IN THE
TENTH COURT OF APPEALS

No. 10-19-00183-CR

LEROY LEE RANDLE,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 19th District Court
McLennan County, Texas
Trial Court No. 2018-242-C1

MEMORANDUM OPINION

In one issue, appellant, Leroy Lee Randle, complains that the trial court abused its discretion by denying him the right to represent himself at trial. We affirm.[1]

[1] We note that appellant's original appellate counsel filed a motion to withdraw and *Anders* brief in this matter. Because we considered the issue of self-representation to be an arguable issue, we abated the matter for appointment of new counsel to brief the issue of self-representation, as well as any additional arguable issues. Though appellant's original appellate counsel provided a robust discussion of self-representation in his *Anders* brief, appellant's new appellate counsel has further expounded on that discussion and argued that appellant's conviction should be reversed because the trial court abused its discretion by denying appellant his right to self-representation.

I. BACKGROUND

Appellant was charged by indictment with aggravated robbery with an enhancement allegation and a habitual allegation. At the conclusion of trial, the jury found appellant guilty of the charged offense, found the enhancement and habitual allegations to be true, and sentenced appellant to ninety-five years' incarceration in the Institutional Division of the Texas Department of Criminal Justice. The trial court certified appellant's right of appeal, and this appeal followed.

II. ANALYSIS

In his sole issue on appeal, appellant argues that the trial court abused its discretion by denying him the right to represent himself at trial despite "dozens of requests" and a finding that he was competent to stand trial. We disagree.

A. Standard of Review & Applicable Law

In a case involving a defendant's request to represent himself and the trial court's subsequent denial of this request, the Court of Criminal Appeals stated the following:

> In 1960, the United States Supreme Court decided *Dusky v. United States*, in which it defined the constitutional standard for competence to stand trial: "[1] whether [the accused] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and [2] whether he has a rational as well as factual understanding of the proceedings against him." Fifteen years later, in *Faretta v. California*, the Court considered whether a defendant in a state criminal trial has a constitutional right to proceed *pro se* when the defendant voluntarily and intelligently elects to do so. The Court concluded that the Sixth and Fourteenth Amendments to the federal Constitution prohibit the State from "hal[ing] a person into its criminal courts and there forc[ing] a lawyer upon him, even when he insists that he wants to conduct his own defense." And in 1993, the Court held

that the standard for waiving the right to counsel is no higher than for competency to stand trial in *Godinez v. Moran*.

Less than two years later, in *Indiana v. Edwards*, the Court built on *Dusky*, *Faretta*, and *Godinez.* In *Edwards*, the Court considered the issue now before us—whether the federal Constitution requires a state trial judge to allow a mentally ill defendant, upon request, to proceed *pro se* at trial. The Court noted that it had not addressed the "relation of the mental competence standard to the right of self-representation" in its previous cases. Ultimately, the Court recognized a "mental-illness-related limitation on the scope of the self-representation right." It held that

> the Constitution permits judges to take a realistic account of the particular defendant's mental capacities by asking whether a defendant who seeks to conduct his own defense at trial is mentally competent to do so. That is to say the Constitution permits States to insist upon representation by counsel for those competent enough to stand trial under *Dusky* but who still suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves.

In reaching this conclusion, the Court took into account the erratic character of mental illness and determined that "the trial judge . . . will often prove best able to make more fine-tuned mental capacity decision, tailored to the individualized circumstances of a particular defendant.

In deciding *Edwards*, the Court specifically declined to overrule *Faretta*. It also declined to adopt the more specific standard proposed by Indiana, stating that such a standard would "deny a criminal defendant the right to represent himself at trial where the defendant cannot communicate coherently with the court or a jury." The Court held "only that the lack of mental competence can under some circumstances form a basis for denying the right to proceed *pro se*."

As the Supreme Court noted in *Edwards*, the trial judge is in the best position to make the decision of whether a mentally ill defendant is competent to proceed *pro se*. Accordingly, since this is a mixed question of law and fact that turns on an evaluation of credibility and demeanor, we review the trial judge's ruling for an abuse of discretion. We afford almost total deference to a trial judge's rulings on mixed questions of law and fact

> when the resolution of the issue turns on an evaluation of credibility and demeanor. We view the evidence in the light most favorable to the trial judge's ruling. And we will imply any findings of fact supported by the evidence and necessary to support the trial judge's ruling when the judge failed to make explicit findings.

Chadwick v. State, 309 S.W.3d 558, 560-61 (Tex. Crim. App. 2010) (internal citations & footnotes omitted).

