

STATE OF OHIO)
)ss:
COUNTY OF WAYNE)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 25AP0046

Appellee

v.

GENE LEE CORNWELL

Appellant

APPEAL FROM JUDGMENT
ENTERED IN THE
WAYNE COUNTY MUNICIPAL COURT
COUNTY OF WAYNE, OHIO
CASE No. 2025 TR-D 001215

DECISION AND JOURNAL ENTRY

Dated: August 17, 2026

HENSAL, Presiding Judge.

{¶1} Gene Lee Cornwell appeals his convictions by the Wayne County Municipal Court.

This Court affirms.

I.

{¶2} On February 28, 2025, City of Wooster Patrol Officer Connor Orr observed Mr. Cornwell driving a pickup truck on Walnut Street in Wooster. As Officer Orr had prior interactions with Mr. Cornwell, Officer Orr recognized Mr. Cornwell. Based upon information from the officer’s mobile data terminal, Officer Orr was aware that Mr. Cornwell was under a license suspension. Therefore, Officer Orr issued Mr. Cornwell a citation. The citation alleged violations of Revised Code Sections 4510.12(A)(1) and 4510.14(A), as well as Wooster Codified Ordinances 335.072(a) and 335.073(a).

{¶3} While Mr. Cornwell repeatedly indicated an intention to retain counsel during the pretrial process, at the time of trial, Mr. Cornwell proceeded pro se. At that point, Mr. Cornwell

expressed a desire for a jury trial, but the trial court informed him that his request was untimely. The trial court found Mr. Cornwell guilty of the four charges and sentenced him. His sentence included 60 days of jail time with the possibility of 57 of the days being served under home arrest.

{¶4} Mr. Cornwell has appealed, raising two assignments of error.

II.

ASSIGNMENT OF ERROR I

THE TRIAL COURT VIOLATED MR. CORNWELL’S CONSTITUTIONAL RIGHT TO TRIAL BY JURY BY FAILING TO PROPERLY ADVISE CORNWELL OF THE RIGHT TO A JURY TRIAL AND OBTAIN A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THAT RIGHT ON THE RECORD, IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, ARTICLE 1, SECTION 10 OF THE OHIO CONSTITUTION, AND [CRIMINAL RULE] 23(A).

{¶5} Mr. Cornwell argues in his first assignment of error that the trial court failed to obtain a waiver of his right to a jury trial as required by Revised Code Section 2945.05.

{¶6} “[T]he guarantee of a jury trial in criminal cases contained in the state and federal Constitutions is not an absolute and unrestricted right in Ohio with respect to misdemeanors, and a statute, ordinance or authorized rule of court may validly condition the right to a jury trial in such a case on a written demand therefor” *State v. Tate*, 59 Ohio St.2d 50, 52 (1979), quoting *Mentor v. Giordano*, 9 Ohio St.2d 140 (1967), paragraph one of the syllabus. Such a rule does violate the constitutional right to a trial by jury. *Tate* at 52, quoting *Hoffman v. State*, 98 Ohio St. 137 (1918), paragraph one of the syllabus.

{¶7} The portion of Criminal Rule 23(A) applicable to this matter provides as follows:

In petty offense cases, where there is a right of jury trial, the defendant shall be tried by the court unless he demands a jury trial. Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial,

whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto.

{¶8} “Due to these dictates, we have previously stated that[,] [w]here a jury demand in a petty offense case is not timely made pursuant to [Criminal Rule] 23(A), [Revised Code Section] 2945.05[’s requirements for the waiver of jury trial right] d[o] not apply.” (Internal quotations and citation omitted.) *State v. Roberts*, 2015-Ohio-5044, ¶ 18 (9th Dist.). Here, Mr. Cornwell never filed a written demand for a jury trial, and, instead, only orally requested one on the day of trial. “Under well-settled law, this failure operates as a complete waiver of h[is] jury trial right and it precludes the application of Revised Code Section 2945.05’s requirement that the trial court obtain a written waiver before conducting a bench trial.” *Id.*

{¶9} Mr. Cornwell’s first assignment of error is overruled.

ASSIGNMENT OF ERROR II

THE TRIAL COURT VIOLATED MR. CORNWELL’S CONSTITUTIONAL RIGHT TO THE ASSISTANCE OF COUNSEL BY FAILING TO ADEQUATELY ADVISE MR. CORNWELL OF THE RIGHT TO COUNSEL AND THE RIGHT TO APPOINTED COUNSEL IF INDIGENT, AND BY PROCEEDING WITHOUT A VALID, KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF COUNSEL, IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, ARTICLE I, SECTION 10 OF THE OHIO CONSTITUTION, AND [CRIMINAL RULE] 44.

{¶10} Mr. Cornwell argues in his second assignment of error that the trial court erred in failing to obtain a knowing, intelligent, and voluntary waiver of his right to counsel. We disagree.

{¶11} The Sixth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment, provides criminal defendants with the fundamental right to counsel. *See Gideon v. Wainwright*, 372 U.S. 335, 339-340 (1963). “The United States Supreme Court has held that a defendant cannot be imprisoned for any type of offense unless he was represented by counsel at trial or he made a knowing and intelligent waiver of his right to

counsel.” *Hudson v. Ravida*, 2026-Ohio-1947, ¶ 7 (9th Dist.), citing *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972). “With respect to cases tried in Ohio courts, this Court has recognized that the right to counsel ‘extends to misdemeanor cases that could result in the imposition of a jail sentence.’” *Ravida* at ¶ 7, quoting *State v. Knight*, 2012-Ohio-5816, ¶ 14 (9th Dist.). “This right to counsel applies to all critical stages of criminal proceedings.” *Ravida* at ¶ 7, citing *State v. Schleiger*, 2014-Ohio-3970, ¶ 13.

