

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

WILLIAM K. PHILHOWER	:	Supreme Court Case No. 442, 2004
	:	
Defendant-Below, Appellant	:	Court Below:
	:	Superior Court of the State of Delaware
v.	:	Criminal ID No. 0207000008
	:	
STATE OF DELAWARE	:	
	:	
Plaintiff-Below, Appellee	:	

ORDER

Date Submitted: January 13, 2005

Date Decided: February 7, 2005

Carole J. Dunn, Esquire, Office of the Public Defender, Georgetown, DE

Donald Bucklin, Esquire, Department of Justice, Georgetown, DE

William K. Philhower, Defendant *Pro Se*, Howard R. Young Correctional Institution,
Georgetown, DE

GRAVES, J.

By Order dated January 10, 2005, the Delaware Supreme Court remanded the above-captioned case to Superior Court for the limited purposes of determining the factual matters related to the Defendant's request to waive representation and to represent himself on his appeal to the Delaware Supreme Court.

On February 3, 2005, this Court conducted an evidentiary hearing into this matter.

Upon inquiry by the Court, Mr. Philhower advised that he attended the University of Delaware for 4 years and obtained an Associate Degree in 1967. He has some familiarity with the criminal justice system and represented himself on a prior Superior Court violation of probation in New Castle County.

The Defendant is indigent. He has communicated with private counsel but it does not appear that satisfactory arrangements will be made for him to retain private counsel. He has consulted with other people at the prison and the prison library in making his decision to waive his right to counsel. He expressed a strong desire to represent himself. He is fully aware that he could irreversibly jeopardize his appeal if he fails to comply with the Court's rules and procedures. He is aware of the Supreme Court's practice not to grant oral arguments to *pro se* litigants.

He is aware that the appellate process involves the application of rules of procedure with some technicalities which may be difficult for a non-lawyer to follow or understand. He understands that he will have to comply with the pertinent rules of the Delaware Supreme Court and if he fails to do so, he could jeopardize his appeal.

He understands the meaning of "he who represents himself has a fool for a client". Nevertheless, he wishes to proceed and handle the case himself. He feels confident that he will be able to handle the appeal even though "he may end up shooting himself in the foot". He understands

that he must either accept his court-appointed attorney or proceed *pro se*. He desires to proceed *pro se*.

He understands that if he represents himself he will not be permitted to interrupt or delay the appellate process to secure the assistance of court-appointed counsel later, simply because he has changed his position.

He has filed a Motion to Disqualify his attorney because he has sued them in Federal District Court. He provided a copy of his complaint which makes conclusory allegations against his appointed Public Defender. A discussion of this lawsuit took place wherein I informed the Defendant that the accusations were conclusory. Nevertheless, this issue is moot because the Defendant made it clear that he didn't want any attorney representing him because he wanted to represent himself.

The Defendant and the Court engaged in a colloquy in which the Court is satisfied that the Defendant is fully aware of the pitfalls, disadvantages, and potential consequences of self-representation. Having made this Court aware of his strong desire to proceed *pro se*, I conclude the Defendant has knowingly, intelligently, and voluntarily expressed his desire to waive the right to an attorney and to invoke his right of self-representation.

Under the circumstances, I find the Defendant has voluntarily waived his right to court-appointed counsel and invoked his right to self-representation. Watson v. State, 564 A.2d 1107 (Del. 1989).

IT IS SO ORDERED.