Filed 2/26/18 P. v. Chaney CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. JARRED E. CHANEY, Defendant and Appellant.	B276646 (Los Angeles County Super. Ct. No. KA110024)

APPEAL from a judgment of the Superior Court of Los Angeles County, Thomas C. Falls, Judge. Affirmed.

Juliana Drous, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Yun K. Lee and Peggy Z. Huang, Deputy Attorneys General, for Plaintiff and Respondent.

A jury convicted Jarred E. Chaney of one count of fleeing a pursuing peace officer and driving against traffic (Veh. Code, § 2800.4) and two counts of first degree residential burglary (Pen. Code, § 459).[1] The trial court found true allegations regarding appellant's prior convictions and sentenced him to a term of 64 years to life. Appellant contends he was denied his Sixth Amendment right to counsel and the right to represent himself when the trial court denied his motions under *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*) and *Faretta v. California* (1975) 422 U.S. 806 (*Faretta*). We affirm.

BACKGROUND

I. *Factual Background*

A. *Burglary at 648 Kirkwall*

Candace Totten lived near the intersection of Bruning Avenue and Kirkwall in the City of Glendora. Around 10:00 a.m. on June 25, 2015, Totten was in her kitchen when she heard a car door slam. She saw a young man walk from a car to her neighbor's house at 648 Kirkwall and knock on her neighbor's front door. She saw someone in the driver's seat of the car before the car drove away.

After no one answered the neighbor's door, the man walked toward the backyard of the house. Totten asked her husband to call the police. Totten continued to watch her neighbor's house while waiting

---

[1] Unspecified statutory references are to the Penal Code.

for the police and, after about 10 minutes, she saw the young man exit the front door, holding two bags and talking on his phone.

The resident of 648 Kirkwall received a phone call about a break-in at her house. She returned home and found a bathroom window broken and the bedrooms ransacked. A small bag, jewelry, and cash were missing.

B. *Burglary at 343 Kirkwall*

Paul Zampiello lived with his wife and his brother at 343 Kirkwall, approximately a mile away from 648 Kirkwall. Zampiello left for work around 6:00 a.m. on June 25, 2015, and when he returned home around 6:00 p.m., he noticed that the front door was closed but unlocked. He found a living room window broken, dresser drawers opened, and the contents of the drawers on the floor. A tote bag, jewelry, snowboarding equipment, and a cell phone were missing.

C. *Police Pursuit*

On June 25, 2015, around 10:00 a.m., Glendora Police Officer Ryan Lombardi and Detective Russell Ziino responded to a call about a possible burglary at 648 Kirkwall. They saw a young man walking across the street carrying a bag.[2] As they approached him, he dropped the bag and began to run. They tackled him and found jewelry and money in his socks and in the bag.

---

[2] The young man later was determined to be a juvenile.

Officer William Turnley responded to the location and saw a Toyota Camry on Bruning that matched the description of the car given by Totten. There were two people in the Camry, one in the driver's seat and one in the right rear seat. The passenger later was identified as codefendant Jabaree Williams and the driver as appellant. Officer Turnley radioed the police department with the license plate number of the Camry.

Another police car arrived and tried to block the Camry from leaving. The driver of the Camry threw a black bag out the car window and drove away. The bag contained jewelry.

Officer Turnley and another police car pursued the Camry until it stopped in Covina. During the pursuit, the Camry crossed the center divider into opposing traffic. When the Camry stopped, appellant got out and ran away, but Williams stayed in the car and was taken into custody.

Officers searched for appellant for approximately four hours. Eventually, a police dog located him inside a garage, and he was arrested. Officers found a diamond ring and a key fob to a car inside his pockets. The key fob activated the car the officers had been chasing. Zampiello's wife identified the diamond ring as hers.

Detective Ziino found appellant's identification card in the Camry, and he saw snowboarding equipment and a phone in the rear seat. Based on appellant's possession of the diamond ring, Detective Ziino believed appellant had been inside 343 Kirkwall but not 648 Kirkwall.

II. *Procedural Background*

Appellant and Williams were charged by information with one count of fleeing a pursuing peace officer and driving against traffic and two counts of first degree residential burglary. The information alleged that appellant had suffered two prior convictions that qualified as violent felonies (§ 667.5, subd. (c)), as serious felonies (§ 667, subd. (a)(1)), and as strikes under the Three Strikes law (§§ 667, subds. (b)-(j), 1170.12), and that appellant served six prior prison terms (§ 667.5, subd. (b)).

