

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Demetrius Jones,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 25, 2021

Court of Appeals Case No.
20A-CR-1357

Appeal from the Marion Superior
Court

The Honorable Alicia A. Gooden,
Judge

The Honorable Richard E.
Hagenmaier, Magistrate

Trial Court Cause No.
49G21-1808-F2-27139

Najam, Judge.

Statement of the Case

- [1] Demetrius Jones appeals his convictions for dealing in cocaine, dealing in methamphetamine, dealing in a narcotic drug, possession of a narcotic drug, and possession of marijuana, and his adjudication as a habitual offender, following a jury trial. Jones presents a single issue for our review, namely, whether the trial court erred when it did not permit him to represent himself at his trial. We affirm.

Facts and Procedural History

- [2] On August 17, 2018, the State charged Jones and two codefendants with multiple felony counts related to drug dealing and possession. The State also alleged that Jones was a habitual offender. At an initial hearing on August 20, the trial court asked Jones whether he was “going to hire an attorney or [needed] a court-appointed attorney[.]” Supp. Tr. at 5. Jones responded, “I don’t know.” *Id.* The trial court appointed a public defender to represent Jones.
- [3] At a pretrial conference in January 2019, Jones’ counsel moved for a continuance because Jones “refuse[d] to communicate” with her. *Id.* at 22. Jones stated to the court, “I object.” *Id.* at 23. The court told Jones to “[b]e quiet,” but he continued to interject. *Id.* Jones stated, “I don’t understand how she can be . . . representing me. I never asked for it.” *Id.* The court again told Jones to stop talking. Jones’ counsel then stated, “I keep being told . . . that he doesn’t want an attorney and I’m not his attorney, et cetera.” *Id.* At that point,

a woman identified as Sana Alleyah El tried to interject. The trial court ordered El to leave the courtroom, but she kept talking. The court then found El in contempt of court and removed her from the courtroom. At the conclusion of the hearing, the trial court continued Jones' trial to April 4.

[4] At a pretrial conference on March 26, Jones' codefendants moved for a continuance, which motion Jones' counsel joined, and the court granted the continuance. At one point, the trial court asked Jones whether he had "any objections" he wanted to make at that time, and the following colloquy ensued:

Jones: Yes. I never asked her to be [my] attorney. I never asked for public service or [a] public defender. So she's fired. I don't—I have private counsel.

Court: Who's your private counsel?

Jones: And I'm Usallah Amen-Ra El, In Propria Persona Sui Juris in Propriosolo (indiscernible) rescind it of the great gods of Kemet. I am—

Court: Okay. Is she present here today?

Jones: Moabite and Canaanite and (indiscernible) original Moorish American National.

Court: Okay.

Jones: And I'm exercising all my rights at this time and all points of time and you're commanded to state your name and nationality for the record, on the record immediately without further—

Id. at 29-30.

[5] The trial court then addressed an unidentified woman standing near Jones and asked her whether she was Jones' attorney and whether she had a law degree. She identified herself as Jones' "private counsel" but did not otherwise respond to the trial court's questions. *Id.* at 30. Jones continued talking over the trial court, stating that the court did not have jurisdiction over him and "command[ing]" that the court "set [him] free immediately." *Id.* Jones stated that he was a "descendant of . . . the great furrows of Kemet[.]" *Id.* at 31. At the conclusion of the hearing, the trial court continued Jones' trial.

[6] At a pretrial conference on June 25, Jones' public defender was not present. While the trial court was addressing Jones' codefendants' attorneys, Jones interjected and stated that his public defender had "been dismissed." *Id.* at 35. The trial court ignored Jones and continued his discussion with the attorneys. Jones later interjected, unprovoked, and said that he did not "need nobody to represent" him because he was "presenting myself." *Id.* at 36. At no point did the trial court acknowledge Jones, who had not been asked to join the conversation. Jones added that his name was not Jones; that the court "need[ed] to cease and de cease [sic] anyway"; and that the court should "dismiss this." *Id.*

[7] The court continued the hearing until the next day, and both Jones and his public defender were present. Before the trial court had even started the hearing, Jones began speaking. He stated that his name was "Usallah Amen

Ra El, grand sheep for the Moorish—Moorish Science Temple of America.” *Id.* at 38. And Jones stated that he had “private counsel[.]” *Id.* The trial court then stated that his alleged private counsel was not allowed to represent Jones because “she’s not an attorney.” *Id.* Jones continued to assert that his public defender could not represent him because she had been “dismissed.” *Id.* at 39. The trial court ignored Jones and continued talking to his public defender. Jones continued to interrupt despite the court repeatedly telling him to stop talking. The court ultimately removed Jones from the courtroom.

[8] During a pretrial conference on November 12, the trial court engaged with Jones and his public defender as follows:

Public Defender: Yes, Your Honor. I did attempt to go speak with Mr. Jones yesterday. He did not wish to—

Court: Okay.

Public Defender: have a conversation with me.

Jones: She does not represent me. I’ve said this over and over, every time I come to court on the record. I don’t know why she keeps trying. I don’t know why y’all keep tryna [sic] force this woman on me to represent me ‘cause she can’t. And I like to plead innocent and—and I appreciate (indiscernible) talk to me or trying to get me to cooperate with this case. I don’t understand.

