

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BARRY LARON DOOLITTLE,

Defendant-Appellant.

UNPUBLISHED

April 8, 2008

No. 271739

Berrien Circuit Court

LC No. 05-406717-FH

Before: Murphy, P.J., and Smolenski and Meter, JJ.

MURPHY, P.J. (*concurring*).

I concur with the majority in affirming defendant's conviction and sentence; however, I would analyze the self-representation issue differently.

It is evident from the transcript that defendant was acting in a disruptive manner. After counsel had placed a stipulation on the record and indicated that there were no more outstanding matters to address before bringing in the prospective jurors, the following colloquy took place:

Defendant: I've got something, Your Honor.

The Court: Now, Mr. Doolittle, let me start out with you right now, Sir.

Defendant: Okay.

The Court: I want to have a pleasant, as pleasant as it can be a couple of days with you. So any outbursts, you speak thru [sic] your attorney, you don't speak to me directly. I'm going to speak to you directly once and one time only, any outbursts at all, during this Trial, you're going to go back and sit in the holding cell and you're going to watch it on the video, do you understand, Sir? I'm not putting up with any nonsense from you. No outbursts whatsoever, you speak to me thru [sic] your lawyer, you don't speak to me directly. Other than this one time, and one time only, am I clear?

After this discussion, defendant again blurted out a statement when the trial court was addressing and speaking to defendant's attorney. Subsequent discussions between the trial court and defendant regarding defendant's request to represent himself reflect that defendant was

acting in a very disrespectful and argumentative manner toward the court. This behavior was followed by the court stating:

I'm going to deny your request to represent yourself. Based upon the fact that this is an unique circumstance, I don't believe that you[r] request to represent yourself is genuine. I do believe that you intend to disrupt these court proceedings. I further believe *based upon the record we have established here this morning*, that's – it is your intent, Mr. Doolittle, to harass, intimidate, terrorize or threaten the alleged victim in this case, Barbra [sic] Brown thru [sic] your request to represent yourself in this case. So you're request is denied, Sir. [Emphasis added.]

It is quite clear that the trial court was basing its decision on defendant's disruptive behavior in the courtroom that morning, and I conclude that the record adequately supports the conclusion that defendant was acting disruptively. Before a defendant is entitled to self-representation, "the trial court must be satisfied that the defendant will not disrupt, unduly inconvenience, and burden the court or the administration of court business." *People v Williams*, 470 Mich 634, 642; 683 NW2d 597 (2004). Accordingly, I would affirm on the basis of the record and defendant's disruptive behavior.

/s/ William B. Murphy