

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.

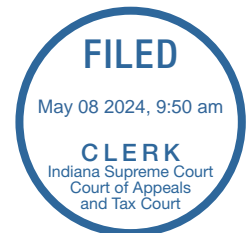


IN THE
Court of Appeals of Indiana

Ronald Wireman,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



May 8, 2024

Court of Appeals Case No.
23A-CR-3007

Appeal from the Jasper Superior Court
The Honorable Russell D. Bailey, Judge

Trial Court Cause No.
37D01-2210-F6-928

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

- [1] In October 2022, the State charged Ronald Wireman with Level 6 felony possession of methamphetamine, Class A misdemeanor driving while suspended, and Class C misdemeanor possession of paraphernalia. Throughout the case, Wireman filed pleadings “indicating that he was not submitting himself to the jurisdiction of the trial court and otherwise requesting proof of the trial court and prosecutor’s authority.” Appellant’s Br. p. 7. At the initial hearing on November 3 and pretrial conference on March 1, Wireman appeared pro se and waived his right to counsel. The trial court advised him at both hearings that he could be tried in absentia if he failed to appear for trial. At the pretrial conference on March 28, Wireman asked for more time to secure counsel. The court set a trial date of June 20, 2023, and again told Wireman that trial could proceed without him if he failed to appear. A status-of-counsel hearing was held on March 15, and Wireman informed the court he hadn’t retained an attorney and was proceeding pro se.
- [2] At the final pretrial conference on May 31, Wireman asserted that he was not waiving his right to counsel but had been unable to retain counsel despite multiple attempts because no counsel would “defend him in the manner that he wishes them to do so. Therefore, he did not hire them.” Tr. p. 4. The trial court found that Wireman had failed to retain counsel “because the attorneys sought would not parrot his view of how to address this case using sovereign citizen arguments.” Appellant’s App. Vol. II p. 38. Noting that Wireman had been advised of his right to counsel many times and “declined multiple opportunities

to be examined for indigent counsel,” the court also found that Wireman was “intentionally playing a cat and mouse game with the Court concerning his right to counsel, and that his actions constitute a waiver of counsel.” *Id.* at 30. The court confirmed the trial date of June 20 and once again warned Wireman he could be tried in absentia if he didn’t attend. Nevertheless, Wireman failed to appear for trial. The court found that Wireman knowingly and voluntarily waived his right to be present at trial, noting it had told him on more than one occasion when trial would be and that it could proceed in his absence if he failed to appear. Wireman was tried in absentia, and the jury found him guilty as charged.

[3] Wireman appeared for his sentencing hearing in November 2023. During its sentencing recommendation, the State noted that Wireman “chose not to participate in his jury trial after being admonished.” Tr. p. 132. Wireman objected, and the court told him to let the State continue but that he was “going to get [his] chance.” *Id.* at 133. When it was Wireman’s turn to present argument, he had the following exchange with the court:

[MR. WIREMAN:] I told you, I don’t consent when you was [sic] having a jury trial. And you – you can go back and look and see many times, I don’t consent whether I’m here or not. I’m not a liar. If I tell you I’m going to be here, I’m going to be here. But, I’ve told you many times, I’m not consenting to it whether I’m here or not. That’s why I never went. Forced me to – the things that don’t apply to me, why would I? You know, the Constitution there [sic] for a reason. To protect me.

THE COURT: Well, Mr. Wireman, as I explained to you – you had a right to be present at your jury trial, and since you were informed of the date while you were here in Court and you chose not to be here, that’s why we held it without you being present.

MR. WIREMAN: Without my consent, yes.

THE COURT: Uh-uh. Okay.

MR. WIREMAN: You know, would you show up to something that don’t [sic] apply to you?

Id. at 136. The court ultimately sentenced Wireman to two years in the Department of Correction.

[4] Now represented by counsel, Wireman argues on appeal that the trial court erred “when it did not intentionally inquire about his failure to attend the jury trial to determine if his failure to do so was knowingly or voluntarily.” Appellant’s Br. p. 10. But a trial court isn’t required to “intentionally inquire” about why a defendant was absent from trial. The court must provide the defendant an opportunity to explain their absence, but this doesn’t require the court to initiate the inquiry. *See Lusinger v. State*, 153 N.E.3d 1162, 1166 (Ind. Ct. App. 2020); *Soliz v. State*, 832 N.E.2d 1022, 1029 (Ind. Ct. App. 2005), *trans. denied*.

[5] Wireman fails to acknowledge that the trial court gave him the chance to present argument at his sentencing hearing, during which he explained—without any disruption by the court—that he was absent because he didn’t

“consent” to trial and it didn’t “apply” to him. Because Wireman had the opportunity to explain his absence from trial, there was no error.

[6] Affirmed.

May, J., and Kenworthy, J., concur.

ATTORNEY FOR APPELLANT

Samantha M. Joslyn
Law Office of Samantha M. Joslyn
Rensselaer, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General
Jesse R. Drum
Assistant Section Chief, Criminal Appeals
Indianapolis, Indiana