

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID M. WILLIAMS,	§
	§
Defendant Below,	§
Appellant,	§ No. 507, 1999
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
STATE OF DELAWARE,	§ for New Castle County
	§ Cr.A. Nos. IN98-10-1537
Plaintiff Below,	§ through 1540
Appellee.	§

Submitted: May 9, 2000
Decided: May 30, 2000

Before WALSH, HARTNETT, and BERGER, Justices.

O R D E R

This 30th day of May 2000, upon consideration of the briefs of the parties it appears to the Court that:

(1) The defendant/appellant, David M. Williams (“Williams”), was convicted in the Superior Court on two counts of attempted second degree burglary, 11 *Del. C.* § 825(1), possession of burglar tools, 11 *Del. C.* § 828(1) and criminal mischief, 11 *Del. C.* § 811(a)(1). Based on his criminal record, he was subsequently sentenced as a habitual criminal. In this appeal, Wright asserts a single claim of error: that he was denied the right to be present during jury selection because he was removed from the courtroom by the trial judge for alleged disruptive misconduct.

(2) It appears from the record that prior to jury selection, Williams had been warned by the trial judge against disruptive conduct. Thereafter, during jury selection, the court ordered Williams' removal. While twelve jurors had been selected by that point, two additional jurors were selected after Williams' removal. After selection of the jury, Williams returned to the courtroom and the trial court instructed the jury as follows:

Members of the jury, you obviously observed a little disturbance where the Court felt a need to ask that the defendant be removed from the courtroom.

I want to make sure that all of you understand that someone who's accused of a criminal act actually may be innocent and may be disruptive because he or she doesn't understand why he or she's been charged, so that's one possible explanation for his behavior.

Is there any member of the jury who, because of what you saw, would not be able to be fair and impartial?

I see no affirmative responses.

Swear the jury, please.

Williams thereafter returned to the courtroom and was present during the remainder of the trial.

(3) Although the record is unclear as to what exactly Williams did to require his removal from the courtroom, the record does reflect that he used inappropriate language before the jury in connection with his removal. Williams claims that he was entitled to a warning as required by Superior Court Criminal

Rule 23. We note, however, that Williams had previously been warned about disruptive conduct. The trial judge has broad discretion in discharging the responsibility to preserve order and decorum in judicial proceedings. See *Alomari v. State*, Del. Supr., No. 365, 1990, 1991 WL 22374, at *3-4, Horsey, J. (Feb. 14, 1991) (ORDER). In view of the fact that the trial judge gave an immediate and direct instruction concerning Williams' disruptive behavior, we find no abuse of discretion and conclude that the removal did not prejudice Williams' right to a fair trial.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and same hereby is,

AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh
Justice