IN THE COURT OF APPEALS OF IOWA

No. 3-859 / 12-1445
Filed October 23, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JOHN DELROY YOUNG,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Todd A. Geer (plea) and Andrea J. Dryer (trial), Judges.

John Young appeals his conviction for third-degree burglary, contending the district court and his trial counsel should have questioned his competency and a hearing on the matter should have been held. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney General, Jacob Marshall, Student Legal Intern, Thomas J. Ferguson, County Attorney, and Brian J. Williams, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

DOYLE, J.

John Young appeals his conviction for third-degree burglary. He argues the trial court violated his due process rights by failing to hold a competency hearing. He also asserts violations of his rights to effective assistance of counsel and to a fair trial. We affirm.

***I. Background Facts and Proceedings*.**

Young was charged by trial information in May 2012 with third-degree burglary. Young initially entered a plea of not guilty; however, at a July hearing, Young was prepared to change his plea to guilty as charged, pursuant to a plea agreement with the State. The court conducted a colloquy with Young about his intent to plead guilty, and the following exchange occurred:

> [THE COURT]: Are you [entering a guilty plea] voluntarily and of your own free will?
> [YOUNG]: Yes.
> [THE COURT]: Are you doing this because you are in fact guilty of this charge and for no other reason?
> [YOUNG]: Yes.
> . . . .
> [THE COURT]: Are you on any medication now?
> [YOUNG]: Yes.
> [THE COURT]: What type of medication?
> [YOUNG]: Psychotic [sic] medication.
> [THE COURT]: Is there anything about the medication you're taking or your condition which makes it difficult for you to understand what's going on in here today?
> [YOUNG]: Sometimes.
> [THE COURT]: Well, . . . can you assure me that if at any point today your unclear about anything, you'll speak up and let me know about that so I can clear things up for you?
> [YOUNG]: Sure.

Young proceeded to ask the court and the State detailed questions about his charges and other procedural issues. After Young's questions were answered, the court again asked Young, "[C]an you assure me that if at any point here this

morning you're unclear about anything, [you'll] let me know about that so we can clear things up for you?" and Young answered, "Yes."

The colloquy continued, and Young continued to ask detailed questions about his rights and the procedures involved in the case. He told the court he was "somewhat satisfied" with his trial counsel's services, but he advised the court that he understood what was happening and that he wanted to get "this done and over with." The court then questioned Young as to the specific elements of the crime, and the following dialogue took place:

> [THE COURT]: And did you break and enter into a motor vehicle?
> [YOUNG]: I did do that.
> [THE COURT]: Do you agree that the motor vehicle was not occupied by another person at that time?
> [YOUNG]: Yes, it was not.
> [THE COURT]: And when you did that, did you intend to steal something?
> [YOUNG]: No, I didn't. I did not intend to steal anything.
> [THE COURT]: What did you intend to do?
> [YOUNG]: I intended to protest.
> . . . .
> [YOUNG]: . . . I did not intend to steal it.
> [THE COURT]: Did you feel that you had a right to that purse?
> [YOUNG]: Yes, I do.
> [THE COURT]: Was it your purse?
> [YOUNG]: No, it wasn't.
> [THE COURT]: Did you have permission from the purse owner to take that purse?
> [YOUNG]: I'm not sure. I haven't spoken with her.
> [THE COURT]: Did you have permission beforehand?
> [YOUNG]: Probably.

At that point, Young's trial counsel advised the court he did not believe they could proceed at that time, noting Young's statements were "new information" that he needed to discuss with Young and investigate further. The court agreed, and Young's plea was not changed. Neither Young, Young's trial counsel, nor the

court suggested Young's mental competency might be an issue, nor did they inquire any further as to his mental competency.

Young ultimately opted to proceed to trial, and in August 2012, a jury trial was held. After the State rested and Young's trial counsel's motion for judgment of acquittal was denied, a record was made on Young's decision to testify in his defense against the advice of his trial counsel. Additionally, Young's trial counsel requested a brief continuance at Young's behest that two character witnesses be subpoenaed to testify, one of which was Young's psychiatrist. Young's trial counsel explained he had previously advised Young that bringing up his character and calling these witnesses would open the door to Young's prior convictions and would not be a good trial strategy. Young's trial counsel also stated it had been unknown to him until that day that Young intended to testify. The State resisted, and the court denied Young's request.

Young then took the stand. He testified he was a "high priest" or "king" of the Faith Temple American Baptist Church, explaining his becoming a high priest "was preordained by the forefathers of the American Baptist Church in July 21st of 1978 . . . ." Concerning the purse, Young testified:

> Well, I was walking, and I was conducting surveillance of the area [where the victim's car was located], and I noticed that there was a car parked where [the victim] indicated by way of the prosecution. The windows were down. It appeared as if it was open to the public. I, in fact, went up to the vehicle and peered through the window, and there was a purse on the front seat propped up as if it was to be made apparent. And I reached in the window and I grabbed the purse, seized the purse.

