

closing argument had been held. Defendant then complained about being "misrepresented" and complained of certain areas of the trial he thought should have been handled differently. He stated he could have done better on his own and he needed his "own paid lawyer or something." The trial court told defendant to sit down and it was too late to have new counsel.

¶ 4 Defendant appeared with appointed counsel at a hearing on defense counsel's posttrial motion and sentencing. He did not object to counsel representing him. Defendant did not raise the issue of representation again until this appeal. We find the trial court did not err in failing to pursue the issue of defendant's representation any further.

¶ 5 I. BACKGROUND

¶ 6 In the early morning hours of October 2, 2010, Champaign police officer Matt Mecum was patrolling the city streets in a marked squad car. Officer Mecum saw a car with two African-American men in the front seat, one of whom was defendant, and one African-American woman in the backseat. At defendant's trial, Mecum identified defendant as the driver. After running the license plate on the vehicle and discovering it had been reported stolen, Mecum radioed for assistance and began to follow the vehicle.

¶ 7 Officer Mecum followed the vehicle for several blocks and was joined by another squad car driven by Officer Jason Norton. Mecum then activated his overhead lights and the vehicle pulled to the side of the road. The officers walked toward the vehicle and ordered the driver to turn off the car. The driver did not do so and Mecum repeated his command. The driver hit the gas, sped off down the street and around a corner. Mecum and Norton returned to their cars and gave pursuit. They were joined by a third officer. During the chase, the pursued vehicle swerved off the road, bounced off a parked car, and crashed into a garage. As Norton

arrived at the scene of the crash, he observed a black male, wearing a white T-shirt, exit the driver's door and flee east through backyards.

¶ 8 Officer Mecum observed a black male wearing a white T-shirt running east through the neighborhood. The man ignored Mecum's command to stop. Mecum identified the running man as the defendant.

¶ 9 A man and a woman exited the vehicle through the back passenger door as the front door was pinched shut in the crash. Officer Mecum observed that man had been riding in the front passenger seat. He was later identified as Ryan Parr.

¶ 10 With the assistance of a police dog, the police found defendant hiding in a garage located about two blocks from the crash site. Defendant's hand was bleeding, his shirt was covered in leaves and grass, and his pants were wet and muddy. Defendant denied he had been driving the vehicle and also stated Parr had not been driving the vehicle.

¶ 11 On January 10, 2012, defendant's jury trial began. The evidence against defendant included Officer Mecum's and Officer Norton's testimony as well as deoxyribonucleic (DNA) evidence. The front air bags on the vehicle involved in the police chase and crash deployed during the crash. A DNA swab was taken from the driver's side air bag and it contained defendant's DNA profile. Evidence also established the vehicle had been reported stolen and the crash resulted in \$1,700 damage to the garage.

¶ 12 Parr testified for the defense. He stated defendant is his nephew and in the early morning hours of October 2, 2010, he was with his girlfriend and defendant walking home. A black male, known as "Little Lord," drove past and asked if they wanted a ride. Parr and his girlfriend got in the backseat while defendant got in the front passenger seat. Following the

crash, Parr noticed both Little Lord and defendant were gone. Parr stated he told the police after the crash there had been a total of four people in the car, including defendant, and Little Lord had been driving.

¶ 13 Defendant testified he had been with Parr and Parr's girlfriend on the morning of October 2, 2010. They were walking home when Little Lord offered them a ride. Little Lord was wearing a white T-shirt "just like me." Defendant got in the front passenger seat while Parr and his girlfriend got in the back. During a traffic stop, Little Lord attempted to elude the police but crashed the car into a garage. Little Lord fled from the car, and defendant got out of the driver's side door because the passenger's door was jammed. His hand was bleeding from the crash and he touched the driver's air bag on his way out of the car.

¶ 14 Defendant stated he ran from the police because he was only 18 years old and there were alcoholic beverages in the car. Defendant acknowledged having told the police he "was just taking a walk" when he heard a dog bark and hid in the garage because he is afraid of dogs. He also stated he told the police Little Lord had been driving the car.

¶ 15 Officer Mecum testified in rebuttal defendant never told him Little Lord had been driving the vehicle. He did acknowledge Parr told him that.

¶ 16 Defendant was found guilty of aggravated fleeing or attempting to elude a police officer and not guilty of possession of a stolen vehicle. Both are violations of the Illinois Vehicle Code and not the Criminal Code of 1961 (Criminal Code).

¶ 17 Prior to the introduction of any evidence at trial, defendant complained of the representation provided him by appointed counsel. Most of his complaints centered on defendant wanting to watch the police car video of the traffic stop again. This was addressed by the court

and counsel and defendant apparently watched the video again.

¶ 18 After closing arguments were finished and the jury had retired to deliberate, defendant raised other issues about his representation by appointed counsel. He stated he could have represented himself just as well as appointed counsel and he also stated he should have had paid counsel. He was allowed to express his dissatisfaction. The trial court then told him it was too late to have new counsel and to be quiet. The jury later returned with its verdict.

