

No. 1-12-1727

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 09 CR 10876
	)	
LORENZO RICHARDSON,	)	Honorable
	)	Brian K. Flaherty,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE HOFFMAN delivered the judgment of the court.  
Presiding Justice Connors and Justice Delort concurred in the judgment.

**O R D E R**

- ¶ 1 *Held:* The trial court did not violate defendant's right to due process by denying his motion to preclude his codefendant from wearing jail clothing for the duration of defendant's trial.
- ¶ 2 Following a jury trial, defendant Lorenzo Richardson was found guilty of armed robbery with a firearm in violation of section 18-2 of the Criminal Code of 1961 (720 ILCS 5/18-2(a)(2)(West 2008)), and sentenced to 16 years in prison. Defendant and his codefendant were tried during simultaneous, severed trials with defendant electing a jury trial and codefendant

electing a bench trial. On appeal, defendant contends that his case should be remanded for a new trial because his right to due process was violated when the trial court denied his motion to preclude his codefendant from wearing jail clothing during the duration of the jury trial. We affirm.

¶ 3 During the early morning hours of May 14, 2009 defendant and codefendant Frederick Claiborne<sup>1</sup> were arrested for the armed robbery of London Hall at The Village apartment complex located at 279 West 154<sup>th</sup> Street in Harvey, Illinois. Defendant and Claiborne were tried in simultaneous, severed trials. On the first day of defendant's jury trial, Claiborne chose to wear jail clothing. Defense counsel objected to Claiborne wearing jail clothing because it "reflected badly on [defendant]." The court overruled counsel's objection and stated "it is not your client. I can't tell him how to dress in court." Prior to opening statements, the court gave the jury the following instructions: "[y]ou are not to concern yourself as to the reason why each defendant has a separate trial and is being tried separately. You are only to be concerned with [defendant]." Claiborne wore jail clothing for the duration of defendant's trial.

¶ 4 During trial, the State presented testimony from Hall that he was visiting his girlfriend, Emma Beans, whose sister lived in The Village apartment complex. Around 3 a.m., while the two were sitting in his car in the parking lot, he noticed defendant, Claiborne, and a third unidentified man run down the stairs of the two-story building. Defendant and Claiborne ran to Hall's side of the car, while a third unidentified man stood in the front of the car with a shotgun. Claiborne held him at gunpoint as defendant searched his pockets. Defendant took Hall's cash, cell phone, driver's license, and social security card.

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<sup>1</sup> Claiborne was also convicted and currently has an appeal before this court in case number 1-12-1581.

¶ 5 Emma Beans testified that she recognized both defendant and codefendant because they lived in the area, but did not recognize the third man in front of the vehicle. Beans returned to her sister's apartment and called the police. Harvey police officer A. Sinnott arrived shortly after the call, and Hall spoke with him. Beans testified that she later went to defendant's apartment to confront him, but immediately left because she was scared. After she left defendant's apartment, she called the police again. While she was on the phone, she observed defendant and Claiborne walk out of the apartment. On cross-examination, defense counsel asked Beans if she knew defendant's sister Tiffany Green. Beans denied knowing Green or speaking to her prior to defendant's bond hearing.

¶ 6 Officer Sinnott testified that he returned to the complex after being called back. He, along with two other officers, got permission from the leaseholder to enter the apartment. After entering the apartment, the officers found defendant and Claiborne lying on the bedroom floor next to a milk crate that contained cash, a social security card, and a handgun. The police also found a sawed-off shotgun in a storage tote. Both men were arrested.

¶ 7 Defendant presented a single witness, his older sister Tiffany Green. Green testified that on the morning of defendant's bond hearing she confronted Beans. Beans told her that defendant owed her money and had nothing to do with Hall's robbery.

¶ 8 The jury found defendant guilty of armed robbery. The jury deadlocked on whether a firearm enhancement applied, and the judge declared a mistrial on that issue. After hearing arguments from the parties in aggravation and mitigation, the judge sentenced defendant to 16 years in prison.

¶ 9 On appeal, defendant contends that the trial court violated defendant's right to due process by failing to order codefendant to obtain and change into civilian clothing for the duration of defendant's trial, creating a substantial risk that the jury would be swayed by improper factors. The State responds there was no due process violation because the court was not required to order Claiborne to wear civilian clothing; however, if there was error, the State contends it did not affect the outcome of the trial.

¶ 10 The right to a fair trial is a fundamental liberty secured by the fourteenth amendment. U.S. Const., amend. XIV; *Estelle v. Williams*, 425 U.S. 501, 503 (1976). The presumption of innocence is a basic component of a fair trial under our system of criminal justice. *Williams*, 425 U.S. at 503. Thus, "the court must rigorously control its own courtroom procedures and, consistent with the mandates of due process, protect the rights of the parties and the public." *People v. Allen*, 222 Ill. 2d 340, 349 (2006) (quoting *People v. Martinez*, 347 Ill. App. 3d 1001, 1005 (2004)). A judge's decision regarding courtroom procedures is subject to an abuse of discretion review. *Id.* An abuse of discretion occurs when the trial court's ruling is arbitrary, fanciful, or unreasonable, or when no reasonable person would take the same view. *People v. Sharp*, 391 Ill. App. 3d 947, 956 (2009).

