

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LESLIE LEE EDWARDS,

Defendant-Appellant.

UNPUBLISHED

July 25, 2006

No. 261406

Wayne Circuit Court

LC No. 04-007180

Before: Neff, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of two counts of first-degree criminal sexual conduct (CSC I), MCL 750.520b(1)(e) (actor was armed with a weapon or article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon), assault with intent to murder, MCL 750.83, burning of a dwelling house, MCL 750.72, and armed robbery, MCL 750.529. Defendant was sentenced to 23 to 50 years' imprisonment for each CSC I conviction, 23 to 50 years' imprisonment for the assault with intent to murder conviction, 10 to 20 years' imprisonment for the burning of a dwelling house conviction, and 23 to 50 years' imprisonment for the armed robbery conviction. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the trial court abused its discretion by allowing defendant to proceed in propria persona after finding him competent to stand trial. We disagree. We review a trial court's decision concerning both a defendant's competence to represent himself and stand trial for an abuse of discretion. *People v Hicks*, 259 Mich App 518, 521; 675 NW2d 599 (2003); *People v Harris*, 185 Mich App 100, 102; 460 NW2d 239 (1990).

The United States Constitution implicitly guarantees a criminal defendant the right to represent himself, and the Michigan Constitution and MCL 763.1 explicitly guarantee this right. US Const, Am VI; Const 1963, art 1, § 13; *People v Kevorkian*, 248 Mich App 373, 417; 639 NW2d 291 (2001). To determine whether defendant may dismiss his counsel and represent himself, the trial court find that: (1) the defendant's request was unequivocal, (2) the defendant asserted the right knowingly, intelligently, and voluntarily, and (3) the defendant's self-representation would not disrupt, inconvenience, or burden the court. *People v Williams*, 470 Mich 634, 642; 683 NW2d 597 (2004). Finally, in making these determinations, the trial court must comply with MCR 6.005(D), which requires the court to advise the defendant of the charge, maximum and minimum prison sentences, the risks of self-representation, and permit defendant

the opportunity to consult with his appointed lawyer. MCR 6.005(D)(1) and (2); *Williams, supra* at 642-643.

Here, defendant was competent to represent himself at trial. First, defendant clearly and unequivocally stated that he wished to represent himself. In addition, defendant executed a waiver of his right to an attorney indicating that he wished to represent himself. Second, even after defendant made his unequivocal request, the trial court advised defendant to reconsider his decision and explained to defendant the charged offenses as well as the possible punishments defendant might face. Further, the trial court warned defendant that he would be held to the same standards as a licensed attorney and that his self-representation may hurt his defense. Defendant indicated that he understood all of these admonitions and still wanted to proceed. Specifically, defendant stated, “I’m very happy with the decision I just made,” and added that he had “no doubt” about it. Despite this decision, the trial court permitted defendant’s appointed attorney to act as standby counsel and even advised defendant midway through the trial to again reconsider allowing standby counsel to continue with his representation. Thus, the trial court complied with the requirements of MCR 6.005(D). See *People v Russell*, 471 Mich 182, 191; 684 NW2d 745 (2004) (a trial court satisfies MCR 6.005(D) provided it substantially complies with the requirements of the rule in its explanation to a defendant). Moreover, the waiver defendant executed warned defendant of the potential dangers involved in self-representation. Under these circumstances, it is clear that defendant’s decision to represent himself was made knowingly, intelligently, and voluntarily.

Finally, although defendant’s behavior at trial was distracting at times, it did not disrupt the proceedings or burden or inconvenience the trial court. In fact, many of the interruptions were due to defendant’s consultation with standby counsel. Nonetheless, the trial court did not give defendant free reign to abuse his right to represent himself. Specifically, during a long opening statement, the court asked defendant to estimate the amount of time he needed to finish and told defendant to stop before he exceeded that time. The trial court even noted that defendant was “very articulate . . . at times throughout the trial,” and that some of the questions were very good. Thus, defendant did not unduly disrupt, inconvenience, or burden the trial court. *Williams, supra* at 642.

Defendant further contends that even after the trial court allowed defendant to represent himself, the trial court should have ordered a competency hearing or ordered standby counsel to replace defendant because the behavior defendant exhibited while representing himself created a bona fide doubt regarding his competence to stand trial. This argument fails. At the outset, we note that defendant appears to apply the standards for competency to stand trial and competency to represent one’s self interchangeably. However, these are two distinct standards. *People v McMillan*, 63 Mich App 309, 313; 234 NW2d 499 (1975) (“A different standard applies with respect to competency to represent one’s self as opposed to competency to stand trial.”)

A criminal defendant is presumed competent to stand trial absent a showing that he cannot understand the nature and object of the proceedings or rationally assist in his own defense. *Harris, supra* at 102. However, even though a determination of competence is within the trial court’s discretion, a court must order a competency evaluation “if facts are brought to its attention raising a bona fide doubt as to defendant’s competence.” *Id.*

In the instant case, the trial court noted that defendant was competent to stand trial based on the doctors' findings indicating that defendant was competent. In raising the issue of competence, defense counsel did not present evidence contradicting the findings that defendant was competent to stand trial, but merely noted defendant's behavior in the courtroom. Thus, unless defendant's behavior created a bona fide doubt regarding defendant's competence, the trial court did not err in finding defendant competent given that no other evidence was presented to the contrary. See *People v Stubbs*, 59 Mich App 574, 229 NW2d 854 (1975) ("If neither the people nor the defendant choose to introduce additional evidence, a trial judge may base his judicial determination of competency solely on the forensic center report.")

Regarding behavior that could create a bona fide doubt about defendant's competence, although defendant made outlandish comments¹ and was threatening and distracting at times throughout the trial, in context, this behavior did not create a bona fide doubt about his competence to stand trial. In fact, defendant's behavior throughout the trial indicated that he understood the nature and object of the proceedings. *Harris, supra* at 102. First, defendant was clearly aware of what was at stake. Specifically, defendant told the jury during both opening statement and closing argument that he was only 21 years of age and could possibly face 24 years in prison as the trial court had warned him prior to trial. Next, as noted above, the trial court stated that defendant was articulate and even asked the witnesses good questions. In addition, standby counsel, who raised the competency issue, never claimed that defendant could not communicate with him or assist in his own defense. On the contrary, the record indicates that defendant conferred with standby defense counsel frequently. The trial court even noted that defendant "has been consulting on a regular basis with Mr. Glanda, his assigned legal advisor." Therefore, despite defendant's inappropriate behavior, there was no bona fide doubt regarding defendant's competence. Further, given that the trial court had already determined that defendant had satisfied the requirements for self-representation, the trial court did not err in allowing defendant's self-representation to continue throughout the course of the trial.

Affirmed.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra

¹ For example, defendant claimed he was like Joseph in Egypt and would become a professional basketball player.