

ENTRY ORDER

SUPREME COURT DOCKET NO. 2006-102

MARCH TERM, 2006

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 3, Lamoille District
Dennis Tribble	}	
	}	DOCKET NO. 669-9-00 Lecl

In the above-entitled cause, the Clerk will enter:

Defendant has moved this Court for extraordinary relief, seeking reversal of the trial court=s interim order appointing counsel to represent defendant until a full colloquy on defendant=s waiver of counsel can be held. Because defendant has or will have other avenues of appellate relief available to him, we dismiss his complaint.

In his first trial, defendant was appointed a series of public defenders, but could not agree with his appointed attorneys on defense strategy. At various points, defendant fired his public defenders, re-hired them, stated that he would retain private counsel, and stated that he wanted to represent himself. When the trial was finally held, defendant had no attorney and did not make an appearance. He was convicted. We reversed and remanded because, while we affirmed the finding that defendant was generally competent, we determined that the trial court had erred when it did not engage defendant in a comprehensive colloquy to determine if his waiver of counsel was knowing and voluntary. See State v. Tribble, 2005 VT 132, & 3.

Similar issues regarding defendant=s representation have arisen on remand. Defendant now challenges the trial court=s order appointing a public defender. Specifically, defendant requests that this Court: (1) affirm defendant=s competence and right to self-representation; (2) annul the district court order; (3) order an immediate AFaretta@ hearing; (4) stay proceedings until the issue of counsel is resolved; (5) order the defender general to hire an investigator; and (6) order former counsel David Sleight to provide his file. [1] Defendant argues that the process pursued by the trial court prejudices his case by unnecessarily drawing out the proceedings, resulting in witnesses and evidence being less reliable and available with the passage of time.

In its order appointing counsel, the trial court emphasizes that defendant has a right to represent himself but notes that the right is not absolute; rather, the court is required to conduct an extensive colloquy to determine if defendant=s waiver of counsel is knowing and voluntary. As the court noted, the required colloquy has not yet been undertaken, and the court has not made a final decision regarding whether defendant can represent himself. Because the court could not conclude that defendant=s waiver is knowingly and intelligently made at this point, it appointed an attorney in the interim to represent defendant through the initial proceedings.

Under V.R.A.P. 21, defendant must demonstrate that he has no other adequate appellate remedy. Here, the absence of an appellate remedy at this point in time is due to the fact that the trial court has made an interim ruling only, and apparently intends to undertake a full examination of defendant=s efforts to waive counsel, in compliance with our previous remand. Defendant has not shown that he has been prejudiced by the trial court=s order. Defendant=s arguments regarding delay are unavailing because he himself has caused much of the delay in this case through his equivocation over whether to have counsel appointed. Accordingly, defendant has not shown that he is entitled to

extraordinary relief.

Dismissed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice

[\[1\]](#) Defendant did not substantively address either issue (5) or issue (6) in his filing other than to list them as relief sought.