

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEITH L. KAYE,

Defendant-Appellant.

UNPUBLISHED

September 15, 2000

No. 212093

Wayne Circuit Court

LC No. 97-500440

Before: Gribbs, P.J., and Hoekstra and Markey, JJ.

HOEKSTRA, J. (*concurring*).

I agree and join with the majority, but write separately to further explain why, in my opinion, the failure to properly inform defendant of his right to counsel ought not result in awarding him a new trial. After informing the trial court that he wished to represent himself, defendant filed numerous pretrial motions, approximately nine of which were argued before the trial court on three separate dates. In addition to these three appearances, defendant's jury trial lasted four days. On all of these occasions defendant represented himself and gave absolutely no indication to the trial court that he desired or needed an attorney. Under these circumstances, defendant made his decision to proceed knowingly and voluntarily. See *People v Adkins (After Remand)*, 452 Mich 702, 737; 551 NW2d 108 (1996) (Boyle, J., concurring) (The voluntary and knowing standard has been fulfilled and the waiver of counsel is valid where the record illustrates that a defendant made the decision to proceed pro se with his eyes wide open). To validate defendant's claim in this case would be nothing short of providing defendant with an appellate parachute.

/s/ Joel P. Hoekstra