B. Discussion

The record reflects that, at the urging of defense counsel, the trial court ordered a competency evaluation of appellant prior to trial. Psychologist William Lee Carter conducted the evaluation and determined that appellant was competent to stand trial, although Dr. Carter diagnosed appellant with antisocial personality disorder and paranoid personality disorder. Dr. Carter recounted that appellant believes he is a victim of a government conspiracy, which includes attempts to poison his food. Dr. Carter also noted in his report for the trial court that appellant,

> has a history of aggression and can be intimidating. It seems likely that he uses his imposing manner to overpower people. . . . Social skills are deficient, as highlighted by a marked lack of concern for what others think. . . . If he says or does [some]thing to offend people, he sees it as their problem, not his.

At the arraignment hearing, appellant requested to represent himself, "because it's like a conspiracy with the charges. I was involved with—with people trying to take my life and—and law enforcement and other people involved in this charge—in this case that I'm trying to take my life, and I—the reason I stole something was because—." On the

State's motion, the trial court appointed appellant an attorney to help decide whether appellant would proceed pro se. Appellant told the trial judge that he had seen a doctor with MHMR in the past and that he receives SSI benefits for a head injury, "but it happened some years ago due to the situation partly that I've been in here, like conspiracy charges on others that's involved in the law enforcement and people that was involved with—."

At the first pre-trial conference, the trial judge noted that appellant had not been complying with the orders of the deputies and the jail. Appellant alleged that the bailiffs and jailers had "been treating me ill. They been putting poison and drugs and feces in my food." Appellant later complained about his appointed lawyer, stating that:

> But she say I don't have no proof—I don't have no rights to nothing. So I don't want to have my lawyer. That's why I didn't file for no lawyer. I ain't got no justice since I've been here. I don't want no lawyer. I'll be my own lawyer, my own lawyer, judge, and jury. . . . The way the people treated me in this town, I know what happened to me.

When the trial judge informed appellant that he does not have the ability to be his own judge and jury, appellant responded, "I think I do. The way the people treated me in this town. I know what happened to me."

Later in the hearing, defense counsel, the prosecutor, and the trial judge discussed the absence of video recordings of the alleged offense in this case, appellant complained:

> If I robbed the store at that hour, at that minute, they need that—they need that evidence. They need that evidence to prove that I committed a robbery or a murder or whatever the crime situation may be. They need that evidence showing that I committed a crime. If I just stole or I just committed

> a murder or a robbery, they need that evidence. So it shouldn't be no—no—no—no reason to saying they don't have this video because it should be there. If I committed a crime—they say I committed a robbery, an armed robbery. I didn't commit an armed robbery for a bottle of water and a pack of cigarettes. . . . I didn't steal no money.

The trial court then admonished appellant that anything he says could be used as evidence against him. Nevertheless, appellant exclaimed, "I committed this crime, it should have been there." The trial judge then tried to explain by analogy that, even though there was no video of appellant in the courtroom, that does not change the fact that he was there. Appellant responded,

> I know I'm in reality. I've always been in reality. All my life I've been reality all over Waco and America. I've been in reality what has been happening, what they have shown on TV, movies, commercials, and everything else with my face on it, all these commercials and movies that I know I produced it.

Thereafter, appellant interrupted the proceedings by stating that, "Standing right here in court trying to prove my case, trying to prove my case about the people that did ill to me." The trial court explained that appellant did not have to prove anything. After a discussion about plea offers, appellant interjected that, "I'm not accepting anything," and that he intended to,

> file conspiracy charges on my so-called peers in this court and the Highway 6 and Waco Police Department and America—Texas, Waco, and America for the criminal charges—for the criminal activity that been putting up on me. I've got gun wounds, I've got stab wounds, I've got all that. I know about the commercials. I got a book in my cell with my face on it. . . . Yeah, I sure do. The Rise of the Antichrist, William Johnstone. Got my face on it with Tony Randall.

At the second pre-trial conference, which was conducted on the first morning of trial, appellant refused to change out of his jail clothing into civilian clothing. After the trial court explained that he was trying to ensure appellant got a fair trial, appellant once again complained about past wrongs allegedly done to him,

> Your Honor, you say you want—you don't want to show prejudice against—against me, but this town and this state and this country already showed prejudice against me by not giving me justice. From—from 45 years of my while, entire life, I've haven't had the—the rights as a citizen as—as a—a person in this country. My rights been tooken away from me for 45 years for everything they took from me. I was robbed. I've been robbed my whole life. . . . If I ain't got no justice or no fairness through my whole life, it ain't going to happen right now.

