

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL RAY NEWLAND,

Defendant-Appellant.

UNPUBLISHED

November 13, 1998

No. 204449

Baraga Circuit Court

LC No. 96-581-FH

Before: Saad, P.J., and Hood and Gribbs, JJ.

PER CURIAM.

Defendant appeals of right from his jury conviction for one count of aggravated stalking, MCL 750.411i; MSA 28.643(9), and one count of assault and battery, MCL 750.81; MSA 28.276. Defendant was sentenced to 365 days in jail for the aggravated stalking conviction and ninety days in jail for the assault and battery conviction. Defendant contends that the trial court abused its discretion by not interrupting the trial and reassessing defendant's competency to participate in his defense. Finding no merit in this claim, we affirm.

The prosecutor raised the issue of defendant's competency prior to the trial. Defendant was examined by a forensic examiner from the Center for Forensic Psychiatry, a competency hearing was held, and the trial court found defendant competent to stand trial. After his conviction, defendant moved for a new trial, arguing that some of his actions and remarks during the trial raised the issue of his competency again and that the trial court should have made further inquiries. The trial court denied the motion for a new trial. Since this issue was addressed by the trial court, it was preserved for appeal. *People v Connor*, 209 Mich App 419, 422; 531 NW2d 734 (1995). We review the trial court's decision for an abuse of discretion. *People v Harris*, 185 Mich App 100, 102; 460 NW2d 239 (1990); *People v Newton (After Remand)*, 179 Mich App 484, 488; 446 NW2d 487 (1989).

MCL 330.2020(1); MSA 14.800(1020)(1) provides:

A defendant to a criminal charge shall be presumed competent to stand trial. He shall be determined incompetent to stand trial only if he is incapable because of his mental condition of understanding the nature and object of the proceedings against him

or of assisting in his defense in a rational manner. The court shall determine the capacity of a defendant to assist in his defense by his ability to perform the tasks reasonably necessary for him to perform in the preparation of his defense and during his trial.

Whether a defendant is competent to stand trial is an ongoing concern of the court, and the issue of competence may be raised at any time during or after trial. *People v Garfield*, 166 Mich App 66, 74; 420 NW2d 124 (1988). However, evidence of incompetence must be shown. *Id.*

Here, defendant does not contend that he was incompetent because he did not understand the nature and object of the proceedings against him. Indeed, defendant clearly appears to have understood the nature of the proceedings against him, despite the fact that he believed the charges were part of a conspiracy against him by the police and the prosecution. Defendant contends instead that he was incompetent because he could not rationally assist in his defense. However, it is apparent from the record that defendant was able to resolve problems by working matters out with his counsel. As the trial court implicitly found in ruling on the new trial motion, this demonstrated that defendant was able to rationally assist in his defense.

Defendant nevertheless argues that the pretrial finding of competence was only based on the apparent trusting relationship that had developed between defendant and his appointed counsel, and that once this trusting relationship broke down the trial court was required to reinvestigate the issue of defendant's competence. However, the record indicates that the relationship between defendant and his counsel did not break down; defendant remained able to work with his counsel and to rationally assist in his defense. Since the record demonstrates that defendant was able to rationally assist his counsel, there was no "bona fide doubt" regarding defendant's competence and the trial court was not required to reopen the inquiry into that matter during the trial. *Garfield, supra* at 74. We find no abuse of discretion.

Affirmed.

/s/ Henry William Saad

/s/ Harold Hood

/s/ Roman S. Gibbs