

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

STATE OF IOWA,

Plaintiff,

NO. FECR144572

VS.

ARTHUR JAMES FLOWERS,

**ORDER STAYING
PROCEEDINGS PURSUANT TO
SECTION 812.3, CODE OF IOWA**

Defendant.

On June 24, 2022 this file comes to the court for hearing on the Motion to Withdraw filed on June 23, 2022, by attorneys Nekeidra Tucker and Adrian Haughton. Mr. Flowers appeared with his attorneys. The State appeared by Assistant Linn County Attorneys Jordan Schier and Heidi Weiland. The court conducted the hearing in open court and upon the record. After reviewing an uncertified transcript of the hearing and consulting the pertinent law, the court issues the following order staying the proceedings pursuant to Section 812.3, Code of Iowa.

On April 13, 2022 the State filed a Trial Information charging Mr. Flowers with Murder in the First Degree, a Class A Felony, in violation of Section 707.1, 707.2(1)(a) Code of Iowa. Mr. Flowers plead not guilty and demanded speedy trial. A jury trial is set to begin on June 28, 2022. Mr. Flowers' attorneys filed a Motion to Withdraw on June 23, 2022. When asked for statements in support of the Motion to Withdraw, Attorney Nekeidra Tucker stated that Mr. Flowers has informed her and Mr. Haughton that he no longer wishes to be represented by them, and that he would like either substitute counsel to be appointed or to be allowed to represent himself. There is no additional record regarding the status of the attorney – client relationship.

The law recognizes a defendant's right to self-representation.

The Sixth Amendment right to counsel is in effect until waived. *Rater*, 568 N.W.2d at 658. In contrast, the Sixth Amendment right to self-representation is not effective until asserted. *Id.* Before the right to self-representation attaches, the defendant must voluntarily elect to proceed without counsel by “knowingly and intelligently” waiving his or her Sixth Amendment right to counsel. *Faretta*, 422 U.S. at 835, 95 S.Ct. at 2541, 45 L.Ed.2d at 582; *Rater*, 568 N.W.2d at 658. The defendant's request to proceed without counsel must be “clear and unequivocal.” *Id.* In addition, “courts ‘indulge every reasonable presumption against waiver’ of fundamental constitutional rights” *Johnson v. Zerbst*, 304 U.S. 458, 464, 58 S.Ct. 1019, 1023, 82 L.Ed. 1461, 1466 (1938) (footnotes omitted) (quoting *Aetna Ins. Co. v. Kennedy*, 301 U.S. 389, 393, 57 S.Ct. 809, 811, 81 L.Ed. 1177, 1180 (1937)).

Before a trial court accepts the defendant's request to proceed pro se, the court must make the defendant “aware of the dangers and disadvantages of self-representation, so that the record will establish that ‘he knows what he is doing and his choice is made with eyes open.’ ” *Faretta*, 422

U.S. at 835, 95 S.Ct. at 2541, 45 L.Ed.2d at 582 (quoting *Adams v. United States*, 317 U.S. 269, 279, 63 S.Ct. 236, 242, 87 L.Ed. 268, 275 (1942)); *accord Rater*, 568 N.W.2d at 658. “[A] defendant who elects to represent himself cannot thereafter complain that the quality of his own defense amounted to a denial of ‘effective assistance of counsel.’ ” *Faretta*, 422 U.S. at 833 n. 46, 95 S.Ct. at 2541 n. 46, 45 L.Ed.2d at 581 n. 46.

State v. Martin, 608 N.W.2d 445, 450 (Iowa 2000)

