

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-545

Filed 16 September 2026

Wilson County, No. 23CR372688-970

STATE OF NORTH CAROLINA

v.

KENDRAE RAYQUAN PARKER

Appeal by defendant from judgment entered 19 November 2024 by Judge L. Lamont Wiggins in Wilson County Superior Court. Heard in the Court of Appeals 30 October 2025.

Attorney General Jeff Jackson, by Special Deputy Attorney General Daniel K. Covas, for the State.

Mary McCullers Reece, for defendant.

FREEMAN, Judge.

Defendant appeals from judgment entered upon a jury verdict finding him guilty of possession of a firearm by a felon. On appeal, defendant argues the trial court erred in denying defendant's request to represent himself due to the trial court's mistaken belief that it lacked discretion to make that decision. Defendant petitioned for writ of certiorari to appeal the trial court's civil judgment for attorney's fees. After careful review, we deny defendant's petition for writ of certiorari and conclude that defendant received a fair trial free from error.

I. Factual and Procedural Background

On 30 July 2023, Wilson County 911 emergency communications received a call, which reported the following: “Two male subjects walked up to his house with a rifle, left in a gold Infinity headed towards Landfill Road.” The responding officer (the Corporal) saw a gold Infiniti SUV and initiated a traffic stop. The Corporal ran the vehicle’s plate numbers and reported that the vehicle was registered to defendant, though defendant was a back-seat passenger.

A second officer reported to the traffic stop (the Sergeant) and approached the vehicle. He asked for consent to search the vehicle and asked whether firearms or other weapons were present inside the vehicle. After the driver admitted that there was a firearm in the vehicle, the officers removed the occupants and conducted a search. The vehicle search returned a shotgun found in the “rear cargo area just behind the back seat of the vehicle” covered by “a blanket or towel.”

On 11 March 2024, defendant was indicted for possession of a firearm by a convicted felon. Defendant’s jury trial commenced on 18 November 2024. At the conclusion of the State’s direct examination of its third witness, defendant asked the court to speak on his own behalf. The trial court excused the jury and instructed defendant to speak with his counsel first. Following a private conversation with defendant, defendant’s counsel notified the trial court of defendant’s wish for counsel to withdraw. The trial court stated, “Okay. And I’ll hear you further now, Mr. Parker, as to the basis for asking your Counsel to withdraw at this time.”

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Defendant responded that his counsel had twice failed to ask the witnesses certain questions in the manner that defendant wished. Defendant further stated, "I don't feel comfortable continuing to trial with him. I'd rather do it myself." Then the following colloquy transpired:

THE COURT: All right. And at this stage of the proceedings, Mr. Parker, you don't have that option. Once you begin the trial with a lawyer, you have to continue the trial with your lawyer.

THE DEFENDANT: I can't.

THE COURT: You cannot, not at this stage, you don't get it both ways. It doesn't work like that; okay? You do not get it both ways. Now what I have done is I've let you express yourself and all of this is on the record. If there's anything as to in particular that you want to express or put on the record, I'm going to let you do that, but you don't get it both ways. You can't start with a lawyer and then by virtue of happenstance or whatever the issue may be decide that you cannot or do not want to continue with the lawyer; all right.

THE DEFENDANT: Yes, sir.

THE COURT: Now I will . . . give you and [your lawyer] five minutes outside of the courtroom, if you all want to talk about some things and the direction of what and where it should go, I will let you do that. We'll be at ease for five minutes. You can discuss those questions in that direction but you don't get it both ways. You will continue with Counsel.

THE DEFENDANT: But it will be on the record that I feel-

THE COURT: This whole discourse is on the record right now; okay, and your objection is on the record and my ruling is on the record; okay?

After the trial, the jury found defendant guilty of possession of a firearm by a

felon. Defendant was sentenced in the presumptive range of 19 to 32 months in prison. The trial court ordered that defendant be admitted to the Advanced Supervised Released Program and permitted defendant to be released at the expiration of the 11-month term pending successful completion of the risk reduction sentence. The trial court additionally ordered that counsel fees be paid as a civil judgment.

Defendant gave oral notice of appeal on the record in open court following the trial court's order of counsel fees as a civil judgment. Defendant never made a written notice of appeal regarding the civil judgment for attorney's fees. On 13 June 2025, defendant filed a petition for writ of *certiorari*.

