

IN THE COURT OF APPEALS OF IOWA

No. 3-198 / 10-2001
Filed May 15, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LARRY ALLEN BELL,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Thomas H. Preacher, District Associate Judge.

Defendant appeals his conviction for driving while barred as a habitual offender. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant Appellate Defender, for appellant.

Larry Allen Bell, Davenport, pro se.

Thomas J. Miller, Attorney General, Kyle Hanson, Assistant Attorney General, Michael J. Walton, County Attorney, and Robert Bradfield, Assistant County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ.

PER CURIAM

On June 26, 2010, a police officer observed Larry Bell driving on a city street. Bell was arrested and charged with driving under suspension while barred as a habitual offender. See Iowa Code §§ 321.555(1), .561 (2009).

In August, Bell filed a pro se motion to dismiss. This motion is identical to the August dismissal motion Bell filed in criminal case AGCR331182, which was based on a June 28, 2010 traffic stop. A joint hearing on both motions was held September 7, 2010. The court denied the motions to dismiss and appointed standby counsel. The court set a pretrial conference for September 30 and set trial for October 4.

Bell was present with standby counsel at the September 30 pretrial conference. Bell asked for a continuance in order to subpoena several state officers. The court denied Bell's motion for continuance, stating Bell "had an opportunity to issue your subpoenas."

Immediately prior to the October 4, 2010 jury trial, Bell sought dismissal, arguing the proceedings violated his constitutional right to travel. The court denied Bell's motion, stating the right of travel does not prevent states from regulating the means of travel. The court addressed and rejected Bell's other grounds for dismissal.

During voir dire, Bell introduced himself to the jury as a prior history teacher with knowledge of the Constitution. The State offered into evidence, without objection by Bell, "the certified record of Larry Allen Bell pursuant to [Iowa] Code section 321.10, it's a public record." During cross-examination, Bell agreed he was the only person in "a motorized vehicle, with the engine running

and going forward” on June 26. He also admitted he does not have a state-issued driver’s license. The jury found Bell guilty of driving while barred as a habitual offender.

At the start of his December 1, 2010 sentencing hearing, Bell presented and argued a “Motion Challenging the Jurisdiction of This Court.” The court denied the motion. Bell was sentenced to an indeterminate term of incarceration not to exceed two years.¹ He now appeals.

Bell first argues the court erred in admitting the certified copy of his driving record because the exhibit violates Bell’s constitutional right to be confronted with the witnesses against him.² Bell recognizes the certified abstract of his driving record was admissible under *State v. Shipley*, 757 N.W.2d 228, 231 (Iowa 2008), but argues the more recent United States Supreme Court case, *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009), requires a different result. He requests we overrule *Shipley* and remand for a new trial without the use of his certified driving record.

We assume error is preserved. We review de novo. *Shipley*, 757 N.W.2d at 231. We find no merit to Bell’s argument. The *Melendez-Diaz* case did not involve a copy of an existing governmental driving record. Accordingly, *Shipley* still governs. See *Shipley*, 757 N.W.2d at 237 n.2.³

¹ In an opinion filed contemporaneously with this case, we affirm Bell’s conviction for the June 28 driving offense. See *State v. Bell*, No. 10-2007, ___WL___ (Iowa Ct. App. May 15, 2013).

² We find no merit to Bell’s claim the court abused its discretion in denying his motion for a continuance “because [he] had a constitutional right to be confronted with the witnesses against him.” Bell’s failure to subpoena witnesses was due to his own failure to act in a timely manner.

³ We reached the same conclusion that *Melendez-Diaz* does not require a second look at *Shipley*, in *State v. Wixom*, No. 11-1278, 2012 WL 2123309, at *2 (Iowa

Second, Bell argues the court erred in failing to sua sponte order a mental competency evaluation because the arguments he presented at trial had no legal basis. See Iowa Code § 812.3. The State argues while “Bell’s misunderstanding of the law prevented him from making a persuasive legal argument, it did not equate to a mental disorder that rendered him incompetent to stand trial.”

We review de novo. *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010). “We presume a defendant is competent to stand trial,” and a defendant has the burden of proving incompetency by a preponderance of the evidence. *Id.* at 874.

Our de novo review of the record reveals nothing suggesting the trial court should have suspended the proceedings and ordered Bell to be evaluated for competency. While Bell’s claims and defenses were ultimately determined to be meritless, he communicated effectively and testified coherently. There is no evidence of irrational behavior, and his eccentric beliefs do not raise an issue of mental competency in the circumstances of this case. See *United States v. James*, 328 F.3d 953, 955 (7th Cir. 2003) (stating many defendants articulate beliefs that have no legal support but such beliefs do not imply mental instability).

Bell has not shown the district court violated his constitutional rights by failing to suspend the proceedings and order a competency evaluation.⁴

We affirm Bell’s conviction for driving while barred as a habitual offender.

AFFIRMED.

Ct. App. June 13, 2012) (driving record), and *State v. Redmond*, No. 10-1392, 2011 WL 3115845, at *6 (Iowa Ct. App. July 27, 2011) (certified record of convictions).

⁴ The State also asserts Bell has failed to succeed with the identical competency claim on three separate occasions: *State v. Bell*, No. 11-0814, 2012 WL 5614002, at *2 (Iowa Ct. App. Nov. 15, 2012); *State v. Bell*, No. 11-1263, 2012 WL 3590752, at *2 (Iowa Ct. App. Aug. 22, 2012); *State v. Bell*, No. 11-1267, 2012 WL 3196646, at *1 (Iowa Ct. App. Aug. 8, 2012).