

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2015-CA-000984-MR

ORLANDO JAY SAXTON

APPELLANT

v. APPEAL FROM GRAVES CIRCUIT COURT  
HONORABLE TIMOTHY C. STARK, JUDGE  
ACTION NO. 14-CR-00305

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: D. LAMBERT, MAZE, AND VANMETER, JUDGES.

MAZE, JUDGE: Orlando Saxton appeals from an order of the Graves Circuit Court holding him in contempt of that court and sentencing him to a total of twenty-eight days in jail for events occurring in court on May 18, 2015. Saxton contends that the trial court abused its discretion when it held him in contempt for speaking after the court ordered him to be quiet. After our review of the record,

including video record of the hearing, and considering the circumstances surrounding the trial court's decision, we observe no abuse of the trial court's considerable discretion. Therefore, we affirm.

### **Background**

On December 19, 2014, a Graves County grand jury indicted Orlando Saxton on charges of fleeing and evading police and being a persistent felony offender. The trial court appointed Saxton counsel from the Department of Public Advocacy who subsequently waived Saxton's right to a preliminary hearing. Saxton was not present when his counsel waived this right because he was in custody elsewhere.

Saxton appeared in court with appointed counsel on May 18, 2015, on counsel's motion for a speedy trial. During the court's attempt to schedule a trial date with counsel, Saxton spoke politely but freely to the court, voicing his desire to have trial as soon as possible. After the court asked whether a certain date was agreeable to the Commonwealth, but before the Commonwealth could respond, Saxton voiced his concern over a motion he filed but which the court and Commonwealth had not received. Saxton asked the court how he could successfully or properly file his motion with the court. The court responded that he should speak with his attorney who could make motions on his behalf. Saxton then looked at his attorney and asked, "You going to file that motion for me since you're smiling and you think it's funny?" A prolonged, contentious, and unorthodox exchange between client and counsel ensued with both standing before

the court on the record. This dialogue eventually deteriorated into the court, counsel, and Saxton speaking over each other.

Ultimately, the trial court instructed Saxton that the court could not give him legal advice and stated, for a second time, that Saxton should speak with his attorney regarding his concerns. Immediately after the trial court announced that the proceedings were “done,” Saxton turned to his counsel and asked, “Do I have a right to a preliminary hearing?” Saxton’s counsel began to answer the question, but the trial court interrupted:

COURT: Mr. Saxton, do you understand me?

SAXTON: I really don’t, sir. I don’t understand nothing that’s going on.

COURT: OK, here is what you need to understand: be quiet in the courtroom. If you have questions, talk to your attorney outside the courtroom.

SAXTON: The law says that I have a right to speak out in court.

COURT: You do. And you have the right to be held in contempt. I have ordered you to be quiet.

As the bailiff led Saxton out of the courtroom, Saxton said to the court, “Good day, sir.” The trial court replied, “Mr. Saxton, I told you to be quiet. I find you in contempt [and] sentence you to fourteen days.” Saxton again said, “thank you, sir,” to which the court replied, “fourteen more [days].”

In its May 21, 2015 Order of Contempt and Incarceration, the trial court found that Saxton had “failed to be silent, even after being warned multiple times by the Court.” The order formally sentenced Saxton to twenty-eight days for contempt, suspending and holding in abeyance twenty-one days of that sentence on

the condition that Saxton conduct himself properly during future appearances.

Saxton now appeals from that order.

### **Standard of Review**

A trial court possesses “nearly unlimited discretion” when wielding its contempt powers. *Meyers v. Petrie*, 233 S.W.3d 212 (Ky. App. 2007) (citing *Smith v. City of Loyall*, 702 S.W.2d 838, 839 (Ky. 1986)). Accordingly, we review the trial court’s decision to hold Saxton in contempt for an abuse of that court’s considerable discretion, reversing only if the decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles. *See Commonwealth v. English*, 993 S.W.2d 941, 945 (Ky. 1999).

### **Analysis**

Contempt is defined as “the willful disobedience toward, or open disrespect for, the rules or orders of a court.” *Commonwealth v. Burge*, 947 S.W.2d 805, 808 (Ky. 1996). Criminal contempt, imposed as measure of punishment on an individual, includes conduct or acts which “obstruct the court’s process, degrade its authority, or contaminate its purity.” *A.W. v. Commonwealth*, 163 S.W.3d 4, 11 (Ky. 2005). Direct contempt – that which is committed in the presence of the court – is “an affront to the dignity of the court. It may be punished summarily by the court, and requires no fact-finding function, as all the elements of the offense are matters within the personal knowledge of the court.” *Burge* at 808.

On appeal, Saxton contends that the trial court's decision was unreasonable and unfair. He argues that he did not "disobey[] a valid court order, talk[] loudly, act[] boisterously, or attempt[] to prevent the judge or any other officer of the court from carrying on his court duties." (quoting *Craig v. Harney*, 331 U.S. 367, 376, 67 S. Ct. 1249, 1225, 91 L. Ed. 1546 (1947)). We must disagree.

Saxton's conduct during the hearing was, by definition, contempt. The trial court instructed him three times to direct questions concerning his case and pending or necessary motions to his attorney outside of court. Saxton nevertheless continued asking his attorney questions on the record, in front of the court, even after the trial court announced that the hearing was "done." Polite and inquisitive as he was for most of the hearing, Saxton repeatedly spoke out of turn, over his counsel, over the court, and eventually in direct and intentional contravention of a clear order from the court to be silent. This is sufficient for this Court to conclude that a finding of contempt fell within the discretion of the trial court.

### **Conclusion**

While a criminal defendant is certainly entitled to speak in court and to inquire of the court or his counsel when he has questions, he does not have the right to do so in whatever manner he chooses. While Saxton was frustrated and ill-informed concerning the course his case was taking, that fact did not entitle him to disregard, however politely, the authority and dignity of the trial court. The

Graves Circuit Court's May 21, 2015 Order of Contempt and Incarceration is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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