

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	:	
	:	Supreme Court Case No.
v.	:	573, 2015
	:	
TITUS W. HOBBS	:	Superior Court ID No. 1310010002
	:	In and For Kent County
Defendant.	:	

Recommended Findings of Fact and Conclusions of Law on Remand

COMES NOW, this 22nd day of January 2016, the Superior Court in and for Kent County, and submits the following Findings of Fact and Conclusions of Law to the Delaware Supreme Court for its consideration:

1. On January 4, 2016, the Supreme Court remanded this matter to the Superior Court for the limited purpose of conducting a hearing pursuant to Supreme Court Rules 19(c) and 26(d)(iii). Appellant/Defendant-Below Titus Hobbs (hereinafter “Hobbs”) filed an affidavit with the Supreme Court pursuant to Rule 26(d)(iii) requesting to discharge his attorney and to represent himself in his appeal before the Delaware Supreme Court. Accordingly, the Supreme Court remanded the matter for this Court to conduct an evidentiary hearing regarding whether Hobbs’ decision to proceed *pro se* is knowing and voluntary. After a hearing, I recommend that the Supreme Court find Hobbs decision to be knowing and voluntary.

2. The hearing took place on January 15, 2016. Present at the hearing were Hobbs and representatives of both the State and the Public Defender’s Office. The

Supreme Court requested that I address the specific inquiries required by *Watson v. State*, 564 A.2d 1107 (Del. 1989). The Supreme Court also restated those questions in the Remand Order.

3. Hobbs testified at his hearing under oath. The following summarized testimony from Hobbs was responsive to each of the questions itemized in the Supreme Court's Remand Order:

a. Hobbs has not retained private counsel to represent him on this appeal.

b. Hobbs qualifies as an indigent person. He confirmed that he has no assets, no income, and no ability to hire a private attorney. The representative of the Public Defender's Office who was present confirmed that Hobbs qualifies as an indigent person pursuant to their guidelines. Furthermore, Hobbs currently has one of their Appeals Division attorneys representing him in the present appeal.

c. He stated he has a high school education. During his questioning and interaction with this Court, he answered questions articulately. He is literate and indicates he has some familiarity with the criminal justice system and testified that he has prosecuted an appeal in a previous matter.

d. He understands that since he is indigent, he must either (1) continue to accept the representation on appeal by his present court-appointed counsel or (2) proceed *pro se*. He desires to proceed *pro se*.

e. He testified that he wants to waive assistance of his court-appointed counsel because he does not feel his court appointed counsel (or his previously retained private trial counsel) adequately represent his interests.

f. He has not consulted with another attorney regarding his decision, although he spoke with his court appointed appellate counsel regarding the matter. He does not wish to speak with any other attorney about the issue.

g. He understands that the appellate process involves the application of rules of procedure that may be difficult for a non-lawyer to follow or understand.

h. He understands that notwithstanding the fact that he lacks legal training, he will be required to comply with all pertinent rules of the Supreme Court. Hobbs indicated that he has prepared his opening brief. He is waiting only on this Court's report in order to file his brief.

i. He also testified that he understands that if he does not comply with Supreme Court Rules, it may result in the delay of his appeal or prejudice to his appeal.

j. He also understood, and indicated at the outset of the hearing, without being questioned, that since granting oral argument is discretionary with the Supreme Court, the Supreme Court's practice is not to grant oral argument to *pro se* litigants.

k. He understood that if the waiver of counsel is accepted, he will not thereafter be able to secure court-appointed counsel because he may change his mind

in the future.

1. He testified unequivocally that his decision to proceed *pro se* is knowing and voluntary.

4. Neither the State or the Public Defender's Office attorney had any objection to Hobbs' request or desired to further supplement the record.

5. I find and accordingly recommend that the Supreme Court find that Hobbs' decision to proceed *pro se* is knowing and voluntary. His decision is considered and he understands the consequences of his decision in the context of the appellate process. He presented to this Court as articulate and resolute and was satisfied that he had sufficient time to consult with counsel regarding his decision. Accordingly, I respectfully recommend to the Supreme Court that they approve Hobbs request to proceed *pro se* before the Court.

NOW, THEREFORE, IT IS ORDERED that the Prothonotary shall forthwith transmit these findings of fact and conclusions of law to the Clerk of the Supreme Court of Delaware.

/s/Jeffrey J Clark
Judge