

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2008*

**HARRY AUSTIN,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D07-361

[December 10, 2008]

FARMER, J.

We reverse defendant's convictions for burglary of a dwelling, grand theft, possession of cocaine, possession of drug paraphernalia, and resisting an officer without violence. Defendant was convinced that his public defender was not rendering effective assistance and told the trial judge he wanted to fire her. The trial judge made clear he would not appoint replacement counsel. In the end, defendant was literally forced to defend himself without an inquiry satisfying *Faretta v. California*, 422 U.S. 806 (1975). We are unable to distinguish this case from *McGee v. State*, 983 So.2d 1212 (Fla. 5th DCA 2008), where the trial court as here simply warned defendant that if he discharged his attorney he would have to represent himself and nothing in the record established defendant's competency to waive counsel.

*Reversed.*

KLEIN and DAMOORGIAN, JJ., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Charles M. Greene, Judge; L.T. Case No. 05-17581 CF10.

Carey Haughwout, Public Defender, and Alan T. Lipson, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***