



proceeding *pro se*, but granted defendant's request. After a jury trial, defendant was found guilty. During hearings on sentencing, defendant requested counsel, and one was appointed. Defendant was sentenced as a habitual criminal to a term of natural life.

¶ 5 On appeal, defendant asserts that the trial court had a policy of refusing to consider the appointment of standby counsel. Defendant's assertion is based on a statement during a pretrial hearing on October 28, 2010.

¶ 6 At the hearing, the trial court admonished defendant of his right to an attorney and the inadvisability of proceeding without counsel. After admonishing defendant of a litany of benefits from using counsel, the court proceeded to tell defendant that once trial starts, he could not just reverse course and demand that trial start over with counsel. The court next stated that an attorney is trained in many matters besides just speaking for the client, such as recognizing statutory bars and enhancements. The court then made the statement on which defendant's appeal rests:

"Q. [THE COURT:] Also, some people say, well, I'll have stand-by counsel. No, I won't do that either. That's not something we would do. Is if you decide to do this, that's who's going to be sitting at the table.

A. Oh, I understand.

Q. Is that what you want to do?

A. Yes, sir."

¶ 7 ANALYSIS

¶ 8 Based on the quoted exchange, defendant contends that the trial court failed to consider the appointment of standby counsel. In particular, defendant contends that the phrases "I won't do that either" and that it is "not something we would do" reveal a trial court policy of not appointing standby counsel. Defendant argues that the trial court failed to exercise discretion as it did not even consider the possibility of appointing standby counsel.

*People v. Gibson*, 136 Ill. 2d 362, 374, 556 N.E.2d 226, 231 (1990).

¶ 9 Defendant's claim lacks merit. Defendant's interpretation ignores context. The exchange took place after defendant had expressed a desire not to have standby counsel. Even if it is viewed in the limited context of the hearing of October 28, 2010, the exchange does not indicate that the trial court erred. The thoroughness of the trial court's approach can even be seen in the isolated section of transcript defendant focuses on in this appeal.

¶ 10 Standing alone, the exchange is ambiguous. Defendant contends that the trial court is expressing its own choice with the phrases that it "won't do that" and "not something we would do." The State asserts that reading these phrases as a statement of trial court policy ignores the rest of this particular exchange between the court and defendant.

¶ 11 Defendant's argument requires the phrases "won't do that" and "not something we would do" to be read without regard to the rest of this particular exchange. Other aspects of this exchange indicate that the trial court was acting under the impression that defendant did not wish to have standby counsel. The trial court started by stating that "some people," as opposed to defendant, choose to have standby counsel. Like active counsel, standby counsel is discussed as something defendant would reject as "won't do that *either*." Moreover, the court expressed the rejection as a matter of choice. As the State points out, the court used the term "not something we *would* do" which indicates choice, not the term "not something we *could* do" which would have expressed a lack of choice.

¶ 12 Indeed, the phrasing of the questions indicates that the trial court was acting under the impression that defendant did not wish to have standby counsel. The phrases relied on by defendant were a preface to the question to defendant: "Is if you decide to do this, that's who's going to be sitting at the table." The trial court then asks, "Is that what you want to do?"

¶ 13 At the very least, this exchange, standing alone, is not proof of error. A trial court is

presumed to know the law and follow it. See *People v. Phillips*, 392 Ill. App. 3d 243, 265, 911 N.E.2d 462, 483 (2009). Furthermore, given that defendant had repeatedly and unequivocally expressed his lack of trust in the public defender, the trial court could have easily determined that defendant did not want standby counsel. See *People v. Pratt*, 391 Ill. App. 3d 45, 58, 908 N.E.2d 137, 148 (2009).

¶ 14 Throughout the rest of the admonitions, the trial court displayed both a thorough knowledge of the law and an understanding demeanor towards defendant. The trial rigorously admonished defendant of the benefits of counsel.

¶ 15 Both before and after the exchange in question, the trial court went into detail with defendant about the numerous benefits of having counsel and the dangers of proceeding *pro se*. The range of admonitions was broad, covering the ground in *Ward*. *People v. Ward*, 208 Ill. App. 3d 1073, 1081, 567 N.E.2d 642, 647 (1991). In *Ward*, the court listed 10 different admonitions that a trial court could issue to a defendant who desires to proceed *pro se*. *Ward*, 208 Ill. App. 3d at 1081, 567 N.E.2d at 647; see *People v. Williams*, 277 Ill. App. 3d 1053, 1056, 661 N.E.2d 1186, 1189 (1996). The last of these is informing the *pro se* defendant about standby counsel.

¶ 16 Each admonition was explained in depth. The trial court unmistakably attempted to make sure defendant understood what he was taking on by going *pro se*. The explanations were more than formal. The record leaves no doubt that the trial court wished to convey to defendant the gravity of his decision to proceed *pro se* and, as part of that approach, the judge was receptive to dialogue with defendant. If the particular section pointed to by defendant appears vague, the answer lies partly in the court's apparent attempt to develop a dialogue with defendant, as opposed to just protecting the record. Indeed, the exchange is truly not vague if viewed in context.

¶ 17 If viewed in context, the exchange leads to the undeniable conclusion that the trial

exercised discretion—and did so wisely. Any apparent ambiguity disappears when the rest of the record is considered. Two weeks prior to the exchange in question, defendant declined to have standby counsel. At a hearing on October 14, 2010, the trial court asked defendant about standby counsel:

"Q. [THE COURT:] And you're asking to do this on your own. You're not asking for an attorney appointed, and I'm telling you one is available. And you're not asking for a stand-by attorney; meaning somebody to sit here and advise you.

A. No, Sir.

Q. You feel comfortable with all of this[,] Mr. Stewart.

A. Yes, Sir."

¶ 18 This inquiry belies any claim by defendant that the trial court had a policy of denying standby counsel. The trial court acted within its discretion and according to defendant's own expressed desire by not appointing standby counsel. Furthermore, the exchange of October 14, 2010, explains away any facial ambiguity in the exchange of October 28, 2010. The trial court was discussing the appointment of standby counsel in light of defendant's express choice to not have such counsel. Indeed, the court would have opened the door for a claim of error had it appointed standby counsel. See *Williams*, 277 Ill. App. 3d at 1059, 661 N.E.2d at 1190.

¶ 19 As the trial court acted within its discretion and according to the choice of defendant, the other arguments against reversible error need not be discussed.

¶ 20 Accordingly, the judgment of the circuit court of Madison County is hereby affirmed.

¶ 21 Affirmed.