On August 27, 2015, appellant entered not guilty pleas to all three counts and denied the special allegations. He rejected the People's offer of a 25-year state prison term.

On December 1, 2015, defense counsel Damon Hobdy asked for a continuance because he was engaged in another trial. The minute order indicates that appellant refused to waive time, but the court found good cause to grant the motion.

A. *Request for Continuance for Phone Records*

The case was called for jury trial on December 11, 2015. However, Hobdy told the court that appellant was requesting a continuance to obtain phone records to support his defense that he was an Uber driver and was driving his codefendants to Glendora on the day of the offense. Hobdy explained that appellant "advised me a while ago that he needed his phone records. Unfortunately, I don't have a phone number for [appellant]; so it's hard for me to go out and get phone records where I

don't have a phone number." Hobdy stated that he had not received any discovery regarding three phones the People had in their custody.

The court granted the continuance over the People's objection. The court ordered the People to bring the three phones into court for appellant to identify his phone, and appellant agreed to waive his right to confidentiality so the police department could download information from the phone.

At a December 15, 2015 hearing, the prosecutor stated that she was unable to bring the phones to court because the investigating officer was unavailable. Hobdy informed the court that appellant's phone was a Samsung.

B. *December 16, 2015 Faretta Request*

At a hearing the following day, Hobdy informed the court that appellant wished to represent himself. The court told appellant that he was facing a life term and that he currently had an experienced lawyer. The court further explained that appellant was going to be opposed by an experienced lawyer and that appellant would be "treated like a lawyer." The court stated that it would allow appellant to represent himself but would not later allow appellant to change his mind. After appellant stated that he wished to represent himself, the court told him to complete the propria persona paperwork he previously had been given.

The parties then returned to the issue of the phone records. The prosecutor asked if, rather than being required to bring all three phones into court, she could download the information on all three phones and

have appellant identify his phone through the downloaded information, but Hobdy stated that appellant could not identify his phone that way because he did not know his phone number, and the phone was not registered in his name. The prosecutor stated she could not bring the phones to court until January 7. The court set the hearing for January 7, 2016, and ordered appellant to bring his propria persona paperwork on that date.

C. *January 7, 2016 Marsden Hearing*

At the January 7, 2016 hearing Hobdy told the court that appellant had identified his cell phone and that the People would obtain the data from the phone. Appellant withdrew his motion to represent himself but then stated that he wanted to make a *Marsden* motion because he did not think Hobdy had his best interests in mind. The court held a hearing, explaining to appellant that he needed to give the court specific reasons to appoint a new lawyer.

Appellant stated that after he asked Hobdy for a police report in August, Hobdy claimed to have given the report to the bailiff, but the bailiff told appellant he did not have it. When appellant told Hobdy he had not received the police report, Hobdy said he would visit appellant, but he did not. According to appellant, in September, Hobdy stopped answering appellant's phone calls. Hobdy was not present at a December 1 hearing and sent substitute counsel instead. Hobdy later told appellant he needed to waive time to February. Appellant claimed he had not spoken to or seen Hobdy since August. Appellant also stated that Hobdy had not complied with his request to allow appellant to

speak with his codefendant and to have his codefendant testify on his behalf.

The court explained to appellant that the court did not allow a defendant to receive a police report until it had been redacted of information such as names and addresses. Instead, the police reports were given to counsel to review with a defendant. The court then gave Hobdy an opportunity to speak.

Hobdy stated that after he was appointed on July 6, he "begged" the prosecutor to offer appellant a determinate sentence of 25 years because appellant was facing his third strike. The prosecutor agreed. Hobdy stated that he had been involved in other trials and listed nine times appellant had called him collect from July 31 to September 18, 2015. Hobdy also presented a summary of the evidence and stated that "there really is no defense." As to the police report, Hobdy stated that he redacted it and gave it to the bailiff for appellant. Hobdy further explained that the reason he asked appellant to waive time was that he "was hoping the People would keep that 25 years open."

Regarding appellant's codefendants, Hobdy stated that appellant asked him to subpoena his two codefendants, but one was a juvenile and the other pled guilty and received a four-year sentence. He explained to appellant that he believed the codefendant's attorney would not allow her client to testify that appellant was not involved in the offense. Nonetheless, Hobdy asked the codefendant's attorney, and she refused.

