

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

EMANUEL O'NEAL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-1939

[September 5, 2007]

KLEIN, J.

The trial court allowed appellant to discharge his court appointed counsel without conducting a hearing under *Faretta v. California*, 422 U.S. 806 (1975) and Florida Rule of Criminal Procedure 3.111(d)(2). This left appellant to represent himself on charges of delivery of cocaine and resisting arrest without violence, and he was convicted. The state makes no contention that there was an adequate *Faretta* hearing, but argues that appellant's familiarity with the criminal justice system and his self-representation at a sentencing in an earlier case demonstrated that he was familiar with self-representation. In this case, however, the defendant was not seeking to represent himself, but on the contrary was asking the court to replace his court appointed counsel, with whom he was not satisfied, with other counsel. There was no waiver of the right to counsel and we must accordingly reverse for a new trial.

HAZOURI, J., and METZGER, ELIZABETH A., Associate Judge, concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 05-6732.

Carey Haughwout, Public Defender, and Tom Wm. Odom, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for

appellee.

Not final until disposition of timely filed motion for rehearing