go forward. So I'm going to appoint the IDB as standby counsel. All right.

MR. PASTOR:

Your Honor, I think respectfully that you should give Mr. Champagne [Chief Defender] a chance to come in and voice his opinion. We have discussed this situation, and it [sic] his opinion was that indigent defendants do not have a right to pick their attorneys.

THE COURT:

Okay.

MR. PASTOR:

That as long as he's been appointed competent counsel, if he chooses to be his own attorney then it's all or none.

THE COURT:

I'll give Mr. Champagne the opportunity to air that.

. . . .

THE COURT:

Back on the record on this case, all right this is somewhat of a unique situation. We don't often have a defendant in a criminal matter so vehemently fighting for the right to represent himself. But we have indeed that situation in State versus Williams. The Court is overwhelmed by the want, desire, and passion by Mr. Williams to want to represent himself. He has taken steps to indeed persuade the Court overwhelmingly that he does not want Mr. Pastor to represent him. I'm convinced. So I want to make sure Mr. Williams understands that you can't have your cake and eat it, too. It's going to either be with Mr. Pastor as your lawyer, or you're going to be representing yourself by yourself, no lawyer, no standby counsel, for the entirety of the remainder of this case, including [but] not limited to selection of a jury, the voir dire process, opening statement, questioning of witnesses, cross-examination, closing arguments, and before the trial the pretrial motions, submission of witness list, exhibit list and so forth. So if you stand prepared to do that by yourself, you can so choose. That's what I'm hearing you telling me you want to do. But I want to make sure we are perfectly clear, you can't have both. So you can either have you by yourself representing yourself, or you're going to have Mr. Pastor as your lawyer standing on the side of your [sic] representing you. So those are your choices.

MR. WILLIAMS:

As my great hero once said, Richard "Tricky Dick" Nixon, let me make it perfectly clear. Mr. Pastor could stand by. I said I will be the chief counsel. He can stand by if he wants to. I have no authority under Louisiana Constitution or under the United States Criminal [sic] Constitution to tell him [what] to do or don't do. I said he can stand by, that I will be the chief counsel under the Sixth Amendment to the United States Constitution.

THE COURT:

Maybe we have a failure to communicate here. In other words, what I'm trying to tell you is he's going to represent you, or he's not going to represent you.

MR. WILLIAMS:

You mean he would be the chief counsel?

THE COURT:

He's going to be the only counsel, or you're going to be the only counsel.

MR. WILLIAMS:

I don't think that's what the Constitution says. The Constitution mandate[s] that I can have a counsel stand by, so you got

to make that decision, if you want to let him go, then fine, but it won't come out of my mouth.

THE COURT:

Okay, well, I have let him go and you're going to represent yourself, okay. You want to represent yourself, don't you?

MR. WILLIAMS:

Judge, as I said, on the record, make it perfectly clear, I will represent myself but I will not dismiss any standby counsel. That will strictly be left up to the courts.

THE COURT:

Okay.

MR. WILLIAMS:

I demand under the constitution to have a standby counsel.

THE COURT:

Well, okay, and your demand is actually to change your lawyer is what your demand is. It's like you don't like him so you want another. No, I don't like him, I want another. No, I don't like him, I want another. We're not going to play that game.

MR. WILLIAMS:

I didn't say if I would change my lawyer.

THE COURT:

Well, good –

MR. WILLIAMS:

That's somewhat in somebody's mind. I just said I didn't particularly care for him. I told him he could be standby counsel. He wants to be chief counsel. I want to be chief counsel. So we [are] in the middle of a river going in the wrong direction in flood with no – no rowboat even. We don't even have a boat.

THE COURT:

Well, guess what? You're going to be the captain of the ship, because you're going to be guiding that ship, okay.

MR. WILLIAMS:

Well, I'll be my chief counsel.

THE COURT:

There you go.

MR. WILLIAMS:

As far as any standby counsel, that's left up to the Court, what they want to do.

THE COURT:

Well, I'm telling you what we're going to do. There will be no standby counsel, okay.

MR. WILLIAMS:

That's left up to the courts, that's left up to you.

On the first day of trial before voir dire began, the trial court advised the defendant of the supplies and legal books he was being provided, explained the procedure which would be used during voir dire, and explained that the burden of proof was on the State. When the trial court asked if the defendant had anything to state on the record, the defendant stated he did not waive his constitutional right to an attorney. The pertinent part of the colloquy is as follows:

MR. WILLIAMS: I do not waive all my constitutional rights to an attorney.