{¶12} Criminal Rule 44(B) states, “[w]here a defendant charged with a petty offense is unable to obtain counsel, the court may assign counsel to represent the defendant. When a defendant charged with a petty offense is unable to obtain counsel, no sentence of confinement may be imposed upon the defendant, unless after being fully advised by the court, the defendant knowingly, intelligently, and voluntarily waives assignment of counsel.” A petty offense “means a misdemeanor other than a serious offense.” Crim.R. 2(D). Whereas a serious offense is “any felony, and any misdemeanor for which the penalty prescribed by law includes confinement for more than six months.” Crim.R. 2(C). “Waiver of counsel shall be in open court and the advice and waiver shall be recorded as provided in Rule 22. In addition, in serious offense cases the waiver shall be in writing.” Crim.R. 44(C).

{¶13} “In order to establish an effective waiver of [the] right to counsel, the trial court must make sufficient inquiry to determine whether [the] defendant fully understands and intelligently relinquishes that right.” *Ravida* at ¶ 7, quoting *State v. Gibson*, 45 Ohio St.2d 366 (1976), paragraph two of the syllabus.

The trial court must investigate [a defendant’s request for self-representation] as long and as thoroughly as the circumstances of the case before him demand[.] This Court reviews the totality of the circumstances when determining whether the trial court conducted a sufficient inquiry into a defendant’s decision to waive the right to counsel. In verifying that a waiver of counsel is made knowingly, voluntarily, and intelligently, a trial court should determine whether the defendant was advised

of the dangers and disadvantages of self[-]representation. While no one factor is dispositive, the trial court should consider whether the defendant was advised of the nature of the charges and the range of allowable punishments, and, in addition, may consider whether the trial court advised the defendant of the possible defenses to the charges and applicable mitigating circumstances. The trial court should also address all other facts essential to a broad understanding of the whole matter. [T]he information a defendant must possess in order to make an intelligent election will depend on a range of case-specific factors, including the defendant's education or sophistication, the complex or easily grasped nature of the charge, and the stage of the proceeding.

(Internal quotations and citations omitted.) *Ravida* at ¶ 8.

{¶14} The record discloses that Mr. Cornwell initially pleaded not guilty and indicated that he would retain his own counsel. In March and April 2025, Mr. Cornwell completed forms indicating that he did not wish to represent himself and did not wish to have counsel appointed to represent him. Thus, the record evidences that Mr. Cornwell continued to wish to retain his own counsel.

{¶15} At the end of April 2025, the matter was called for trial and Mr. Cornwell appeared without counsel. Mr. Cornwell stated that he did not have the resources to retain counsel and asked for a continuance of the bench trial. The trial court granted the continuance and advised Mr. Cornwell of his right to appointed counsel if he could not afford to retain counsel. The trial court also informed Mr. Cornwell that no further continuances would be granted in order for him to retain counsel. Thereafter, Mr. Cornwell failed to appear for trial on more than one occasion. Ultimately, a bench trial was held on July 15, 2025.

{¶16} At the trial, Mr. Cornwell appeared without counsel. While Mr. Cornwell expressed a desire to have a jury trial, he did not request to have an attorney appointed, express a desire to represent himself, or move to have the matter continued in order to obtain counsel. The situation before this Court is somewhat unusual; many of the cases that raise this issue involve defendants who seek to represent themselves. *See, e.g., Ravida*, 2026-Ohio-1947, at ¶ 9 (9th Dist.).

Here, however, Mr. Cornwell never sought to represent himself. Throughout the proceedings, Mr. Cornwell expressed his intention to retain his own counsel and repeatedly declined to have counsel appointed for him. Further, even at the time of trial, Mr. Cornwell did not raise the issue. Instead, Mr. Cornwell ultimately represented himself at trial, not because he chose to, but because he failed to retain counsel, despite informing the trial court on multiple occasions that he would do so. Thus, this Court does not view this case as a situation in which Mr. Cornwell was waiving his right to counsel. Accordingly, we conclude that compliance with Criminal Rule 44 and the related case law was not required. Under the circumstances before this Court, Mr. Cornwell has not demonstrated that the trial court erred.

{¶17} Nonetheless, even if compliance was necessary, we cannot say that Mr. Cornwell has demonstrated the trial court failed to comply given that Mr. Cornwell did not provide transcripts of the pretrial proceedings. It is clear from the trial court's orders that the issue of Mr. Cornwell's lack of representation came up during those hearings. However, without a transcript of those proceedings we cannot know the extent to which it was discussed. In such situations, this Court is required to presume regularity and affirm the trial court's judgment. *See City of North Ridgeville v. Standen*, 2026-Ohio-2234, ¶ 19 (9th Dist.).

{¶18} Mr. Cornwell's second assignment of error is overruled.

III.

{¶19} Mr. Cornwell's assignments of error are overruled. The judgment of the Wayne County Municipal Court is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Wayne County Municipal Court, County of Wayne, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JENNIFER HENSAL
FOR THE COURT

SUTTON, J.
FLAGG LANZINGER, J.
CONCUR.

APPEARANCES:

YU KIM-REYNOLDS, Attorney at Law, for Appellant.

ANGELA WYPASEK, Prosecuting Attorney, and MICHAEL J. DEFIBAUGH, Assistant Prosecuting Attorney, for Appellee.