IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

JOHNNY D. FLOYD,

Appellant.

DOCKET NUMBER WD83890

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: November 9, 2021

APPEAL FROM

The Circuit Court of Henry County, Missouri
The Honorable M. Brandon Baker, Judge

JUDGES

Division Four: Martin, C.J., Pfeiffer, J., and Welsh, Sr. J. CONCURRING.

ATTORNEYS

Eric S. Schmitt, Attorney General, and Daniel N. McPherson, Assistant Attorney General, Jefferson City, MO, Attorney for Respondent.

James Egan, Assistant Public Defender, Columbia, MO, Attorney for Appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
JOHNNY D. FLOYD, Appellant.

WD83890 **Henry County**

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Mark D. Pfeiffer, Judge, and James E. Welsh, Senior Judge

Mr. Johnny Floyd ("Floyd") appeals from the judgment of the Circuit Court of Henry County, Missouri ("trial court"), entered after a jury trial in which he was found guilty and convicted of unlawful use of a weapon, unlawful possession of a firearm, resisting arrest, and burglary in the first degree. Floyd asserts that the trial court violated Due Process in allowing him to represent himself at trial and in refusing to offer a self-defense instruction. The State concedes that "the trial court erred in allowing him to represent himself at trial" without the requisite *Faretta*[1] hearing.

REVERSED AND REMANDED.

Division Four holds:

1. Missouri has two requirements that must be satisfied before a trial court can conclude that a defendant has effectively waived the right to counsel: (1) there must be a thorough *Faretta* evidentiary hearing that establishes that the defendant understands exactly what rights and privileges he is waiving, as well as the dangers associated with waiving constitutional rights by proceeding *pro se*; and (2) the defendant must be given the opportunity to sign the written waiver of counsel form mandated by Section 600.051, RSMo.

2. The State concedes that the requisite *Faretta* inquiry was not made by the trial court, and we agree that the record establishes that the trial court did not conduct a *Faretta* evidentiary hearing to establish that Floyd understood exactly what rights and privileges he was waiving and the dangers associated with waiving his constitutional rights by proceeding *pro se*. Accordingly, Floyd is entitled to a new trial.

Opinion by: Mark D. Pfeiffer, Judge November 9, 2021

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.

[1] *Faretta v. California*, 422 U.S. 806, 814, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975).