

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
February 21, 2012

v

JAMES HOWARD WRIGHT, JR.,
Defendant-Appellant.

No. 302108
Oakland Circuit Court
LC No. 2010-233694-FH

Before: OWENS, P.J., and JANSEN and MARKEY, JJ.

PER CURIAM.

Defendant appeals by right his jury-trial conviction of uttering and publishing, MCL 750.249, for which he was sentenced as a third habitual offender, MCL 769.11, to 34 months to 28 years in prison. We affirm.

Defendant argues only that the trial court erred by failing to inquire into whether his arguments with defense counsel provided good cause for the appointment of substitute counsel. Defendant did not move for the substitution of counsel in the trial court. Accordingly, this issue is unpreserved. *People v Metamora Water Serv, Inc*, 276 Mich App 376, 382; 741 NW2d 61 (2007). We review this unpreserved issue for plain error affecting defendant's substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

The appointment of substitute counsel is warranted only upon a showing of good cause and only when substitution will not unreasonably disrupt the judicial process. *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991). Good cause exists when a legitimate difference of opinion develops between a defendant and his appointed counsel with regard to a fundamental trial tactic. *Id.* Defendant argues that despite his failure to move for the substitution of counsel, the trial court had a duty to inquire further into the state of the attorney-client relationship. Defendant cites *People v Bass*, 88 Mich App 793, 802; 279 NW2d 551 (1979), wherein this Court held that "when [a] defendant alleges the existence of a dispute leading to a destruction of communication and a breakdown in the attorney-client relationship, the judge is obligated to inquire whether such allegations are true." In *Bass*, the defendant first wrote a letter to the trial court that expressed his dissatisfaction with his attorney's representation at trial. *Id.* at 800. At the subsequent hearing regarding defendant's motion for a new trial, the defendant "vehemently" expressed his dissatisfaction with his defense counsel and requested that a new attorney be appointed. *Id.* at 801. This Court held that the defendant's letter and complaints at the hearing

implied that there had been a breakdown in the attorney-client relationship, and that “the trial judge erred in failing to make further inquiries into the dispute between defendant and his attorney.” *Id.* at 802.

In the present case, on the other hand, the only statements that defendant made concerning his dissatisfaction with trial counsel were either not directed at the trial court (“[y]ou ain’t my lawyer”) or conditional (“I’m [a]bout ready to fire this guy, man”). Moreover, while defendant and his counsel disagreed concerning defendant’s request to strike certain prosecution witnesses and whether defendant should testify, they continued to communicate and work together at trial. Indeed, defense counsel put defendant on the stand to testify. The trial court did not have a duty to inquire further into the attorney-client relationship because defendant’s statements and actions did not imply a breakdown of that relationship.

Moreover, even if defendant had timely requested the appointment of substitute counsel, he cannot show that he would have been entitled to a different attorney. A defendant’s general unhappiness with counsel’s representation does not amount to good cause. *People v Strickland*, ___ Mich App ___; ___ NW2d ___ (issued July 28, 2011; Docket No. 298707), slip op at 2. Also, disagreements with regard to trial strategy, including what evidence to present and what arguments to make, do not warrant the appointment of substitute counsel. *Id.*, slip op at 3. Defendant’s expressions of unhappiness with defense counsel’s representation and defendant’s disagreement with defense counsel’s trial strategy were not enough to show good cause in this case. See *id.* Lastly, we note that defendant had ample time to seek the appointment of a new attorney if he was truly dissatisfied with counsel’s performance. See *People v Flores*, 176 Mich App 610, 614; 440 NW2d 47 (1989). This he did not do. We perceive no plain error requiring reversal. *Carines*, 460 Mich at 763.

Affirmed.

/s/ Donald S. Owens
/s/ Kathleen Jansen
/s/ Jane E. Markey