¶ 11 "A defendant's right to a fair trial is violated when he is forced to appear before the jury in readily identifiable jail clothing." *People v. Steinmetz*, 287 Ill. App. 3d 1, 6 (1997) (citing *Williams*, 425 U.S. 501, 505-06)). Both the United States Supreme Court and Illinois courts have recognized that, because the wearing of a prison uniform may prejudice the defendant in the eyes of the jury, the State may not compel the defendant to attend trial in identifiable prison attire. See *People v. Wilkes*, 108 Ill. App. 3d 460, 467 (1982). However, "the right not to be

tried in jail clothing is, like many other rights of criminal defendants, subject to harmless-error analysis." *People v. Bowman*, 2012 IL App (1st) 102010 at ¶ 62. An error is harmless when it appears beyond a reasonable doubt that the error did not contribute to the verdict obtained. *People v. Stechly*, 225 Ill. 2d 246, 304 (2007).

¶ 12 Here, the trial court did not violate defendant's right to due process by denying his motion to preclude his codefendant from wearing jail clothing for the duration of defendant's jury trial. Initially, we note that the trial court never ordered Claiborne to wear jail clothing nor did Claiborne request permission from the trial court to wear civilian clothing. Although defendant argues that he was prejudiced by codefendant Claiborne's jail clothing, we find no support for his contention that a trial court abuses its discretion when it does not compel a codefendant to wear civilian clothing during trial. It is well established that a defendant's due process rights are violated when the court compels him to appear before the jury in jail clothing. See *Wilkes*, 108 Ill. App. 3d at 467. This court has also recognized that "trial courts should exercise discretion in considering a defendant's request for witnesses to testify in civilian clothing to prevent any unnecessary prejudice." *Bowman*, 2012 IL App (1st) 102010 at ¶ 62. However, this court has yet to hold, either explicitly or implicitly, that prejudice results when a trial court fails to compel a codefendant, who is not testifying at trial, to obtain and wear civilian clothing for the duration of a jury trial. Therefore, we find that the trial court, which did not require defendant to wear jail clothing in the first place, was within its discretion to refuse to compel Claiborne to obtain and wear civilian clothing.

¶ 13 Defendant relies on an out-of-state case, *State v. Ward*, 256 P. 3d 801 (Kan. 2011), for the contention that a due process violation occurs when "associates" of a defendant appear before

the jury in jail clothing. In *Ward*, the defendant was convicted of the sale or delivery of cocaine. He filed a motion for mistrial after witnesses for the State identified two individuals who were sitting in the courtroom and wearing orange jail jumpsuits as people who were with the defendant during one or more of the drug sales. The reviewing court reasoned that:

"given the consensus in the case law that jail clothing taints a trial, a trial court almost always abuses its discretion to control the courtroom when it allows a defendant, witness, or nonwitness to be brought before a jury in jail clothing without an articulated justification explaining why it is necessary for the person to wear jail clothing and does not consider giving an admonition or instruction to the jury that it should not consider the clothing or the person's incarceration." *Ward*, 256 P. 3d at 824.

The court held that "the right to a fair trial and the right to a presumption of innocence \*\*\* are implicated when individuals in jail clothing are identified to the jury as associates of a defendant." *Id.* at 825. However, the court ultimately concluded that the federal constitutional harmless error standard applied, that is, "a reviewing court must be able to declare the error had little, if any, likelihood of having changed the result of the trial and the court must be able to declare such a belief beyond a reasonable doubt." *Id.* at 814. The court further stated that the "jail clothing taint" did not prejudice the defendant because there was "substantial direct and circumstantial evidence connecting the defendant to the drug transaction." *Id.* at 825. Accordingly, the court rejected the defendant's request for a new trial.

¶ 14 We do not agree with *Ward* that the presence of non-testifying "associates" in jail clothing almost always constitutes an abuse of discretion by the trial court. However, even if we were to find an abuse of discretion, the overwhelming evidence in this case establishes that the alleged error was harmless. We believe that "the jury verdict would have been the same absent the [alleged] error." See *Bowman*, 2012 IL App (1st) 102010 at ¶ 62. Here, defendant was not only identified by Hall and Beans as one of the men who robbed Hall outside the Village apartment complex, but Beans personally knew defendant because he lived in the area. Shortly after the robbery, defendant was found in one of the complex's apartment units lying on the floor next to a milk crate containing Hall's social security card, cell phone, and cash. Police also found the two guns used in the commission of the robbery. Given the overwhelming evidence of defendant's guilt, we find that Claiborne's appearance at trial in jail clothing did not affect the outcome of the trial; it was harmless beyond a reasonable doubt. See *Id.*

¶ 15 For the foregoing reasons, we affirm the judgment of the Circuit court of Cook County.

¶ 16 Affirmed.