

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRELL JEROME BURROWS,

Defendant-Appellant.

UNPUBLISHED

August 26, 2008

No. 278319

Washtenaw Circuit Court

LC No. 05-001735-FC

Before: Schuette, P.J., and Zahra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from his jury convictions of assault with intent to do great bodily harm less than murder, MCL 750.84, two counts of armed robbery, MCL 750.529, bank robbery, MCL 750.531, fleeing a police officer, MCL 257.602a(3)(a), possession of a stolen motor vehicle, MCL 750.535(7), felon in possession of a firearm, MCL 750.224f, possession of a firearm during the commission of a felony, MCL 750.227b, and carrying a concealed weapon, MCL 750.227. We affirm.

On the first morning of trial, defendant sought substitute counsel, and complained to the trial court that he was not given discovery of all evidence the prosecution had against him, that his appointed counsel was withholding information from him, that he and counsel had not spoken in months, and that counsel sent interns to meet with him in her place. The trial court denied defendant's request for substitution of counsel.

Defendant argues that the trial court abused its discretion by denying his request for substitution of counsel. We disagree.

The right to counsel in all criminal prosecutions is guaranteed by the federal and state Constitutions. US Const, Am VI; Const 1963, art 1, § 20. An indigent person is entitled to appointed counsel, but is not entitled to choose his or her own attorney. *United States v Gonzalez-Lopez*, 548 US 140, 144; 126 S Ct 2557; 165 L Ed 2d 409 (2006); *People v Russell*, 471 Mich 182, 192 n 25; 684 NW2d 745 (2004).

“Appointment of a substitute counsel is warranted only upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process. Good cause exists where a legitimate difference of opinion develops between a defendant and his appointed counsel with regard to a fundamental trial tactic.” *People v Traylor*, 245 Mich App 460, 462; 628 NW2d

120 (2001). An appointed lawyer's inadequacy, lack of diligence, or disinterest may establish good cause. *People v Ginther*, 390 Mich 436, 441-442; 212 NW2d 922 (1973). A defendant's "mere allegation that [he] lacks confidence in his attorney, unsupported by a substantial reason, does not amount to adequate cause, particularly when the request is belated." *People v Tucker*, 181 Mich App 246, 255; 448 NW2d 811 (1989). "A defendant may not purposely break down the attorney-client relationship by refusing to cooperate with his assigned attorney and then argue that there is good cause for a substitution of counsel." *Traylor*, supra at 462, quoting *People v Meyers (On Remand)*, 124 Mich App 148, 166-167; 335 NW2d 189 (1983).

We review a trial court's decision on a request for substitution of counsel for an abuse of discretion. *Traylor*, supra at 462.

In attempting to show good cause for substitution of counsel, defendant points to a lack of communication between his counsel and himself. Defendant claimed that he had not spoken with counsel in months, but counsel claimed to have spoken with defendant as recently as one week prior to trial, and that defendant walked out of the room during the conversation. When asked if defendant recalled this event he replied, "sort of." It appears that if a substantial breakdown in communication did occur, defendant caused it intentionally. Such an intentional breakdown in communication cannot serve as the basis for a showing of good cause for substitution of counsel. See *Traylor*, supra at 426; *Meyers*, supra at 148.

Defendant does not claim that he and counsel disagreed regarding any specific defense or trial tactic, but simply that he was "uncomfortable" with counsel representing him. Such an allegation is not a sufficient basis for good cause, especially when the request is belated, as it was in this case. *Tucker*, supra at 255.

Defendant made his request for substitute counsel the morning of trial, while claiming that he had not spoken with counsel in months. To grant defendant's request would have resulted in a significant and undue disruption of the judicial process. *People v Johnson*, 144 Mich App 125, 135; 373 NW2d 263 (1985).

The trial court did not abuse its discretion by denying defendant's request for substitution of counsel. The decision was not outside the range of principled outcomes. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

Affirmed.

/s/ Bill Schuette
/s/ Brian K. Zahra
/s/ Donald S. Owens