The court concluded that appellant had not shown good cause to have a new lawyer appointed and denied the *Marsden* motion.

D. *January 28, 2016 Hearing Regarding Phone Records*

On January 28, 2016, Hobdy told the court that he had received a disk containing information such as phone numbers, text messages, and call logs from appellant's phone, but that he did not believe that he could give a copy of the disk to appellant. After the court told appellant he could not have a copy, appellant stated that he did not want a copy but only the call logs. Hobdy stated that he was concerned about witness information, and the court agreed. The court told appellant that Hobdy could review the information with appellant but could not give him the information. Appellant stated, "Your Honor," and the court interrupted him, stating, "No. You have an attorney to do your talking."

E. *February 17, 2016 Hearing*

The matter was called for jury trial on February 17, 2016. Appellant's counsel moved to bifurcate the prior convictions. The court discussed the People's offer of a determinate 25-year term and explained to appellant his potential sentence and the difference between determinate and indeterminate terms. Appellant rejected the offer.

F. *February 18, 2016 Faretta Request*

On February 18, 2016, appellant asked the court to allow him to represent himself. The court reviewed the events that had occurred in the case with appellant and both counsel. Hobdy stated that after he

announced he was ready for trial, he discussed the case with appellant and reviewed the phone records with him.

The court expressed concern that appellant was "gaming the system" and told him he would not be given a continuance if he proceeded in propria persona. When the court stated, "I don't understand why you want to go pro per," appellant responded, "I feel like I can fight my case and ask for things that I want to ask for. I will ask for the guy that was on the case with me, for him to be subpoenaed down for a witness." Hobdy told the court that appellant's desire to subpoena his codefendants had been addressed in the *Marsden* hearing.

The court explained to appellant his codefendants' right not to incriminate themselves and further explained that he would not delay the trial to "bring in witnesses who aren't ready to go." The court asked appellant if there was any other reason he wished to proceed in propria persona, and appellant said he wanted an investigator, stating that Hobdy was not doing enough to help him.

The court said the request was not timely and reiterated to appellant that he would not be given a continuance. When asked if he wanted Hobdy to continue representing him, appellant said "No."

The court denied appellant's request, stating as follows: "One, I think Mr. Hobdy has done everything he can. Two, you stalled out a trial once before for discovery your attorney told you wasn't going to pan out, and it didn't. You asked to go pro per then. You said you weren't going to go pro per. You ran a *Marsden*, which was denied, and then you were specifically asked by Commissioner Olson, do you want to go pro per? And you said, no. [¶] You came to court yesterday when I

started all of the pretrial motions, when I did the trial readiness conference. You didn't say a word about going pro per. And today with the jury upstairs, you say you want to go pro per. I asked you the reasons why, and I don't find your reasons legitimate. [¶] What you want to bring down is some friends who you were with who were represented by counsel. It's not gonna happen because Mr. Hobdy has already done the groundwork on that. I'm finding this is gamesmanship, and I'm going to deny your request. We're in the middle of trial. I'm finding it's not timely." The court granted appellant's motion to bifurcate the priors, and after discussing other matters, voir dire began.

G. *February 23, 2016 Marsden Hearing*

On February 23, 2016, appellant made another *Marsden* motion. Appellant said he was not happy with the jury Hobdy had chosen and with Hobdy's response when he told him so. Appellant also stated that Hobdy had told the court about appellant's personal issues with his girlfriend and his mother that were not pertinent to his case.[3] Appellant also complained that Hobdy requested repeated time waivers without showing any results such as a private investigator that would help his case. He again raised the issue of the phone records and his desire to bring in his codefendants as witnesses. He stated that all

---

[3] In the previous *Marsden* hearing, Hobdy told the court that appellant's girlfriend "doesn't want anything to do with him anymore" and his mother "doesn't want to be involved with this case."

three phones the People possessed belonged to him and that they would show he had no contact with the person who entered the house. He explained that he did not know the person who actually committed the burglary and that Hobdy should have interviewed his codefendant or obtained phone records from the phone company to prove that.