When defense counsel tried to intervene, appellant stated,

> My whole—the people—the so-called that call themselves my friend has treated me with evil, treated me will illness. The last time I was here I said people treated me with illness. Illness is a sickness, like a person get your disease. They treat you with—like a dog in a cage that—and you have no care for them. That's how I've been treated all my life. I know about the books and music and everything else they show on TV, the commercials and everything else. I ain't had one dollar ($1.00), not one dollar ($1.00), not anything about the money. It's not even about the money. It's about how I was treated as a—like an animal, like a wild animal, like a man hunts for animals in the—in the—in the field.

A subsequent attempt to intervene by defense counsel was met with the following diatribe:

> I'm very—I'm very competent of myself. I know what's going on. I'm aware—I've been aware of all my life what's—what's been going on in my life. There ain't nothing that I wasn't aware of when someone did wrong to me, led me into the darkness and tried to take my life. I got some bullet wounds. I got the bullet wounds and the stab wounds. I got all the wounds to prove . . . . Even the books. I have books with my faces on it.

The trial judge then implored appellant to change his clothes, and appellant once again refused. When asked if he had anything else to say on the record, appellant mentioned:

> In jail at Highway 6 they fed me drugs and poison in the food, but when I went off on the police, they—they treated me like I was crazy. I ain't crazy. I know when I eat some poison or some drug or you blow some kind of mustard gas out the vents on me. I know when I'm being tortured. Forty-five years I've been tortured. I've got bullet wounds. I've got bullet—stab marks. I know about Tony Randle's death. I know about Willie James Randle's death. I know about all these deaths. I was there to—to see it. I was there to—to—to know what was going on, the rape, murder and robbery.

After more requests by appellant to represent himself, as well as additional outbursts and argument from appellant, the trial court conducted an extensive inquiry into appellant's ability to represent himself and provided admonishments to appellant. Appellant indicated that he has a ninth-grade education. Additionally, the trial court expressed concern that appellant tended to provide lengthy, paranoid statements that had the potential of incriminating appellant. Moreover, appellant acknowledged that he was unfamiliar with the rules of evidence and the rules of criminal procedure; that he did not know how to subpoena witnesses; and that he had no witnesses to testify on his behalf. Appellant denied knowing what voir dire is, and when asked if he understood the potential range of punishment, appellant responded: "what you all wished upon me, anyway, by not being fairly treated in this town or this state." Furthermore, appellant stated the following in response to a question about his understanding of how to question

witnesses: "I ask them questions about what he alleged—accused me of criminal charges that I'm standing here for." Regarding objections, appellant noted, "I object to something that's—that's not true." Finally, when asked why he would want to represent himself, appellant responded, "Like I said once before, I've been representing myself for 45 years through all the evil and torment I've been through in my life, and I'm still going through it every day in the jail watching people that can try to take my life and rape and murder me."

The trial court ultimately found appellant incompetent to represent himself and provided the following explanation for the decision:

> THE COURT: All right. The Court has had considerable opportunity now to observe Mr. Randle in the courtroom. The matters that he's just uttered have been typical of his remarks throughout the trial, interrupting people, refusing to let—to allow people to help him, and while I believe he is competent to stand trial, having observed his demeanor, his attitude, his choice of words, his ability to understand what he's charged with and his refusal to take advantage of the advice of counsel and of the Court and of the State, for that matter, the answers to the questions I have asked him about representing himself, all prove to the Court that he lacks the competency to help himself, because if I allow him to do that, it's almost certainly going to result in a conviction and a maximum sentence, because he cannot help but incriminate himself when he opens his mouth, and we're trying to protect his rights.

As detailed above, the trial court observed appellant's demeanor and evaluated his statements and responses. This included appellant's obstinance and refusal to directly

respond to simple questions; appellant's numerous outbursts in the courtroom; appellant's lengthy, paranoid statements; appellant's refusal to leave the holding cell during the punishment phase of trial; and appellant's refusal to change out of jail clothes for trial. Viewing the evidence in the light most favorable to the trial court's ruling, we conclude that the trial court was reasonable in concluding that appellant was not competent to represent himself. *See Edwards*, 554 U.S. at 176-77, 128 S. Ct. at 2387; *see also Chadwick*, 309 S.W.3d at 561, 563. Accordingly, we cannot say that the trial court abused its discretion when it denied appellant's request for self-representation. *See Chadwick*, 309 S.W.3d at 561, 563. We overrule appellant's sole issue on appeal.

III. CONCLUSION

We affirm the judgment of the trial court.

JOHN E. NEILL
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Neill
Affirmed
Opinion delivered and filed August 5, 2020
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