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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-759

Filed: 21 April 2020

Wake County, Nos. 17 CRS 220317, 220318, 220319

STATE OF NORTH CAROLINA

v.

DARYL LAMONT JONES

Appeal by defendant from judgments entered 21 February 2019 by Judge A. Graham Shirley in Wake County Superior Court. Heard in the Court of Appeals 31 March 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Alesia Balshakova, for the State.

Stephen G. Driggers for defendant.

ARROWOOD, Judge.

Daryl Lamont Jones (“defendant”) appeals from judgments entered upon his convictions for two counts of assault on a law enforcement officer inflicting injury and one count each of felony possession of cocaine, possession of up to one-half ounce of marijuana, resisting a public officer, and injury to personal property. Defendant has lost his right to appeal because his notice of appeal was filed more than 14 days after

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entry of judgment and did not certify service upon the State, as he acknowledges in his Petition for *Writ of Certiorari* requesting our discretionary review of the proceedings below. *See* N.C.R. App. P. 4(a)(2), 4(b), 26(d) (2020). In our discretion, we elect to deny the same and dismiss defendant’s appeal.

On appeal, defendant argues that the trial court erred by failing to “make[] thorough inquiry” and determine that he “[c]omprehend[ed] the nature of the charges . . . and the range of permissible punishments” before allowing his request to proceed *pro se*, as required by N.C. Gen. Stat. § 15A-1242 (2019). The record reveals that defendant’s own behavior invited any error he complains of by preventing the court from conducting such an inquiry.

On 31 May 2018, the trial court heard a motion to withdraw from defendant’s first counsel pursuant to defendant’s request to proceed *pro se*. At this hearing, the court attempted to conduct the inquiry mandated by N.C. Gen. Stat. § 15A-1242. The inquiry was cut short when defendant refused to answer any further questions and invoked his Fifth Amendment right against self-incrimination. The court then explained the necessity of its inquiry to defendant:

So Mr. Jones, let me explain something to you. . . . I am obligated under North Carolina law, if someone wants to represent themselves, there is a series of questions that the Supreme Court requires me to ask, and unless you can answer them, I can’t allow you to represent yourself.

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Because defendant refused to cooperate with its inquiry, the trial court allowed counsel's motion to withdraw and appointed the public defender to represent defendant. The public defender was later allowed to withdraw because of defendant's own actions hereinafter detailed.

At a later hearing pursuant to other pending charges not at issue in this appeal, defendant's appointed counsel stated that defendant had communicated his desire to represent himself in his case then before the court, as well as the instant case. The court successfully performed the inquiry required by N.C. Gen. Stat. § 15A-1242 as it related to the other pending charges. The court then entered orders finding waiver of counsel and allowing defendant's appointed counsel to withdraw with regards to all of defendant's pending charges. Subsequently on 17 October 2018, defendant reaffirmed his desire to represent himself in the instant case by signing an uncertified waiver of counsel form.

On 19 February 2019, defendant's case came on for trial. The trial court did not inquire into the State's indication that he would be representing himself. On several occasions, defendant levied unfounded allegations of bias against the court, challenged the court's jurisdiction over him as a sovereign citizen, incessantly lodged groundless objections against the proceedings, and used profanity. Defendant was ultimately found in contempt of court for this and other misconduct.

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Defendant's behavior throughout the proceedings, viewed as a whole including the invocation of his Fifth Amendment rights to prevent the initial trial court from conducting the inquiry necessary to support a withdrawal of counsel, demonstrates a concerted and disingenuous attempt to obstruct and delay the proceedings against him.¹ Therefore, in our discretion we deny defendant's Petition for *Writ of Certiorari* and dismiss his appeal.

DISMISSED.

Judges BRYANT and DIETZ concur.

Report per Rule 30(e).

¹ We note that defendant's conduct would have also supported a finding that defendant forfeited his right to counsel. *See State v. Simpkins*, __ N.C. __, __, 838 S.E.2d 439, 447 (2020) ("If a defendant refuses to obtain counsel after multiple opportunities to do so, refuses to say whether he or she wishes to proceed with counsel, refuses to participate in the proceedings, or continually hires and fires counsel and significantly delays the proceedings, then a trial court may appropriately determine that the defendant is attempting to obstruct the proceedings and prevent them from coming to completion. In that circumstance, the defendant's obstructionist actions completely undermine the purposes of the right to counsel. If the defendant's actions also prevent the trial court from fulfilling the mandate of [N.C. Gen. Stat.] § 15A-1242, the defendant has forfeited his or her right to counsel and the trial court is not required to abide by the statute's directive to engage in a colloquy regarding a knowing waiver.").