

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

FILED

11/21/2025

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DONYELL DEWAYNE HOLLAND

Criminal Court for Hamilton County
Nos. 317210, 311081

No. E2024-01809-CCA-R3-CD

ORDER

Before the court is the pro se Appellant's motion seeking the appointment of counsel "to assist with proceedings." The Appellant states that he is not waiving his right to proceed pro se and "intends to continue filing personally as necessary to protect his legal interests." The Appellant has also filed a motion for additional time to file a corrected brief.

The Appellant was represented by appointed counsel at trial. Following his convictions for second degree murder, first degree felony murder, especially aggravated kidnapping, and two firearms offense, the Appellant waived his right to counsel and proceeded pro se through the sentencing hearing and litigation of his motion for new trial. The trial court, however, appointed advisory counsel to assist the Appellant in those proceedings. On July 23, 2025, this court granted advisory counsel's motion to withdraw from representation, noting that a party may not proceed pro se on appeal while represented by counsel. *State v. Burkhart*, 541 S.W.2d 365, 371 (Tenn. 1976). On August 29, 2025, the Appellant filed an opening brief. On September 24, 2025, the State filed a motion to dismiss this appeal due to insufficient briefing. *See* Tenn. R. App. P. 27; Tenn. Ct. Crim. App. R 10(b). Rather than dismissing the appeal on the State's motion, on October 15, 2025, the court directed the pro se Appellant to file a corrected brief in compliance with the appellate rules. The Appellant's brief is now due no later than December 15, 2025.

To be clear, a criminal defendant has the right to decline the assistance of counsel and represent himself. *Lovin v. State*, 286 S.W.3d 275, 284 (Tenn. 2009); *see also Fareta v. California*, 422 U.S. 806, 832 (1975). That said, there is no constitutional right to hybrid representation where both a pro se defendant and counsel take active roles in representation. *State v. Small*, 988 S.W.2d 671, 673 (Tenn. 1999). Thus, the Appellant cannot seek the appointment of counsel while simultaneously reiterating his decision to

proceed pro se on appeal. *See Burkhart*, 541 S.W.2d at 371.

Accordingly, the Appellant's motion for the appointment of counsel is DENIED. Because the court's October 22, 2025 order plainly stated that no further extensions would be granted in this matter, the Appellant's motion for additional time within which to file a corrected brief is DENIED. The Appellant's corrected brief remains due on December 15, 2025. Failure to file the corrected brief within the time permitted by this court's order will result in dismissal of this appeal. The appellate court clerk shall forward a copy of this order to the Appellant via certified mail, return receipt requested.

JUDGE KYLE A. HIXSON