STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 12, 1996
v	No. 187489 LC No. 94-012107
PAUL K. LUKACS, Defendant-Appellant.	

Before: Gribbs, P.J., and MacKenzie and Griffin, JJ.

PER CURIAM.

Defendant appeals by right his jury trial convictions of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and assault with a dangerous weapon, MCL 750.82; MSA 28.277. Defendant was sentenced to four to ten years for assault with intent to do great bodily harm less than murder, and to two years, eight months to four years for assault with a dangerous weapon. We affirm.

Defendant first argues that the trial court erred when it failed to instruct the jury sua sponte on self defense, despite defendant's failure to request a self-defense instruction, since there was testimony to establish this defense. We disagree. Absent manifest injustice, this Court may not set aside a verdict because of the trial court's failure to instruct the jury on any point of law, unless the defendant requested such an instruction. *People v Hendricks,* 446 Mich 435, 440-441; 521 NW2d 546 (1994); *People v Federico,* 146 Mich App 776, 784-785; 381 NW2d 819 (1985). The trial court is not obliged to sua sponte present defendant's theory of the case to the jury unless defendant makes a request for the same. *People v Mills,* 450 Mich 61, 80-81; 537 NW2d 909 (1995).

Upon a review of the jury instructions in their entirety, we conclude that the omission of an instruction regarding self-defense did not result in an unfair presentation of the issues to be tried and that the instructions, as presented, sufficiently protected defendant's rights. *People v Worden,* 91 Mich App 666, 684-685 n 17; 284 NW2d 159 (1979). Moreover, because evidence was not presented

supporting defendant's theory of self-defense, this Court's failure to review this unpreserved issue will not result in manifest injustice. *People v Haywood,* 209 Mich App 217, 230; 530 NW2d 497(1995).

Defendant further maintains that the trial court erred when it failed to inquire into the truth of defendant's allegations that there had been a breakdown in the attorney-client relationship. We disagree. A conviction will be set aside only upon a showing that the judge abused his discretion in denying the request for substitution. *People v Jones,* 168 Mich App 191, 195; 423 NW2d 614 (1988).

Appointment of substitute counsel is warranted only upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process. *People v Ginther,* 390 Mich 436, 441; 212 Mich 922 (1973). Good cause exists where a legitimate difference of opinion develops between a defendant and his appointed counsel as to a fundamental trial tactic. *People v Charles O Williams,* 386 Mich 565, 574; 194 NW2d 337 (1972). A trial court is obligated to inquire into the truth of a defendant's allegations that there is a *dispute* which has lead to a destruction of communication and a breakdown in the attorney-client relationship. *People v Bass,* 88 Mich App 793, 802; 279 NW2d 551 (1979). Defendant's dissatisfaction here stemmed from a lack of personal contact with his attorney and defendant did not assert that a dispute existed or that there was a fundamental trial tactic involved. Thus, we conclude that defendant's motions were not supported by good cause and the trial court did not abuse its discretion in failing to explore defendant's dissatisfaction with his appointed counsel. *Jones, supra,* 168 Mich App 195.

Next, defendant asserts that the trial court reversibly erred when it failed to inquire whether defendant wished to act as his own attorney and advise defendant of the dangers and disadvantages of self-representation. We disagree. The decision whether a defendant should be allowed to represent himself is within the sole discretion of the trial court. The decision should not be reversed absent an abuse of that discretion. *People v Henley,* 382 Mich 143, 147-149; 169 NW2d 299 (1969). Neither a request to proceed pro se with standby counsel nor a request to discharge appointed counsel is an unequivocal request by a defendant to represent himself. *People v Dennany,* 445 Mich 412, 458; 519 NW2d 128 (1994); *People v Pruitt,* 28 Mich App 270, 272; 184 NW2d 292 (1970). We conclude that defendant did not unequivocally request to represent himself and, therefore, the trial court did not abuse its discretion. See *Dennany, supra,* 445 Mich 432.

Finally, defendant contends that his sentences are disproportionate to the offenses and the offender. We disagree. Defendant's four-year minimum sentence for assault with intent to commit great bodily harm less than murder was within the sentencing guidelines' range of two to five years. Sentences within the guidelines' range are presumptively proportionate. *People v Cotton,* 209 Mich App 82, 85; 530 NW2d 495 (1995). Defendant has failed to raise any mitigating circumstances that would overcome the presumption of proportionality and demonstrate that the court abused its discretion in sentencing defendant. *People v Milbourn,* 435 Mich 630, 661; 461 NW2d 1 (1990); *People v Piotrowski,* 211 Mich App 527, 533; 536 NW2d 293 (1995). The court relied upon appropriate factors in imposing defendant's sentence, which was proportionate to both the offense and the offender.

Milbourn, supra, 435 Mich 635-636; *People v Hunter,* 176 Mich App 319, 320-321; 439 NW2d 334 (1989).

Affirmed.

/s/ Roman S. Gribbs
/s/ Barbara B. MacKenzie
/s/ Richard Allen Griffin