When asked about the nature of his dissatisfaction with Ms. Tucker and Mr. Haughton, Mr. Flowers stated that he is not satisfied with the attention that he and his case have received from current counsel. He believes that his attorneys have too many cases. He asked the court to remove his current counsel and to appoint an experienced lawyer. When the court explained that new counsel would need more than four days, if we count the weekend, to be prepared to defend a murder case, Mr. Flowers informed the court that he wishes to represent himself. Mr. Flowers’ response also included statements that seem to suggest that his attorneys explored the benefits of waiving speedy trial and that Mr. Flowers opposed any waiver. He explained, “. . . and I’ve seen a simple request for a week’s continuance turn into 7 years. I’ve seen people kept in the county jail for nine years waiting to go to trial for a burglary.” He next described his cell as, “. . . a solid steel room with a fan that don’t turn off on a concrete block, nearly 17 hours a day. . . with people eating their feces right in front of me throwing things all over with the sheriff obviously stuck on steroids. Not the sheriff, but the sheriff’s deputy. Nothing better to do than grin as he’s torturing inmates and I would know this being an ex-correctional officer for nearly a decade and some of the worst prisons in America...” His response continued, “. . . and so my attorneys that I have now so I don’t speak about my case, we come to a cross roads. That cross roads is if I have to defend myself in a place I’m not from in a courtroom in a court system I’m not use to, asking them to find the time to teach me how to write petitions like I could bail out of jail if I could just contact my bank and have them forward money I got saved in my bank but every time I turn around and try to send a let, I this is what happens it gets wet think put it in water it runs all over the place and this is the third time I’ve asked for \$160,000. \$150,000. \$15,000 and every time it comes back with an envelope on it that says where you can mail it on June 5. That’s next year. You it’s gone already. I get letters from my attorneys that they didn’t send. I get alternative sentencing papers that says I don’t have to worry about being sentenced to life in prison all I got to do is confess, give them their information and we’ll find the way to cut that life sentence.”

In response to the court’s statement that, “These are public defenders and they are experts in criminal law that’s all they do is criminal defense work, so the record is clear,” Mr. Flowers stated, “Do they have you have to be there. They’re not sharing with me. I’m not getting any feedback that when I call home and talk to my nieces, my daughter, my son, they know more about my case than I do. How are they getting this information: they’re not getting it from me. I hear about somebody going to my mother’s house yesterday or the day before. This was the day before. Well by this time they got a half a dozen people running in and out of my house taking ten and hundreds of thousands of dollars’ worth of paintings out of my house. Thousands and thousands of dollars’ worth of tools I just bought and a brand new washing machine from Menards front loader put it on my back porch because I can’t carry it in my basement with the other five washing machines I got been broken tampered with and hauled out.” Mr. Flowers

continued, stating, "And I'm the only person I know that has to defend myself against not being aware of why somebody would come to my house to die. Over and over and over and over and over and over again. Seven dead people. Sometimes I'm there. Sometimes I'm not."

The court then began the colloquy to determine whether Mr. Flowers knowingly, intentionally and voluntarily waives his right to counsel. In response to the court's inquiry as to whether he had studied the law, Mr. Flowers said, "Yes..... he then informed the court that he attended college when he was 11 years old, that everyone had a master's and was pursuing something more" When the court returned to his level of education, asking, "Where did you attend college, where did you study?" Mr. Flowers responded, "I don't mean law you went to like 6, 7 colleges my first college was Joliet college." He went on to state, "I went to the University of Phoenix and got an MBA. Invested a year." When the court asked to clarify where he studied, Mr. Flowers stated, "Numerous colleges." When the court followed up with, "And you can't remember the names of them?" Mr. Flowers responded, "See this cut in my head? They had the police officer named Evans and a couple more of them they took my head and they jammed it into a wall same time they broke this arm at Will County Jail the Judge Amy said something a federal judge offering me \$25 million I said keep the money. Fire them. They're still there. They're still in litigation they don't mind giving \$40,000 every time they beat somebody into submission"

The court then asked, "Okay. So is your testimony not testimony was your response that because of an injury you sustained at the hands of a police officer that you have difficulty remembering?" To which Mr. Flowers responded, "I don't have difficulty recalling nothing I just went through that with your court ordered psychiatrist just a couple days ago. Get a report. Are they going to use that to not go trial does because they haven't got a report back on my fitness yet don't you think I remember that: Or don't you think it just happened two days ago a D- E- E- S who's licensed in four states to be a forensic psychiatrist who gave me tests on my memory on my understanding of the English language figure my way out of a wet paper bag in a box." The court again returned to whether Mr. Flowers had sustained an injury that interferes with his ability to remember where he attended college. Mr. Flowers responded, "What happened is on the day I was supposed to graduate - - well the day before my filing, my mother called me. She said your brother has been killed." He went on to explain that his "brother was riding around on a (sic) eight to ten thousand dollar bike they haven't release that had yet they said they might release it in four or five years because it's evidence."

