

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROYAL MANDELL SIMS,

Defendant-Appellant.

UNPUBLISHED

June 3, 2008

No. 277817

Wayne Circuit Court

LC No. 06-014121-01

Before: Davis, P.J., and Murray and Beckering, JJ.

MEMORANDUM.

Defendant appeals as of right his jury trial conviction of first-degree home invasion, MCL 750.110a(2). Defendant was sentenced as a fourth habitual offender, MCL 769.12, to a prison term of eight to 20 years. We affirm.

Defendant's sole contention on appeal was that he was denied his Sixth Amendment right to counsel of his choice when the trial court denied his motion for substitute counsel. This Court reviews a trial court's decision regarding substitute counsel for an abuse of discretion. *People v Akins*, 259 Mich App 545, 556; 675 NW2d 863 (2003); *People v Traylor*, 245 Mich App 460, 462; 628 NW2d 120 (2001).

“An indigent defendant is guaranteed the right to counsel; however, he is not entitled to have the attorney of his choice appointed simply by requesting that the attorney originally appointed be replaced.” *Traylor, supra* at 462, quoting *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991). A substitution of appointed counsel will be granted only where there is a showing of good cause and the substitution will not unreasonably disrupt the judicial process. *Traylor, supra* at 462. “Good cause exists where a legitimate difference of opinion develops between a defendant and his appointed counsel with regard to a fundamental trial tactic.” *Id.*, quoting *Mack, supra* at 14.

Defendant made no showing of good cause for the substitution of appointed counsel. He admitted that he met with defense counsel and that she offered him advice on the case. He sets forth no reason why she should have been replaced. Furthermore, defendant did not seek the appointment of new counsel until the day of trial. Under these circumstances, it is likely that defendant's request for substitute counsel constituted an attempt to delay the proceedings, and the trial court properly determined that substitution would have unreasonably disrupted the

judicial process. Defendant did not claim before the trial court or on appeal that appointed counsel's performance was deficient in any respect.

Finally, defendant has neither asserted nor demonstrated any prejudice resulting from the trial court's decision. The record reflects that appointed counsel adequately represented defendant. At no time has defendant raised any concern about appointed counsel's performance or explained what counsel should have done differently or how the outcome might have been different had substitute counsel been retained. The evidence against defendant was overwhelming, including the testimony of the homeowner and her granddaughter and two Detroit police officers who found that the door had been broken in and defendant had ransacked the kitchen.

Affirmed.

/s/ Alton T. Davis
/s/ Christopher M. Murray
/s/ Jane M. Beckering