¶ 19 On March 29, 2012, a hearing was held on defendant's posttrial motion and a sentencing hearing was held. Defendant appeared with appointed counsel. He made no mention of dissatisfaction with the representation provided by counsel. Neither was it mentioned in his posttrial motion. In the two months from the end of trial to the sentencing hearing, defendant did not raise the issue of his representation. Defendant was sentenced to 30 months in prison, assessed \$1,700 in restitution and ordered to pay a \$10 Crime-Stopper fee and a \$150 Crime-Lab-Analysis fee. Defendant filed a timely notice of appeal.

¶ 20 II. ANALYSIS

¶ 21 On appeal, defendant initially contended the trial court erred in failing to afford him the opportunity to retain private counsel or represent himself during posttrial proceedings; the court lacked authority to assess restitution; and it lacked authority to order the Crime-Stopper and Crime-Lab-Analysis fees. Defendant now acknowledges the trial court did have the authority to assess restitution in cases involving all offenses and not just for those for violations of the Criminal Code under section 5-5-6 of the Unified Code of Corrections (730 ILCS 5/5-5-6 (West 2010); *People v. McCormick*, 332 Ill. App. 3d 491, 499, 774 N.E.2d 392, 399 (2002)). The State acknowledges the court lacked the authority to order defendant to pay a \$10 Crime-

Stopper fee (see *People v. Beler*, 327 Ill. App. 3d 829, 837, 763 N.E.2d 925, 931 (2002)) and a \$150 Crime-Lab-Analysis fee (see 730 ILCS 5/5-9-1.9(b) (West 2010)). The only issue remaining is that of defendant's right to retain private counsel or represent himself.

¶ 22 A trial court's denial of a defendant's request to hire private counsel or to represent himself is generally reviewed for an abuse of discretion. See *People v. Baez*, 241 Ill. 2d 44, 116, 946 N.E.2d 359, 401 (2011); *People v. Burrell*, 228 Ill. App. 3d 133, 142, 592 N.E.2d 453, 459 (1992). The courts apply a *de novo* standard of review to determine if a defendant's constitutional rights have been violated. *People v. Burns*, 209 Ill. 2d 551, 560, 809 N.E.2d 107, 114 (2004). Defendant now requests a new trial alleging the trial court should have inquired more thoroughly into his request to retain counsel or the court should have offered him the opportunity to represent himself during posttrial proceedings.

¶ 23 Following closing arguments, defendant attempted to address the court but was told to wait until the jury retired for its deliberations. Defendant stated his displeasure with appointed counsel noting counsel failed to effectively present the issue of his misidentification as the driver of the stolen vehicle in light of inconsistencies between Officer Mecum's testimony, police reports, and the videotape of the traffic stop. Defendant stated he needed his "own paid lawyer" because "I could have beat this on my own." He inquired of the court "Is it [*sic*] a way I can get my own lawyer or something?" The court told defendant it was too late and then told him to "sit down and be quiet." Defendant later stated "(Unintelligible) didn't go to college neither, did he? None of that. I got my own GED (unintelligible), I don't need them." The court made no response to these remarks.

¶ 24 A defendant has the right to substitute counsel at any time and this right may only

be denied where it will unduly prejudice the other party or interfere with the administration of justice. *People v. Mueller*, 2 Ill. 2d 311, 316, 118 N.E.2d 1, 4 (1954). A trial court is required to conduct an adequate inquiry into a defendant's request for new counsel to determine if this is a delaying tactic or a means to thwart the administration of justice. *Burrell*, 228 Ill. App. 3d at 142, 592 N.E.2d at 459. Finally, a court does not abuse its discretion in denying a motion for new counsel if such counsel is not specifically identified and does not stand ready, willing, and able to make an appearance on a defendant's behalf. *People v. Tucker*, 382 Ill. App. 3d 916, 923, 889 N.E.2d 733, 739 (2008).

¶ 25 Defendant did not make an actual request to obtain legal counsel different from his appointed counsel, nor did he identify available trial counsel. He did not ask to represent himself. He made remarks suggesting he was second-guessing his representation and private counsel or self-representation could have produced the same or a better result. The trial court was not required to inquire further into defendant's musings about his representation. The trial was over at that point. The jury had already begun to deliberate. There was nothing for new counsel or defendant himself to do. The posttrial proceedings occurred over two months after these comments were made. Defendant made no motions or further requests for new counsel or self-representation during that time period. He appeared with appointed counsel at the posttrial and sentencing hearing without further complaint. There was no abuse of discretion on the part of the trial court in not pursuing defendant's references to private counsel or self-representation any further under these circumstances.

¶ 26 III. CONCLUSION

¶ 27 We vacate the \$10 Crime-Stopper fee and the \$150 Crime-Lab-Analysis fee and

otherwise affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 28 Affirmed in part and vacated in part.