STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee

v

JANICE FOSTER,

Defendant-Appellant

UNPUBLISHED

No. 190213
Presque Isle Circuit Court
LC No. 94-091461-FH

Before: Bandstra, P.J., and Hoekstra and S.F. Cox*, JJ.

HOEKSTRA, J. (dissenting).

I respectfully dissent from the opinion of the majority because I do not believe that the trial court acted improperly in permitting defendant to represent herself in this case. Based upon my review of the record, I believe that defendant was attempting to have the trial court appoint for her a new counsel on the eve of trial, and chose to represent herself because the court refused to appoint a new counsel for her.

While an indigent defendant is guaranteed the right to counsel, he is not entitled to have an attorney of his choice appointed simply by requesting that the attorney originally appointed be replaced. *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991). Appointment of substitute counsel is warranted only upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process, *Id*., neither of which were shown in this case. Accordingly, the trial court did not abuse its discretion in denying defendant's request for substitute counsel, which was first made the day before trial.

The trial court having denied defendant's request for substitute counsel, defendant then chose to represent herself rather than proceed with her appointed counsel, who remained during the trial to assist defendant. Based upon the record, I do not believe that the trial court erred in finding defendant's assertion of her unequivocal desire to represent herself rather than proceed with her current counsel to have been knowingly, intelligently, and voluntarily made, and in

* Circuit judge, sitting on the Court of Appeals by assignment.

allowing defendant to represent herself at trial. *Id*. at 15-17. Accordingly, I would affirm defendant's convictions.

/s/ Joel P. Hoekstra