

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
August 26, 2014

v

ROBERT DEANGELO DEXTER,
Defendant-Appellant.

No. 315797
Jackson Circuit Court
LC No. 12-004350-FH

Before: SAAD, P.J., and OWENS and K. F. KELLY, JJ.

PER CURIAM.

Defendant appeals his jury conviction for “prisoner in possession of a weapon” under MCL 800.283(4). For the reasons stated below, we affirm.

I. FACTS AND PROCEDURAL HISTORY

Defendant is a prisoner at the Cooper Street facility in Jackson. During a search of his person, a prison guard discovered that defendant had concealed a shank in his pocket. The prosecutor charged defendant with violating MCL 800.283(4), and a jury convicted him of the same after trial. On appeal, defendant argues that: (1) the trial court erred when it allowed him to represent himself at trial; and (2) deficiencies in the arrest warrant divested the trial court of jurisdiction.

II. ANALYSIS

A. WAIVER OF COUNSEL

Before a court grants a criminal defendant’s request to waive his right to counsel and proceed pro se, the court must find the following: (1) defendant’s request is unequivocal; (2) his request is knowing, intelligent, and voluntary; and (3) “defendant will not disrupt, unduly inconvenience, and burden the court and the administration of the court’s business.” *People v Anderson*, 398 Mich 361, 367–368; 247 NW2d 857 (1976). The court is only required to make the above findings when the defendant initially makes a request to proceed pro se. *People v Russell*, 471 Mich 182, 190; 684 NW2d 745 (2004). Only, if, “in the judge’s opinion, the defendant no longer clearly understands the options afforded to him, and the disadvantages of each,” should the judge “once again engage in the extensive *Anderson* litany before obtaining either a valid waiver or a request for counsel.” *People v Lane*, 453 Mich 132, 137–138; 551

NW2d 382 (1996).

Further, a court may not allow defendant to waive counsel without “(1) advising the defendant of the charge, the maximum possible prison sentence for the offense, any mandatory minimum sentence required by law, and the risk involved in self-representation, and (2) offering the defendant the opportunity to consult with a retained lawyer or, if the defendant is indigent, the opportunity to consult with an appointed lawyer.” MCR 6.005(D). The court is also required to comply with MCR 6.005(E), which mandates that “the record show that the court advised the defendant of the right to an attorney and informed the defendant that an attorney would be appointed for him if the defendant were indigent, and that defendant either waived the right to counsel or requested a lawyer.” *Lane*, 453 Mich at 137.

Here, defendant claims that the circuit court erred when it allowed him to proceed pro se without first finding the factors mentioned in *Anderson*. But defendant’s initial waiver occurred in district court. Nothing in the record indicates the circuit court felt defendant no longer understood the consequences of his pro se representation.¹ It was therefore not required to repeat the “litany” of findings mentioned in *Anderson*. *Lane*, 453 Mich at 137–138.

In any event, even if the trial court made such an error, defendant failed to show it affected his substantial rights. *People v Carines*, 460 Mich 750, 763–764; 597 NW2d 130 (1999). The evidence overwhelmingly established that defendant, while in prison, possessed a sharpened piece of metal wire that was approximately seven inches long. Defendant admitted that the piece of metal had the potential to be a weapon and that it was in his pocket. An officer testified that this type of weapon was commonly used to stab other inmates.² Accordingly, defendant has not shown that any supposed error affected his substantial rights.³

¹ Moreover, defendant failed to provide the transcripts from the district court hearing, and he specifically indicated that he is not appealing any issue related to the district court hearing. “Because defendant has failed to provide this Court with a transcript of all pretrial proceedings, we have no record to review this claimed error and thus consider it abandoned on appeal.” *People v Thompson*, 193 Mich App 58, 61; 483 NW2d 428 (1992). Thus, defendant has abandoned any claim pertaining to his initial waiver of counsel. *Id.*

² See *People v Osuna*, 174 Mich App 530, 532; 436 NW2d 405 (1988).

³ Defendant’s claim that his arrest warrant was defective has no merit whatsoever. “[W]hen an invalid arrest warrant is obtained, the question becomes whether the officer had probable cause to arrest.” *People v Mayberry*, 52 Mich App 450, 451; 217 NW2d 420 (1974). “In order to lawfully arrest a person without a warrant, a police officer must possess information demonstrating probable cause to believe that an offense has occurred and that the defendant committed it.” *People v Cohen*, 294 Mich App 70, 74–75; 816 NW2d 474 (2011) (citation omitted). Here, at the time the warrant was issued, the police had ample probable cause to arrest defendant. “Since the police had probable cause to arrest in the instant case, defendant’s allegation of error is without merit.” *Mayberry*, 52 Mich App at 451.

Affirmed.

/s/ Henry William Saad

/s/ Donald S. Owens

/s/ Kirsten Frank Kelly