

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

FILED

07/23/2025

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DONYELL DEWAYNE HOLLAND

**Criminal Court for Hamilton County
No. 317210**

No. E2024-01809-CCA-R3-CD

ORDER

On December 6, 2024, the Appellant filed a pro se notice of appeal prior to the trial court's adjudication of the motion for new trial. Following his conviction, the Appellant waived his right to counsel and proceeded pro se through the sentencing hearing and the litigation of the motion for new trial. The trial court, however, appointed Jay Underwood as advisory counsel to assist the Appellant throughout those proceedings. On July 14, 2025, the trial court denied the Appellant's motion for new trial.

Now before this court is advisory counsel's motion seeking permission to withdraw from further representation in this matter. Counsel asserts that he was appointed only to assist the Appellant in the sentencing and motion for new trial hearings. He further asserts that counsel for the State does not oppose this motion.

There is no constitutional right to the appointment of advisory counsel. *State v. Small*, 988 S.W.2d 671, 675 (Tenn. 1999). Further, as it relates to representation on appeal, a party may not proceed pro se in the appellate court while represented by counsel. *State v. Burkhardt*, 541 S.W.2d 365, 371 (Tenn. 1976); *State v. Cole*, 629 S.W.2d 915, 917 (Tenn. Crim. App. 1981).

Accordingly, advisory counsel's motion is well-taken and is, therefore, GRANTED. The appellate court clerk shall remove Mr. Underwood as counsel in this matter. The Appellant shall proceed pro se absent his filing a request for the appointment of counsel made in this court. The time for preparation of the appellate record shall run from the July 14, 2025 entry of the trial court's order denying the motion for new trial. *See* Tenn. R. App. P. 4(d) (stating that "[a] prematurely filed notice of appeal shall be treated as filed after the entry of the judgment from which the appeal is taken").

JUDGE ROBERT H. MONTGOMERY, JR.