

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Ray Timothy Dampier,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

February 27, 2024

Court of Appeals Case No.  
23A-CR-2151

Appeal from the Lake Superior  
Court

The Honorable Natalie Bokota,  
Judge

Trial Court Cause No.  
45G02-2308-MC-001627

**Memorandum Decision by Judge May**  
Judges Vaidik and Kenworthy concur.

**May, Judge.**

[1] Ray Timothy Dampier appeals following the trial court’s finding that he committed two acts of direct contempt of court over the course of successive hearings. Dampier asserts the trial court abused its discretion when it found him in direct contempt of court. We affirm.

## Facts and Procedural History

[2] On May 12, 2022, the State charged Dampier with murder<sup>1</sup> under trial court cause number 45G02-2205-MR-19. (Appellant’s App. Vol. 2 at 4.) At a pretrial conference on August 15, 2023, Dampier’s counsel explained that she “would like the opportunity to file a motion regarding my client’s right to represent himself.” (Tr. Vol. II at 4.) Dampier’s counsel said she intended to file the motion the next day, and the trial court scheduled a hearing on that motion for August 18, 2023. The court then addressed Dampier:

THE COURT: I am affirming the jury trial for September 5th. Obviously I’ll be seeing you Friday for a hearing on the motion, but I just wanted to remind you that if that trial does go forward September 5th, you can be tried, convicted, sentenced in your absence if you refuse to come to court. Any questions?

THE DEFENDANT: Uh, well, not pertaining --

THE COURT: About what I just told you.

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<sup>1</sup> Ind. Code § 35-42-1-1.

THE DEFENDANT: Well, not pertaining to what you speaking to.

THE COURT: Thank you. That will be all.

THE DEFENDANT: No, however --

THE COURT: No, sir.

THE DEFENDANT: -- I object -- I object --

THE COURT: No. You now have an attorney.

THE DEFENDANT: I object because she's not --

THE COURT: We will now have an attorney --

THE DEFENDANT: --my attorney. You is [sic] not gonna force this lady on me.

(*Id.* at 6-7.) The trial court then indicated it was moving on to a contempt hearing, and Dampier continued talking over the judge. Even when the bailiff and Dampier's counsel attempted to instruct Dampier to stop talking, Dampier continued talking over the judge. The judge instructed Dampier to be quiet and banged her gavel four times, but Dampier kept speaking. Dampier stated: "You don't get to -- you don't get to eliminate my right." (*Id.* at 8.) The judge found Dampier in contempt and sentenced him to six months in jail. The judge also ordered Dampier removed from the courtroom. Instead of exiting the courtroom, Dampier said: "If you're not gonna respect me, don't expect me to

respect you.” (*Id.* at 9.) The judge warned Dampier that he could be held in contempt again and receive another six-month sanction, and Dampier responded: “Well, that’s what we’ll do then . . . until you learn that you’re gonna respect me as a man, as a human being.” (*Id.*) Bailiffs eventually removed Dampier from the courtroom.

[3] On August 17, 2023, Dampier filed a motion to continue his trial date, and the trial court set a hearing on the motion for August 29, 2023.<sup>2</sup> At that hearing, the State indicated that it did not object to the continuance motion, but Dampier interjected:

THE DEFENDANT: Objection. I object.

THE COURT: Motion -- Mr. Dampier, sir, you’re represented by an attorney, and therefore, she speaks for you.

THE DEFENDANT: That’s not true. I have a First Amendment right--

THE COURT: Mr. Dampier --

THE DEFENDANT: (Continuing) -- to speak for myself.

THE COURT: Mr. Dampier, you do not have a First Amendment right.

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<sup>2</sup> The hearing scheduled for August 18, 2023, in Dampier’s murder trial was vacated after he moved to continue his trial.

THE DEFENDANT: I have a Sixth Amendment right to speak for myself.

THE COURT: We'll now have another hearing on the issue of contempt.

THE DEFENDANT: Okay. Well, I'm telling you that --

THE COURT: You've been told previously --

THE DEFENDANT: Well, I'm telling you that I represent myself.

THE COURT: You've been told previously --

THE DEFENDANT: I represent myself. I don't have nobody [sic] representing me.

THE COURT: I find you in contempt.

(*Id.* at 14-15.) The trial court gave Dampier an opportunity to make a statement to the court, and Dampier stated: "So every time I tell you I represent myself, I'm standing on my Sixth Amendment right to represent myself." (*Id.* at 16.) The trial court reiterated its contempt finding and sentenced Dampier to a six-month term in jail as a sanction for his contempt. Dampier continued to speak over the trial court, and the bailiffs removed him from the courtroom.

[4] The pre-trial conference continued after Dampier's removal. The court explained Dampier's behavior was "not only disruptive, but profoundly

disrespectful, and a written record really cannot capture the voice level and the way he shouts at the Court.” (*Id.* at 20.) Dampier’s counsel stated that she tried to ask Dampier to be quiet during the contemptuous episodes, but Dampier continued to shout. The trial court noted Dampier “is a very large man and he does begin shouting and actually moves toward the Judge and toward the bench.” (*Id.* at 21.) The judge also acknowledged that Dampier’s shouting likely prevented her from hearing Dampier’s counsel directing him to be quiet.

## Discussion and Decision

[5] Dampier asserts the trial court abused its discretion when it found him to be in contempt of court at both the August 15, 2023, hearing and the August 29, 2023, hearing. Our standard of review following a finding of contempt is well-settled:

Contempt of court is a *sui generis* proceeding neither civil nor criminal in nature, although both of those labels are used to describe certain categories of contempt. It is soundly within the discretion of the trial court to determine whether a party is in contempt, and we review the judgment under an abuse of discretion standard. An abuse of discretion occurs when the trial court’s decision is against the logic and effect of the facts and circumstances before it. Moreover, in reviewing direct contempt proceedings, we accept as true the statement entered of record by the lower court of the matter constituting the contempt, and interfere with the judgment only where it clearly appears alleged acts do not constitute contemptuous acts.

*Tunis v. State*, 129 N.E.3d 258, 262 (Ind. Ct. App. 2019) (internal quotation marks and citations omitted), *trans. denied*.

[6] “Trial courts are given discretion to manage trial proceedings. In order to effectuate that discretion, a trial court may hold in direct contempt anyone who disturbs the business and proceedings of a court of record while it is open for and engaged in the transaction of its business.” *Rochefort v. State*, 177 N.E.3d 113, 119 (Ind. Ct. App. 2021) (internal citation omitted), *trans. denied*. “Direct contempt involves action in the presence of the court, such that the court has personal knowledge of it.” *Wilson v. State*, 988 N.E.2d 1211, 1218 (Ind. Ct. App. 2013). A trial court’s contempt power rests in the court’s inherent authority, *Bellamy v. State*, 952 N.E.2d 263, 266 (Ind. Ct. App. 2011), *trans. denied*, and our General Assembly has also recognized the power through statute:

Every person who disturbs the business and proceedings of a court:

- (1) by creating any noise or confusion;
- (2) in a court of record; and
- (3) while the court is open for and engaged in the transaction of business;

is considered guilty of a direct contempt of court.

Indiana Code § 34-47-2-1(a).

[7] Dampier contends that “[t]he entire colloquy with the Court only shows that Dampier did not want his Sixth Amendment right to self-representation to be infringed” and his “actions, even if considered assertive, were in no manner confrontational or disrespectful to the Court[.]” (Appellant’s Br. at 5.) However, we disagree with Dampier’s characterization of his behavior as merely attempting to assert his right to self-representation. Before Dampier’s outburst at the August 15, 2023, hearing, his counsel indicated that she intended to file a motion regarding Dampier’s right to represent himself, and the trial court set a hearing on that motion for August 18, 2023. Thus, there was no reason for Dampier to try to assert his desire to represent himself at the end of the August 15, 2023, hearing. Dampier prevented the trial court from moving on with other business by talking over the trial court. He also ignored instructions from the trial court, the bailiff, and his counsel to be quiet, and specifically voiced disrespect for the court. On August 29, 2023, after having been found in contempt on August 15, Dampier again inappropriately interjected and refused to abide by the trial court’s instruction to be quiet. After the trial court ordered Dampier removed from the courtroom, the trial court noted that a cold record is not able to capture the loud volume Dampier used in addressing the court, and the trial court explained that Dampier moved toward the bench while addressing the court. Even if Dampier was attempting to assert his right to self-representation, he was doing so in a way that was confrontational and disrespectful of the court’s authority to maintain control of the courtroom. Therefore, we cannot say the trial court abused its discretion by finding Dampier in contempt during either the August 15, 2023, hearing or the



August 29, 2023, hearing.<sup>3</sup> *See, e.g., Carroll v. State*, 54 N.E.3d 1081, 1087 (Ind. Ct. App. 2016) (trial court did not abuse its discretion in finding defendant in direct contempt of court when defendant repeatedly interrupted the trial judge, spoke in a loud tone of voice, and attempted to physically intimidate a courtroom deputy).

## Conclusion

[8] Given Dampier’s boisterous and disrespectful behavior at each of the two hearings, the trial court did not abuse its discretion in twice finding him to be in direct contempt of court. We affirm the trial court.

[9] Affirmed.

Vaidik, J., and Kenworthy, J., concur.

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<sup>3</sup> At the end of his brief, Dampier asserts that if his contempt findings are not reversed, his case “should be remanded with instructions to impose concurrent sentences as consecutive sentences are inappropriate based on the Defendant’s actions.” (Appellant’s Br. at 13.) However, Dampier does not cite any authority to support this argument. Therefore, it is waived. *See Lyles v. State*, 834 N.E.2d 1035, 1050 (Ind. Ct. App. 2005) (“A party waives an issue where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record.”), *reh’g denied, trans. denied*. Waiver notwithstanding, we cannot say the trial court erred in ordering Dampier to serve his contempt sanctions consecutively when the sanctions are based on contemptuous acts in two different proceedings. *See, e.g., Wine v. State*, 147 N.E.3d 409, 420 (Ind. Ct. App. 2020) (holding post-conviction petitioner failed to show that an objection to his aggregate 720-day sentence would have been sustained when petitioner committed separate acts of criminal contempt over a three-day jury trial), *trans. denied*.