Court: Anything else you wanna say?

Jones: Sure. I’d like to see the 1099-OID.

Court: We're not gonna get into that today....

Id. at 56-57.

[9] On the first day of Jones' jury trial, February 6, 2020, Jones' public defender told the trial court that she wanted "to address on the record the filing Mr. Jones made . . . indicating that I am fired as his representative." Tr. Vol. II at

2. The trial court then stated as follows:

Well, for the record, I know a little bit of the background, Mr. Jones from Day 1 has maintained his status as a (indiscernible) citizen and/or some would call it a Sovereign Citizen. Starting way back at the start of this case he wouldn't talk to the Court. I remember the initial hearing in this case. He wouldn't say anything. So . . . and he has filed many pleadings and spoken out in court and has continually—apparently doesn't want any attorney representing him. At one time he told me [he] had counsel and that counsel was not an attorney. That was just somebody that was involved in the same movement as him. So I denied that. *Mr. Jones has never asked me to go pro se, not once,* and . . . but he refuses to accept [his counsel's] representation. And I've explained to him he can have a public defender, *he can go pro se*, and he can hire an attorney. Those are his three options. *And having not picked any of those options, he is here today with his attorney*, the public defender in this case.

So it is often a common event in these cases that I've dealt with that this situation occurs where they refuse to accept the attorney's presence, but then they deny—they do not request the right to go pro se, which is in itself kind of a disruptive feature the way these cases are (indiscernible). So that being said, the motion to fire you is denied, okay? *Anything else you wanna say about that, Mr. Jones?*

Jones: (No verbal response).

Id. at 2-3 (emphases added).

[10] At the conclusion of the trial, the jury found Jones guilty of nine of the ten felonies charged and adjudicated him a habitual offender. The trial court entered judgment on five counts, namely, dealing in cocaine, dealing in methamphetamine, dealing in a narcotic drug, possession of a narcotic drug, and possession of marijuana. The trial court sentenced Jones to an aggregate term of thirty years executed. This appeal ensued.

Discussion and Decision

[11] Jones contends that the trial court violated his constitutional right to represent himself at his jury trial. As our Supreme Court has explained,

[in] *Faretta v. California*, 422 U.S. 806, 821 . . . (1975), [the United States Supreme Court] held that the right of self-representation is implicit in the Sixth Amendment to the United States Constitution, and Article 1, § 13, of the Indiana Constitution also guarantees this right. A request to proceed pro se is a waiver of the right to counsel, and consequently, there are several requirements to invoking the right of self-representation successfully. *A defendant's "request must be clear and unequivocal, and it must be [made] within a reasonable time prior to the first day of trial."* *Russell v. State*, 270 Ind. 55, 64, 383 N.E.2d 309, 315 (1978); *accord Sherwood v. State*, 717 N.E.2d 131, 135 (Ind. 1999).

Stroud v. State, 809 N.E.2d 274, 279 (Ind. 2004) (emphasis added). Further, as the State points out, “a trial court is under no obligation to advise a defendant

of the right to self-representation.” *Dobbins v. State*, 721 N.E.2d 867, 872 (Ind. 1999).

[12] Jones maintains that he clearly elected to represent himself when he “repeatedly stated that he did not want appointed counsel, wanted no public assistance, wanted his appointed counsel fired, wanted to ‘present’ himself, and that his appointed counsel had no right to speak for him[.]” Appellant’s Br. at 13. But Jones overstates the clarity of his alleged requests that he proceed pro se. Indeed, the vast majority of Jones’ statements to the trial court against his public defender were made in the context of his efforts to have a layperson represent him.¹

[13] Of all of Jones’ citations to the record on appeal in support of his contention, there is only one occasion when Jones appears to have *stated* that he meant to represent himself, namely, when he said, “I don’t need nobody to represent me. I’m presenting [sic] myself.” Supp. Tr. at 36. But the context of that isolated statement belies Jones’ assertions on appeal. Jones made that statement in the course of the trial court’s discussion with his codefendants’ attorneys during a pretrial conference. Jones was speaking out of turn and had not asked to address the trial court. Jones, who had a habit of interjecting irrelevant information during various hearings, was, essentially, talking to himself as no one acknowledged anything he was saying. And, along with his stated desire to

¹ Jones does not contend on appeal that the trial court should have permitted a layperson to represent him at trial.

“present” himself, Jones denied that his name was Jones and stated, “dismiss this.” *Id.*

[14] In sum, while Jones made clear that he did not want appointed counsel, and he attempted to have a non-attorney represent him, Jones does not direct us to evidence that he made a “clear and unequivocal” request to represent himself at trial. *Stroud*, 809 N.E.2d at 279. Indeed, at the beginning of his jury trial, the trial court stated that Jones had never requested to represent himself. The court then gave Jones an opportunity to respond, and, rather than voice his disagreement with the court, Jones gave no audible response. We hold that the trial court did not violate Jones’ right to represent himself at his trial.

[15] Affirmed.

Riley, J., and Crone, J., concur.