In explanation, Hobdy stated that he had reviewed an audiotape between an officer and the juvenile codefendant appellant wanted him to interview. The juvenile stated that he did not commit a burglary and that the offense was appellant's idea. The juvenile said that appellant picked him up, took him to the house at 648 Kirkwall, and told him to go to the backyard of the house and retrieve a bag that was on the ground. Hobdy accordingly did not want the juvenile to testify. Hobdy also stated that appellant had given him different stories about the ring that was discovered in his pocket, which made him "very suspicious of what actually went on." He acknowledged that the phone record did not show a phone call from the juvenile to appellant, which was favorable to appellant because the officer saw the juvenile on the phone as he left the house. However, Hobdy stated that appellant had told him the day before the hearing that all three phones belonged to him, which presented the problem of requiring appellant to testify as to which phone was his. Hobdy did not think appellant should testify because of his prior conviction for residential burglary.

As to the jury issue, Hobdy explained that appellant saw a potential juror who was wearing a religious head covering and wanted Hobdy to place her on the jury. Hobdy told appellant that, because jurors are selected randomly, he did not know if that juror would make

it into the jury box and that he did not know what the juror would say during voir dire. Thus, he "didn't want to take the chance of using 20 peremptory challenges for the purposes of trying to get one juror and kicking off 12 good jurors." Hobdy also stated that he had excused a juror he liked because appellant did not like that juror.

Appellant replied that Hobdy had not told him about the juvenile's statements and that the police report showed that the juvenile was lying.

The court concluded that, although appellant and Hobdy had disagreements regarding the defense, Hobdy was properly representing appellant and there was not such a breakdown in the relationship that would prevent his effective representation. The court therefore denied the motion.

The jury convicted appellant of all three counts. The court found the prior conviction allegations to be true and sentenced appellant to a term of 64 years to life. Appellant timely appealed.

DISCUSSION

I. *Marsden Motions*

Appellant contends the trial court erred in denying his *Marsden* motions by failing to conduct a sufficient inquiry and failing to determine whether his concerns were sufficiently resolved. The record shows that the trial court thoroughly addressed appellant's concerns regarding defense counsel. We therefore find no error.

"'Under the Sixth Amendment right to assistance of counsel, '"'[a] defendant is entitled to [substitute another appointed attorney] if the

record clearly shows that the first appointed attorney is not providing adequate representation [citation] or that defendant and counsel have become embroiled in such an irreconcilable conflict that ineffective representation is likely to result.'''' [Citation.] Furthermore, '''[w]hen a defendant seeks to discharge appointed counsel and substitute another attorney, and asserts inadequate representation, the trial court must permit the defendant to explain the basis of his contention and to relate specific instances of the attorney's inadequate performance.''''' [Citations.] "'[S]ubstitution is a matter of judicial discretion. Denial of the motion is not an abuse of discretion unless the defendant has shown that a failure to replace the appointed attorney would 'substantially impair' the defendant's right to assistance of counsel." [Citations.]' [Citation.]" (*People v. Valdez* (2004) 32 Cal.4th 73, 95 (*Valdez*).) Substantial impairment of the right to counsel is shown "if the record shows that the first appointed attorney is not providing adequate representation or that the defendant and the attorney have become embroiled in such an irreconcilable conflict that ineffective representation is likely to result [citation]." (*People v. Smith* (1993) 6 Cal.4th 684, 696.)

"Under *Marsden*, *supra*, 2 Cal.3d 118, a criminal defendant who seeks to substitute counsel must be allowed to state the specific reasons for his dissatisfaction with counsel. Once that opportunity is given, it is within the trial court's discretion whether the circumstances justify a substitution of counsel. Substitution is required if the record clearly shows that defense counsel is not providing adequate representation or that there is such a conflict between the defendant and counsel that

ineffective assistance of counsel is likely to result. The trial court's determination will not be disturbed on appeal absent a showing that denial of the motion substantially impaired the defendant's right to the effective assistance of counsel. [Citations.]" (*People v. Clemons* (2008) 160 Cal.App.4th 1243, 1250 (*Clemons*).) We conclude that appellant has not made such a showing here.

Appellant contends the trial court did not adequately inquire into the reasons he presented for his *Marsden* motion. He states that Hobdy failed to make the police reports available to him despite repeated requests and failed to review the phone records with him after the court directed him to do so at the January 28 hearing.[4] He further argues that, although the court repeatedly assured him that his concerns regarding discovery would be addressed by Hobdy, they never were.