Mr. Flowers informed the court that he had represented himself in jury trials on three different murder charges and that he had been acquitted by each jury. He explained further, "I'm I'm telling you I got over 90 arrests but I got over 400 arrests I ain't even been charged with being an international drug cartel member and it ain't me." He later stated that he had been arrested 52 times.

When asked how much formal education he completed, Mr. Flowers described himself as, "I'm educated to a process called erudition. I learned to - - I've learned everything I learned the same way Abraham Lincoln did and he became President of the United States... I've learned through reading."

Mr. Flowers described being tortured when he was moved from cell 3B2 to an isolation cell. He described watching the same guard torture another individual and informed the court that he would call 20 to 30 witnesses to talk about that officer torturing inmates. He went on to describe when, "... the sergeants come in to see what they're doing man don't you know that's Arthur?" He went on to describe himself as having served as the chief steward for the largest local union in Illinois.

Chapter 812.3, Code of Iowa provides:

1. If at any stage of a criminal proceeding the defendant or the defendant's attorney, upon application to the court, alleges specific facts showing that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, the court shall suspend further proceedings and determine if probable cause exists to sustain the allegations. The applicant has the burden of establishing probable cause. The court may on its own motion schedule a hearing to determine probable cause if the defendant or defendant's attorney has failed or refused to make an application under this section and the court finds that there are specific facts showing that a hearing should be held on that question.

The defendant shall not be compelled to testify at the hearing and any testimony of the defendant given during the hearing shall not be admissible on the issue of guilt, except such testimony shall be admissible in proceedings under section 811.2, subsection 8, and section 811.8, and in perjury proceedings.

2. Upon a finding of probable cause sustaining the allegations, the court shall suspend further criminal proceedings and order the defendant to undergo a psychiatric evaluation to determine whether the defendant is suffering a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense. The order shall also authorize the evaluator to provide treatment necessary and appropriate to facilitate the evaluation. If an evaluation has been conducted within thirty days of the probable cause finding, the court is not required to order a new evaluation and may use the recent evaluation during a hearing under this chapter. Any party is entitled to a separate psychiatric evaluation by a psychiatrist or licensed, doctorate-level psychologist of their own choosing.

Despite the court's multiple inquiries regarding his level of formal education, Mr. Flowers would not answer how much education or at which institutions of learning he studied. He then described himself as an erudite who engaged in self-teaching through reading books. Although he eventually read the Trial Information to the court, the record does not show that he appreciates the charges levied against him or that he has the ability to assist effectively in his defense. Because the court finds probable cause that a competency question exists, the court cannot find that Mr. Flowers has knowingly, intentionally and voluntarily waived his right to counsel. Because there is no additional basis to terminate the attorney – client relationship, the court denies the Motion to Withdraw, without prejudice.

Based upon the record at the June 24, 2022 hearing on the Motion to Withdraw, I believe that there is a substantial question of Arthur Flowers' competency to stand trial. Based upon the same record, specifically Mr. Flowers' responses as set out earlier in this ruling and also considering his statements that he has been recently evaluated by a mental health professional, the court finds that there is probable cause to believe that a competency issue exists. The court therefore ORDERS that these proceedings are suspended. The court FURTHER ORDERS that Arthur Flowers shall undergo a psychiatric evaluation to determine whether he is suffering a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in his defense. The court FURTHER ORDERS that the Public Defender shall continue to represent Mr. Flowers. In the event Mr. Flowers' is determined to be competent, counsel may renew the Motion to Withdraw, if counsel deems it appropriate.

The court FURTHER ORDERS that a competency hearing shall take place on July 29, 2022 at 1:30 p.m. The court FURTHER ORDERS that Defense counsel shall arrange for a competency evaluation, and shall inform the court of the date and time for the evaluation.



State of Iowa Courts

Case Number
FECR144572
Type:

Case Title
STATE OF IOWA VS FLOWERS, ARTHUR JAMES
Other Order

So Ordered

Fae Hoover Grinde, District Court Judge,
Sixth Judicial District of Iowa

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