

IN THE COURT OF APPEALS OF IOWA

No. 2-658 / 11-1263
Filed August 22, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LARRY BELL,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Thomas G. Reidel,
Judge.

Defendant appeals his conviction on constitutional grounds. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas Henry Miller, Deputy Attorney
General, Michael J. Walton, County Attorney, and Robert Bradfield, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Doyle and Tabor, JJ.

EISENHAUER, C.J.

On May 15, 2011, a police officer stopped Bell, who presented a handmade driver's license under the seal of Larry Allen Bell, "Freeman Sovereign." Bell was charged, waived his right to counsel, and requested the assistance of standby counsel.

At the start of Bell's June 13, 2011 trial, he waived his right to a jury trial. During trial, Bell objected to the State's exhibit of a certified copy of his driving record. Bell testified and presented numerous exhibits. In July 2011, the district court issued a detailed written opinion addressing Bell's numerous motions and defenses and finding him guilty of driving while barred, driving while suspended, and violating the financial liability coverage requirements. Bell now appeals.

I. Confrontation Clause.

We assume error was preserved by Bell's objection at trial. Bell argues the admission of the certified copy of his driving record violates his Sixth Amendment right to confrontation. We review *de novo*. *State v. Shipley*, 757 N.W.2d 228, 231 (Iowa 2008). Bell acknowledges the Iowa Supreme Court rejected this argument in *Shipley*, 757 N.W.2d at 234-39. The *Shipley* court ruled the defendant's driving record and certification of its authenticity are admissible without the testimony of a live witness. *Id.* The court noted Shipley's driving record was created *prior* to the events leading up to the criminal prosecution and the purpose of the certification is to confirm a copy of a record is an "accurate copy of a document" existing in a governmental database. *Id.*

Bell argues the more recent United States Supreme Court case, *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009), requires a different result. We disagree.

In *Melendez-Diaz*, the trial court admitted three “certificates of analysis” of seized substances over a defense objection the Confrontation Clause required the analysts to testify in person. 557 U.S. at 308-09 (stating certificates identified substance in bags as cocaine). The Supreme Court found the Confrontation Clause was violated, holding “the [forensic] analysts’ statements here—prepared specifically for use at petitioner’s trial—were testimony against petitioner, and the analysts were subject to confrontation under the Sixth Amendment.” *Id.* at 324. Further, “[c]onfrontation is one means of assuring accurate forensic analysis.” *Id.* at 318.

The *Melendez-Diaz* case involves a separate forensic analysis, not a copy of an existing governmental driving record. Accordingly, *Shiple*y still governs. See *Shiple*y, 757 N.W.2d at 237 n.2 (stating discussion is “limited to the consideration of the admissibility of a copy of an existing driving record kept by the custodian of records”). We affirm the admission of Bell’s certified driving record.¹

II. Competency Evaluation.

Bell argues for the first time on appeal that his due process rights were violated by the trial court’s failure to conduct, *sua sponte*, a hearing on his

¹ We reached the same conclusion, *Melendez-Diaz* does not require a second look at *Shiple*y, in *State v. Wixom*, No. 11-1278, 2012 WL 2123309, at *2 (Iowa Ct. App. June 13, 2012) (driving record) and *State v. Redmond*, No. 10-1392, 2011 WL 3115845, at *6 (Iowa Ct. App. July 27, 2011) (certified record of convictions).

competency. Bell contends his “ability to effectively assist in his defense is seriously questionable in light of his arguments” and requests we vacate his conviction and remand for a mental health competency evaluation. See Iowa Code § 812.3 (2011) (suspending criminal proceeding for determination of defendant’s competency).

The State argues the frivolous nature of a pro se defendant’s legal arguments is not a consideration in determining competency. The State points out the court, Bell’s standby counsel, and the prosecutor did not note any unusual or irrational behavior or demeanor by Bell and these participants did not raise any concern about Bell’s competency to stand trial.

We review de novo. *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010). “We presume a defendant is competent to stand trial.” *Id.* at 874. “When ‘sufficient doubt’ exists as to the defendant’s competency, the trial court has an absolute responsibility to order a hearing sua sponte.” *State v. Mann*, 512 N.W.2d 528, 531 (Iowa 1994).

Our de novo review of the record reveals nothing suggesting the trial court should have suspended the proceedings and ordered Bell to be evaluated for competency. While Bell’s claims and defenses were ultimately determined to be meritless, he communicated effectively and testified coherently. There is no evidence of irrational behavior by Bell, and his eccentric beliefs do not raise an issue of mental competency in the circumstances of this case. See *United States v. James*, 328 F.3d 953, 955 (7th Cir. 2003) (stating many defendants, such as tax protestors, articulate beliefs that have no legal support but such beliefs do not imply mental instability).

Further, Bell's cross-examination successfully challenged the police officer's credibility. The trial court ruled: "During a thorough cross-examination, [Bell] was able to show several inconsistencies in the testimony of [the officer]. The court finds that these inconsistencies are minor and do not adversely affect the court's determination of credibility concerning [the officer's] testimony as a whole."

Finally, Bell coherently argued his cause at the sentencing hearing. Thus, we conclude the trial court did not violate Bell's due process rights by failing to suspend proceedings and order a competency evaluation.

AFFIRMED.