II. Jurisdiction

This Court has jurisdiction to hear an appeal from a final judgment of a superior court pursuant to N.C.G.S. §§ 7A-27(b)(1) and 15A-1444(a) (2025). Accordingly, this Court has jurisdiction over defendant's self-representation claim.

Further, defendant petitions for a writ of *certiorari* for review of the trial court's civil judgment for attorney's fees because defendant failed to enter written notice of appeal, as required by N.C. R. App. P. 3(a) for civil judgments. "A writ of *certiorari* may be issued in appropriate circumstances . . . to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action." N.C. R. App. P.21(a)(1). A "writ of *certiorari* 'is not intended as a substitute for a notice of appeal.'" *Cryan v. Nat'l*

Council of YMCA of the United States, 384 N.C. 569, 573 (2023). Instead, certiorari should only issue if the petition shows: (1) “merit or that error was probably committed below,” and (2) “extraordinary circumstances to justify it.” *Id.* at 572 (cleaned up).

III. Standard of Review

We review “allegations that a trial court has failed to recognize its discretion to act” de novo. *State v. Whitted*, 209 N.C. App. 522, 535 (2011).

IV. Discussion

A. Self-Representation

First, defendant argues the trial court erred in denying defendant’s request to represent himself because it refused to exercise its discretion under the mistaken belief it had no discretion to allow defendant to represent himself.

Criminal defendants have the constitutional right to the effective assistance of counsel. U.S. Const. Amend. VI; *State v. Gerald*, 304 N.C. 511, 516 (1981) (citing *Gideon v. Wainwright*, 372 U.S. 335 (1963)). This right implicitly includes a criminal defendant’s “right to handle his own case without interference by, or the assistance of, counsel forced upon him against his wishes.” *State v. Mems*, 281 N.C. 658, 670–71 (1972); *see also Farett v. California*, 422 U.S. 806, 816 (1975) (“[A] defendant has a constitutionally protected right to represent himself in a criminal trial.”). However, “the right to self-representation can be waived by failure timely to assert it, or by subsequent conduct giving the appearance of uncertainty.” *State v. Walters*, 182 N.C.

App. 285, 292 (2007) (quoting *United States v. Gillis*, 773 F.2d 549, 559 (4th Cir. 1985)).

[I]f a defendant proceeds to trial with counsel and asserts his right to self-representation *only after trial has begun*, that right may have been waived, and its exercise may be denied, limited, or conditioned. Accordingly, *after trial has begun with counsel*, the decision whether to allow the defendant to proceed *pro se* rests in the sound discretion of the trial court.

Id. at 292. Thus, it is within the court’s discretion to deny the defendant’s request to proceed without counsel after the trial has begun. See *United States v. Singleton*, 107 F.3d 1091, 1097 (4th Cir. 1997). Nevertheless, “[w]hen a trial court fails to exercise its discretion in the erroneous belief that it has no discretion as to the question presented, there is error.” *State v. McAvoy*, 331 N.C. 583, 591 (1992).

Where a defendant contends the trial court failed to exercise its discretion under the mistaken belief it did not have discretion, we must ask whether it is clear from the record, viewed as a whole, “that the trial court was aware of its authority to exercise its discretion.” *State v. Vann*, 386 N.C. 244, 252 (2024).

“Review of the entire record is vital, as it would be difficult for an appellate court to properly determine whether discretion was used on the basis of one word or sentence in a transcript.” *Id.* The trial court’s actions, as well as the context behind the trial court’s words, should be considered. See *State v. Long*, 196 N.C. App. 22, 28 (2009) (explaining that whether the trial court exercised its discretion in permitting or denying a jury’s request turns upon the “context of the jury’s request and the

specific language used by the trial court.”); *State v. Lewis*, 321 N.C. 42, 51 (1987) (explaining that a trial court granting the jury’s request to examine photographs and exhibits, but denying the jury’s request to review a transcript, indicates that the trial court used its discretion).

We “presume[] that a trial court acted correctly until ‘statements of the trial court show that the trial court did not exercise discretion.’” *Vann*, 386 N.C. at 253 (quoting *State v. Starr*, 365 N.C. 314, 318 (2011)). “[A]mbiguous statements capable of multiple interpretations,” are insufficient to overcome the presumption that the trial court properly exercised its discretion. *Id.* (quoting *State v. Pickens*, 385 N.C. 351, 364 (2023)). Instead, the defendant must produce affirmative evidence showing the trial court failed to exercise its discretion. *Id.* at 254 (quoting *LePage v. People*, 2014 CO 13, 320 P.3d 348, 354 (Colo. 2014)).

Such affirmative evidence is shown when a court disclaims its authority or ability to rule on a particular issue. For example, our appellate courts have held the following statements suggested the trial court mistakenly believed it did not have discretion: “[w]e don’t have that capability,” *State v. Starr*, 365 N.C. 314, 318 (2011), “we really can’t help you with that particular matter,” *State v. Ford*, 297 N.C. 28, 30 (1979), “the [c]ourt doesn’t have the ability,” *State v. Barrow*, 350 N.C. 640, 647 (1999), and “[w]e can’t do that,” *State v. Hatfield*, 225 N.C. App 765, 771 (2013). In such statements, the trial court affirmatively disclaimed its authority to act.

Here, defendant contends certain statements made by the trial court indicate

the trial court believed it lacked discretion to grant defendant's request to represent himself mid-trial. Those statements include: (1) "at this stage of the proceedings . . . you don't have that option"; (2) "Once you begin the trial with a lawyer, you have to continue the trial with your lawyer"; (3) "You cannot, not at this stage, you don't get it both ways. It doesn't work like that"; and (4) "You can't start with a lawyer and then by virtue of happenstance or whatever the issue may be decide that you cannot or do not want to continue with the lawyer." These statements are unlike the trial court's statements in *Starr*, *Ford*, *Barrow*, and *Hatfield*, where the trial court indicated that the *trial court* could not do something. Instead, the trial court's statements at bar demonstrate *defendant* could not do something. Stating a defendant cannot do something is materially different than stating a court cannot do something, as the latter would question the court's authority and power.

When looking at the record as a whole and the context behind the trial court's statements and actions, no affirmative evidence shows the trial court failed to exercise its discretion. Therefore, there is insufficient evidence to overcome the presumption that the trial court acted properly. When defendant requested to speak to the court, the trial court dismissed the jury and told defendant to speak with his counsel. Defendant's counsel notified the trial court that defendant wished to represent himself for the rest of the trial. The trial court allowed defendant to argue his basis for asking his counsel to withdraw. The trial court allowing defendant to argue his basis for the request indicates that the trial court was aware of its

discretion. The trial court would have no need to hear defendant's argument if the trial court had the mistaken presumption that it did not have discretion.

The trial court then denied defendant's request after fully hearing defendant's reasons for his request. In denying defendant's request, the trial court used phrases that indicated the trial court was using its discretion. For example, the trial court stated, "You will continue with Counsel," "my ruling is on the record," and "I've let you express yourself." These statements indicate the trial court was aware of its discretion. At best, defendant has shown an ambiguity which will not overcome the presumption that the trial court properly exercised its discretion. *See Vann*, 386 N.C. at 253. Thus, we must presume the trial court exercised its discretion.

Accordingly, we conclude the trial court did not err in denying defendant's request to represent himself.

B. Civil Judgment on Attorney's Fees

Second, defendant argues that the trial court erred by entering a civil judgment against defendant for court-appointed attorney's fees and expenses where defendant was not provided adequate prior notice. While the civil judgment for attorney's fees is not included in the record on appeal, a civil judgment was docketed per notation and docket number on the criminal judgment. The record shows defendant was present when the trial court imposed the fees, discussed the amount with his attorney, and entered the judgement in open court. Defendant had previously spoken

to the court during the trial, showing he understood he could address the judge when needed.

Because defendant failed to enter a written notice of appeal as required by N.C. R. App. P. 3(a) for civil judgments, defendant petitions for a writ of certiorari for review of the trial court's civil judgment for attorney's fees. Our Supreme Court recently handed down guidance regarding this Court's issuance of the writ of certiorari in *State v. Martinez*, __ N.C. __, __ S.E.2d __ (No. 101PA25, 14 August 2026). The standard we employ is forth in *Cryan v. Nat'l Counsel of YMCAs*: certiorari should only issue if the petition shows: (1) "merit or that error was probably committed below," and (2) "extraordinary circumstances to justify it." 384 N.C. at 572.

Defendant has failed to demonstrate "substantial harm, considerable waste of judicial resources, or wide-reaching issues of justice and liberty at stake." *Id.* In the exercise of our discretion, we deny the petition for issuance of the writ of certiorari.

V. Conclusion

We conclude that the trial court did not err by denying defendant's request to represent himself. In the exercise of our discretions, we deny defendant's petition for writ of certiorari.

NO ERROR.

Judges TYSON and WOOD concur.