Unlike cases in which the trial court failed to hold a *Marsden* hearing, the trial court here held hearings and gave appellant ample opportunities to raise and discuss in detail his concerns regarding Hobdy's representation. (See *People v. Reed* (2010) 183 Cal.App.4th 1137, 1145 [reversible error where trial court "made no inquiry at all" into the defendant's claims regarding counsel's failings]; *People v. Eastman* (2007) 146 Cal.App.4th 688, 697 ["[b]ecause we do not know what [appellant] might have shown had he received a full hearing on

---

[4] Respondent misunderstands appellant's argument, arguing only that the court order was made at the January 28 hearing, not the January 7 hearing. However, this is what appellant states. Appellant's contention is that, after the court advised Hobdy to "go over" the phone records with appellant at the January 28 hearing, Hobdy did not do so until the first day of trial, a month later.

his *Marsden* motion, we cannot say the error was harmless"], disapproved on another ground in *People v. Sanchez* (2011) 53 Cal.4th 80, 90.) During both *Marsden* hearings, the court allowed appellant to speak about his concerns and asked clarifying questions about those concerns. In the second *Marsden* hearing, the court further gave appellant the opportunity to respond to Hobdy's explanations of his representation. The transcripts reflect that the court heard and carefully considered appellant's concerns. The decision whether to allow substitution thus was within the court's discretion. (*Valdez*, *supra*, 32 Cal.4th at p. 95.)

The record does not show that denial of the *Marsden* motions substantially impaired appellant's right to the effective assistance of counsel. (See *Clemons*, *supra*, 160 Cal.App.4th at p. 1250.) Hobdy obtained a continuance on the day of trial, over the People's objection, in order to obtain the phone records appellant requested. He obtained the records, and he determined that there was no phone call from the juvenile. Although appellant complains that Hobdy did not review the records with him, Hobdy explained at the February 23 hearing that appellant had just told him the previous day that all three phones belonged to him, and he did not have a way to present evidence regarding the phones without having appellant testify–something he advised against because of appellant's prior convictions.

Hobdy's decision not to rely on the phone records was a tactical decision, and "'[t]actical disagreements between the defendant and his attorney do not by themselves constitute an "irreconcilable conflict."'

[Citation.]" (*Valdez*, *supra*, 32 Cal.4th at p. 95.) Moreover, Hobdy reviewed the juvenile codefendant's statements and determined they were unfavorable to appellant. When Hobdy asked the codefendant's attorney if the codefendant would testify for appellant, the attorney said no. The record does not show a substantial impairment of appellant's right to assistance of counsel. (*Valdez*, *supra*, 32 Cal.4th at p. 95.) We therefore find no abuse of discretion in the trial court's denial of appellant's *Marsden* requests. (See *People v. Spirlin* (2000) 81 Cal.App.4th 119, 126-127 [trial court properly denied *Marsden* motion where it "allowed defendant ample opportunity to present his claims" that "defense counsel was inadequate because he may have dissuaded favorable witnesses from testifying on defendant's behalf," because counsel properly advised witnesses "regarding perjury and the possible need for an attorney"].)

II. *Faretta Motion*

"'Criminal defendants have the right both to be represented by counsel at all critical stages of the prosecution and the right, based on the Sixth Amendment as interpreted in *Faretta*, *supra*, 422 U.S. 806, to represent themselves. [Citation.] However, this right of self-representation is not a license to abuse the dignity of the courtroom or disrupt the proceedings. [Citation.] *Faretta* motions must be both timely and unequivocal. . . . [Citations.] Equivocation of the right of self-representation may occur where the defendant tries to manipulate the proceedings by switching between requests for counsel and for self-

representation, or where such actions are the product of whim or frustration.' [Citation.] Moreover, a trial court rarely should grant such a motion on the day set for trial. Our Supreme Court has 'held on numerous occasions that *Faretta* motions made on the eve of trial are untimely.' [Citation.]" (*People v. Powell* (2011) 194 Cal.App.4th 1268, 1277 (*Powell*).)

