

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NATHAN JULIAN RENFROE,

Defendant-Appellant.

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UNPUBLISHED

July 25, 2006

No. 262082

Wayne Circuit Court

LC No. 04-009086-01

Before: Neff, P.J., and Bandstra and Zahra, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), and possession of a firearm during the commission of a felony, MCL 750.227b. He was ordered to pay a fine of \$500 for the marijuana conviction and to serve two years in prison for the felony-firearm conviction. He appeals as of right. We affirm.

Defendant argues that the trial court failed to comply with MCR 6.402(B), rendering his jury waiver invalid.

MCR 6.402(B) states:

Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. The court must also ascertain, by addressing the defendant personally, that the defendant understands the right and that the defendant voluntarily chooses to give up that right and to be tried by the court. A verbatim record must be made of the waiver proceeding.

Defendant argues that the trial court failed to comply with this rule because it did not advise him that if he waived his right to a trial by jury, the court would sit as the finder of fact.

This Court reviews a trial court's determination that a defendant validly waived his right to a jury trial for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997). To the extent that the issue involves interpretation of a court rule, this Court's review is de novo. *People v Kimble*, 470 Mich 305, 308-309; 684 NW2d 669 (2004).

We conclude that the trial court complied with MCR 6.402(B). The rule does not require the court to *advise* a defendant that he will be tried by the court. It requires that the court advise him of the constitutional right to a trial by jury, which the court did. The rule also requires that the trial court *ascertain* by addressing the defendant that he understands this right and chooses to give it up and be tried by the court. Although the trial court did not expressly state that it would be trying the case, defendant indicated that he wanted to give up the right to have twelve of his peers decide the verdict. Further, the court was informed by defense counsel that defendant had signed a waiver form that provided, in part, “I, having had an opportunity to consult with counsel, do hereby in open Court voluntarily waive and [sic] relinquish my right to a trial by jury and *elect to be tried by a judge of the above named Court*, in which this cause is pending.” (Emphasis added.) The court confirmed that defendant had discussed the matter with counsel and had no questions. Defendant, who was taking college classes at the time of the offense, does not claim that his waiver was not knowingly made. We conclude that the trial court’s questioning was sufficient to allow it to properly ascertain that defendant understood his right to a jury trial, and voluntarily chose to waive that right and be tried by the court. *Leonard, supra*, pp 595-596.

Affirmed.

/s/ Janet T. Neff  
/s/ Richard A. Bandstra  
/s/ Brian K. Zahra