

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE                    )  
  )  
          V.                                    )     ID# 1206018361  
  )  
HARRY W. ANDERSON,                 )  
  )  
                  Defendant.                )

Submitted: January 31, 2014  
Decided: February 10, 2014

**FINDINGS OF FACTS AND CONCLUSIONS OF LAW UPON REMAND**

By Supreme Court order (the “Order”) dated January 14, 2014, this matter was remanded to the Superior Court for findings of fact and conclusions of law following an evidentiary hearing to determine if Defendant’s request to proceed *pro se* in his Supreme Court appeal is knowing and voluntary. Pursuant to the Order, the Superior Court held a hearing on January 31, 2014. The Court’s Findings of Facts and Conclusions of Law are set forth below.

Defendant has not retained private counsel to represent him on appeal because he cannot afford the cost. Defendant owns no real estate and has no significant assets. The Court is satisfied he is an indigent person.

Defendant graduated from high school and attended a semester of college. Defendant was well prepared and articulate during the evidentiary hearing, and demonstrated a good understanding of Supreme Court rules. He explained that he has pursued other appeals in the past and has successfully obtained remands to the trial court as a result of his advocacy. He is very familiar with the criminal justice system and demonstrates good working knowledge of the appellate process. He wrote and successfully filed his opening brief in the pending appeal and, before that, filed a Motion for *In Forma Pauperis* and a Motion for Transcripts, both of which were granted. He understands that he is entitled to court appointed counsel, but he believes that he can do a better job.

Defendant indicates he consulted with other persons before making his decision to waive the right to counsel. He completely understands that the appellate process involves the application of Rules of Procedure that may prove difficult for a non-lawyer to follow or understand, but feels he knows the rules very well. His performance so far demonstrates that he is capable of understanding and following the applicable rules. He also understands that even though he has no formal legal training, he is required to comply with all pertinent rules of the Supreme Court, and he believes he will be able to do so. He assured the Court that he understands non-compliance with the rules of the Supreme Court may delay or prejudice his appeal and he understands that he could be barred from the Supreme Court for non-compliance with the rules.

Defendant understands that the allowance of oral argument is discretionary with the Supreme Court and the Supreme Court's practice is to not grant oral argument in *pro se* criminal matters. On this point, Defendant added that the Supreme Court does not always grant oral argument in every case in any event. Defendant is comfortable with his decision to represent himself (and accepts he will lose the opportunity to have his appeal argued by an attorney before the Supreme Court) because he is content to rely on his briefs.

Defendant completely understands that if his waiver of counsel is accepted, he will not thereafter be permitted to interrupt or delay the appellate process to

secure the assistance of court appointed counsel simply because he changes his mind as to his need for counsel.

After a thorough colloquy with Defendant, including the inquiries deemed relevant by the Supreme Court in *Watson v. State*,<sup>1</sup> the Court is satisfied that Defendant's request to proceed *pro se* is made knowingly, intelligently and voluntarily, and that because of Defendant's educational background, his demonstrated familiarity with the criminal justice process, and his grasp and understanding of all the pertinent rules of the Supreme Court, he is able to capably represent himself in his appeal.

Respectfully submitted,

Jan R. Jurden  
Judge

cc: Daniel B. McBride, Esq.  
Ferris W. Wharton, Esq.  
Mr. Harry W. Anderson

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<sup>1</sup> 564 A.2d 1107 (Del. 1989).