"A trial court must grant a defendant's request for self-representation if the defendant unequivocally asserts that right within a reasonable time prior to the commencement of trial, and makes his request voluntarily, knowingly, and intelligently. [Citations.]" (*People v. Lynch* (2010) 50 Cal.4th 693, 721 (*Lynch*).) However, our supreme court has "long held that a self-representation motion may be denied if untimely. [Citation.] . . . [A] motion is timely if made 'a reasonable time prior to the commencement of trial.' [Citation.] '[O]nce a defendant has chosen to proceed to trial represented by counsel,' a defendant's motion for self-representation is 'addressed to the sound discretion of the court.' [Citation.] . . . [The] imposition of a timeliness 'requirement should not be and, indeed, must not be used as a means of limiting a defendant's *constitutional* right of self-representation.' [Citation.] Rather, the purpose of the requirement is 'to prevent the defendant from misusing the motion to unjustifiably delay trial or obstruct the orderly administration of justice.' [Citation.]" (*Id.* at p. 722, fn. omitted.)

"'When a motion for self-representation is not made in a timely fashion prior to trial, self-representation no longer is a matter of right

but is subject to the trial court's discretion. [Citations.]' [Citation.] 'Among [the] factors to be considered by the court in assessing such requests made after the commencement of trial are the quality of counsel's representation of the defendant, the defendant's prior proclivity to substitute counsel, the reasons for the request, the length and stage of the proceedings, and the disruption or delay which might reasonably be expected to follow the granting of such a motion.' [Citation.]" (*People v. Williams* (2013) 56 Cal.4th 165, 193–194 (*Williams*), criticized on another ground in *People v. Elizalde* (2015) 61 Cal.4th 523, 538, fn. 9.) "'[A] reviewing court must give "considerable weight" to the court's exercise of discretion and must examine the total circumstances confronting the court when the decision is made.' [Citation.]" (*People v. Bradford* (2010) 187 Cal.App.4th 1345, 1353 (*Bradford*).)

Appellant contends that, although his *Faretta* motion was made on the first day of trial, he previously had asked to represent himself and had withdrawn that request based on the assurance that his counsel would disclose the requested discovery to him. He argues that he renewed his motion only after he received the discovery.

Appellant's *Faretta* request was made after the case had been called for trial. The decision whether to grant or deny it thus "is addressed to the sound discretion of the trial court." (*People v. Windham* (1977) 19 Cal.3d 121, 128, fn. 5.) "A trial court abuses its discretion when its ruling falls outside the bounds of reason [citation]

and we discern no such possibility that this occurred here." (*Powell*, *supra*, 194 Cal.App.4th at p. 1278.)

Before denying appellant's request, the trial court inquired into the history of the case thus far, including appellant's prior *Marsden* request, the reasons for appellant's *Faretta* request, and Hobdy's actions in representing him. The court explained to appellant that the jury was waiting to enter the courtroom and stated that appellant had been at the court hearing the previous day and had not asked to represent himself at that time. The court thus considered the factors cited by the California Supreme Court to be considered in assessing a *Faretta* request: "'the quality of counsel's representation of the defendant, the defendant's prior proclivity to substitute counsel, the reasons for the request, the length and stage of the proceedings, and the disruption or delay which might reasonably be expected to follow the granting of such a motion.' [Citation.]" (*Williams*, *supra*, 56 Cal.4th at p. 194.)

Appellant correctly observes that our high court's "imposition of a timeliness 'requirement should not be and, indeed, must not be used as a means of limiting a defendant's *constitutional* right of self-representation.' [Citation.] Rather, the purpose of the requirement is 'to prevent the defendant from misusing the motion to unjustifiably delay trial or obstruct the orderly administration of justice.' [Citation.]" (*Lynch*, *supra*, 50 Cal.4th at p. 722.) However, *Lynch* further states that "we have held on numerous occasions that *Faretta* motions made on the eve of trial are untimely." (*Ibid.*) As the trial court here

reasoned, appellant's request was made just as jury selection was to begin and followed appellant's prior *Faretta* request (which he later withdrew) and his first *Marsden* motion. Moreover, as discussed above, the record shows that Hobdy's representation of appellant was adequate. In light of the "'considerable weight'" we give to the trial court's exercise of discretion and the totality of the "'circumstances confronting the court'" at the time of appellant's request (*Bradford*, *supra*, 187 Cal.App.4th at p. 1353), we find no abuse of discretion in the court's denial of appellant's *Faretta* request.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

WILLHITE, Acting P. J.

We concur:

MANELLA, J.

COLLINS, J.