



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

September 10, 2013

To:

Hon. Jon M. Counsell
Circuit Court Judge
Clark County Courthouse
517 Court Street
Neillsville, WI 54456

Heather Bravener
Clerk of Circuit Court
Clark County Courthouse
517 Court Street
Neillsville, WI 54456

Thomas J. Balistreri
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Donna L. Hintze
Asst. State Public Defender
P.O. Box 7862
Madison, WI 53707-7862

Richard R. Lewis
Asst. District Attorney
#404
Courthouse, 517 Court St.
Neillsville, WI 54456-1971

You are hereby notified that the Court has entered the following opinion and order:

2012AP624-CR

State of Wisconsin v. Scott T. Beierle (L.C. # 2010CF117)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ

Scott Beierle appeals a judgment of conviction and an order denying his postconviction motion. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We affirm.

Beierle argues that the circuit court erred by allowing him to represent himself. He argues that the court did not sufficiently comply with the requirements of *State v. Klessig*,

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

211 Wis. 2d 194, 564 N.W.2d 716 (1997). Beierle argues that he did not make a knowing, voluntary, and intelligent waiver of his right to counsel as to the second, third, and fourth factors under *Klessig*. See *id.* at 206.

As to the second factor, Beierle argues that the court failed to make him sufficiently aware of the difficulties and disadvantages of self-representation. Without attempting to individually address each of the points Beierle makes on this factor, we conclude that the court's treatment of this factor was adequate. At the initial appearance, when Beierle first stated that he would proceed without counsel, the court conducted a colloquy in which it described the role of an attorney, and specifically stated a number of tasks that an attorney might do. The court also established that Beierle had been represented by an attorney before and was familiar with the types of things an attorney does. The court advised Beierle that, without an attorney, he would still be required to follow court rules and procedures, including rules of evidence. Later, at the arraignment, before taking Beierle's no contest plea, the court again described what an attorney would do and how that might benefit Beierle. Based on those discussions, we are satisfied that Beierle was sufficiently aware of the difficulties and disadvantages of self-representation.

As to the third and fourth *Klessig* factors, Beierle argues that he was not sufficiently aware of the seriousness of the charges and the range of possible penalties he was facing. However, the record shows that at both the initial appearance and at the arraignment the court told Beierle the potential maximum sentence, and that Beierle understood it.

Beierle also argues that he was not competent to represent himself. See *id.* at 208-13. He argues that this is shown by his several admissions against interest on the record and his statements to the effect that he would not use an attorney because he would "leave it in the hands

of the Lord.” We do not read these statements as showing lack of competence, but rather as showing an unwillingness to defend himself, not a lack of ability to do that. To the extent Beierle also bases this argument on various statements that showed unfamiliarity with law or court procedures, he cites no cases holding that lack of this kind of technical legal knowledge is a ground to find a defendant not competent for purposes of self-representation. The State asserts, and Beierle does not dispute on reply, that technical legal knowledge is not relevant. *See Pickens v. State*, 96 Wis. 2d 549, 568, 292 N.W.2d 601 (1980), *overruled on other grounds by Klessig*, 211 Wis. 2d at 206.

IT IS ORDERED that the judgment and order appealed are summarily affirmed under WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals