

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

WILLIE PETTY,

Appellant,

v.

CASE NO. 1D07-4976

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed January 30, 2009.

An appeal from the Circuit Court for Duval County.
Hugh A. Carithers, Judge.

Nancy A. Daniels, Public Defender, and Glenna Joyce Reeves, Assistant Public
Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Donna A. Gerace, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges his convictions and sentences for lewd and
lascivious battery and unlawful sexual activity. He alleges that the trial court erred

by failing to conduct an adequate Faretta¹ inquiry prior to allowing him to represent himself at trial. We agree and reverse.

Here, although the record indicates that the trial court adequately expressed to appellant the dangers of self-representation, the Faretta inquiry was inadequate because the trial court failed to inquire as to the extent of appellant's education, his ability to read or write, his past experience with criminal proceedings, or his mental and physical condition. Brown v. State, 971 So. 2d 270, 271 (Fla. 1st DCA 2008) (“Although the record in the present case demonstrates that the appellant was sufficiently apprised of the dangers and disadvantages of self-representation, it discloses no inquiry into the appellant's age, education, mental condition, physical condition, past experience with criminal proceedings, or other factors bearing upon his capacity to waive his constitutional right to counsel”); Flowers v. State, 976 So. 2d 665 (Fla. 1st DCA 2008) (Faretta inquiry inadequate where trial court “did not advise the defendant of the advantages of representation by counsel nor . . . inquire into the defendant's age, education, ability to read and write, or any mental or physical conditions”). As such, the trial court committed per se reversible error. See Wilson v. State, 947 So. 2d 1225 (Fla. 1st DCA 2007). Thus, the appellant's convictions are REVERSED and the cause is REMANDED for a new trial.

¹ Faretta v. California, 422 U.S. 806, 835 (1975).

LEWIS and THOMAS, JJ., and LAWRENCE, JR., L. ARTHUR, SENIOR
JUDGE, CONCUR.