THE COURT: Well, okay, I'm glad you brought that up once again, Mr. Williams, because we have afforded you the services of an attorney, but you didn't want him.

MR. WILLIAMS: It's not that I didn't want him. Way back in 2000 and – 2000 – 2004 I sent motions to this court that Mr. Pastor was not doing anything for me, was not doing the job, and told my family he thought I was guilty and I should plead insanity. So this court was put on notice or warning in 2004 that there was a major conflict between Mr. Pastor and myself. In fact, the Court did not get it. It's left up to someone between the Clerk's Office, the D.A.'s Office and Mrs. Cullen. But I told the Clerk on at least seven to ten times it was a major problem.

THE COURT: Okay, Mr. Williams, I once again hear your argument, but again, the Court provided you a free attorney pursuant to our Constitution in the cases that have come within the last fifty

years or so. We have provided you a free attorney at absolutely no cost to you, and you didn't like this particular attorney, although this attorney –

MR. WILLIAMS: I never said I didn't like him.

THE COURT: Wait, wait, one second, I'm not finished. A trained, skilled professional with years of experience in criminal defense. We provided that to you for free at the taxpayers' cost, and this Court is not going to allow you to pick your own attorney at the expense of the taxpayers. So that's about all that I have to say about that, and since you have chosen not to have Mr. Pastor represent you, as per your request that you made to this Court several weeks ago, I will allow you to represent yourself. Okay.

The record reflects that the trial court (and appointed counsel) advised the defendant of the disadvantages of self-representation. The trial court told the defendant that he would have to follow the rules of court and refused to appoint standby counsel to assist him. (We note that the defendant does not assign as error the trial court's denial of appointment of standby counsel.) Although the record does not reflect that the trial court specifically questioned the defendant as to his age, background, education, and mental condition, it is apparent that the trial court had this information as it was included in the numerous doctors' reports prepared for the defendant's competency hearings. In addition to the doctors' reports, other parts of the record, including the defendant's own statements during court proceedings, reveal that the defendant was approximately 60 years of age at the time of the trial, had a college education, had served in the United States Marine Corps, had worked as an investigator for a former Terrebonne Parish district attorney and as a bail bondsman, and was known by many people in the Terrebonne Parish legal community.

Although the record reveals that the defendant was dissatisfied with his appointed counsel, it is apparent that his primary desire was to serve as his own counsel, not obtain new counsel. The defendant clearly believed he was the best

person to present his defense to a jury. Although he was not opposed to assistance of counsel for voir dire – the defendant considered jury selection a waste of his time -- and for his own direct examination, the defendant wanted to be the "chief counsel."

While there was much discussion during the lower court proceedings about the defendant's demand for standby counsel, we find that the assertion of his right to represent himself at trial was unequivocal. The defendant knowingly and intelligently waived his right to counsel. Accordingly, we find no abuse of the trial court's discretion.

This assignment of error lacks merit.

PRO SE ARGUMENTS

The defendant filed a short, rambling pro se brief alleging violations of his constitutional rights. First, the defendant contends that his prosecution, based on a "private and personnal [sic] letter" to the district attorney, was a violation of his First Amendment rights. We note that the defendant's convictions were not based solely on letters addressed to District Attorney Joseph L. Waitz, Jr. The threats made by the defendant were included in the telephone message left on the District Attorney's Office's answering machine, in a letter addressed to The Houma Daily Courier, a local newspaper owned by The New York Times, and in letters sent to other persons. Moreover, the First Amendment does not protect criminal activity, even when carried out with words. See **State ex rel. RT**, 2000-0205, p. 7 (La. 2/21/01), 781 So.2d 1239, 1243; see also **United States v. Quinn**, 514 F.2d 1250, 1268 (5th Cir. 1975), cert. denied, 424 U.S. 955, 96 S.Ct. 1430, 47 L.Ed.2d 361 (1976).

Second, the defendant argues that because he was not advised of his **Miranda** rights at the time of his arrest, no writing, letter, or note could be introduced as evidence at trial. The defendant has failed to specify the particular

document or documents which were allegedly erroneously introduced at trial. However, we note that in our review of the record, there is no indication that there was a seizure of documents at the time of the defendant's arrest in this matter or that documents were seized based on statements given by the defendant.

Third, although the defendant alleges that his rights of access to the courts and of equal protection were violated, he does not give any specific factual basis for this legal argument. Accordingly, we are unable to address this argument. See Uniform Rules, Court of Appeal, Rule 2-12.4.

CONCLUSION

For the foregoing reasons, the defendant's convictions and sentences are affirmed.

CONVICTIONS AND SENTENCES AFFIRMED.