He further explained he "was making observations of [his] surrounding area" for "the purpose of finding access to public spaces for the purpose of obtaining

valuable items," and he seized the victim's purse "to obtain valuable items for the purpose of overcoming [the strain of poverty]." Young testified he believed he had authority to seize the purse "based on [his] office with the church" because, "[a]s a high priest of the church," he had "the right to search and seize anything of value based on strain to overcome poverty." The matter was submitted to the jury, and the jury found Young guilty as charged. No concerns about Young's competency were raised during the multi-day trial.

Young now appeals, contending the trial court erred when it failed to hold a hearing to determine whether he was competent to stand trial. He also asserts his trial counsel was ineffective for failing to request a competency hearing, resulting in an unfair trial. We review these claims de novo. *See State v. Clay*, 824 N.W.2d 488, 494 (Iowa 2012) ("We review ineffective-assistance-of-counsel claims de novo."); *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010) ("[O]ur review is de novo if the district court did not conduct a competency hearing . . . .").

II. Discussion.

A criminal defendant is presumed to be competent, and the burden is on the defendant to rebut the presumption. *Jones v. State*, 479 N.W.2d 265, 270 (Iowa 1991). Iowa Code section 812.3 (2011) provides the procedure to be followed:

> If . . . the defendant's attorney, upon application to the court, alleges specific facts showing that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, the court shall suspend further proceedings and determine if probable cause exists to sustain the allegations.

This statutory procedure satisfies the due process hearing requirement. *State v. Edwards*, 507 N.W.2d 393, 395 (Iowa 1993). "Whether a reasonable person would believe a substantial question of a defendant's competency exists is a legal question." *Id.*

On appeal, "our task is to examine the information before the trial court to determine if at the relevant time an unresolved question of the defendant's competency reasonably appeared." *State v. Kempf*, 282 N.W.2d 704, 707 (Iowa 1979). In making our own evaluation, "relevant considerations include (1) the defendant's apparent irrational behavior, (2) any other demeanor that suggests a competency problem, and (3) any prior medical opinion of which the trial court is aware." *State v. Mann*, 512 N.W.2d 528, 531 (Iowa 1994). Our standard of review is "whether a reasonable judge, situated as was the trial court judge whose failure to conduct an evidentiary hearing is being reviewed, should have experienced doubt with respect to competency to stand trial." *Id.*

Young argues that his testimony "stretched the boundaries of reason and may be indicative of a delusional state of mind." In light of his arguments, Young asserts his ability to effectively assist in his defense was "seriously questionable." The State essentially argues Young's answers may have been unusual, but the record does not establish a competency hearing was required.

Upon our de novo review, we are not convinced a question of competency reasonably appeared within the meaning of section 812.3. Although Young testified he was taking "psychotic" medication, there is no medical evidence addressing competency or that Young was not taking his prescribed medication. In fact, the record before us shows a defendant who was able to consult with his

attorney (even though they disagreed), had an appreciation of the charges against him, had a rational and factual understanding of the proceedings, and who actively participated in his own defense. When questioned by the court at the plea hearing, Young responded coherently, and his testimony does not support the presence of a mental disorder. In his dialogue with the court, Young stated he understood the charges and possible penalties. Young told the court he would inform the court if he did not understand what was going on, and he did make the court aware and ask for an explanation when he had questions.

In addition, the trial court has the ability to observe a defendant's demeanor in the courtroom and is better able to determine whether there is probable cause to question a defendant's competency. *See State v. Johnson*, 784 N.W.2d 192, 195 (Iowa 2010). Although Young's testimony was unconventional, we cannot say it raised a competency issue. *See*, *e.g.*, *United States v*. *James*, 328 F.3d 953, 955 (7th Cir. 2003) (stating many defendants, such as tax protestors, articulate beliefs that have no legal support but such beliefs do not imply mental instability). Young communicated with the court and his trial counsel throughout trial, and we conclude the record affirmatively shows Young had a present ability to appreciate the charge, to understand the proceedings, and to assist effectively in his defense. Consequently, the district court did not err in not ordering a competency examination sua sponte.

For the same reasons, we find his trial counsel was not ineffective for failing to request a competency examination. Even though Young stated he was taking medication, "it is well-established that the mere presence of mental illness does not equate to incompetency." *Jones*, 479 N.W.2d at 270. Here, Young was

articulate, communicated effectively, and testified coherently. We cannot find a reasonable attorney would have doubted Young's competency and taken steps to seek a mental health assessment, given Young's behavior, demeanor, and affirmations of understanding. We conclude Young's trial counsel did not render ineffective assistance in not requesting a competency examination under the circumstances of this case.[1] Accordingly, we affirm Young's judgment and sentence for third-degree burglary.

AFFIRMED.

[1] Because we find trial counsel was effective although he did not request a competency hearing, we do not address Young's alternative claim that trial counsel had a duty to explore the option of mounting an insanity/diminished responsibility defense.