

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

Filed 10:32AM

UNITED STATES OF AMERICA, :  
 :  
 v. :  
 :  
 DWIGHT D. YORK, a/k/a :  
 MALAKAI Z. YORK, :  
 ISA MUHAMMAD, and :  
 ISA ALIHAD MAHDI, :  
 :  
 Defendant. :

AUG 8 2004  
*C. J. Smith*  
DEPUTY CLERK U.S. DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
Case No. 5:02-CR-27 (CAR)

**ORDER ON DEFENDANT'S PRO SE MOTIONS**

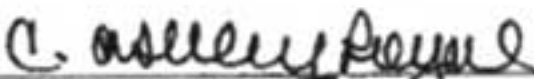
Defendant Malakai York has filed two motions *pro se* since the conclusion of his motion for new trial hearing on August 13, 2004. In the first, Defendant moves to withdraw his attorney, Jonathan Marks, alleging ineffective assistance. In the second, Defendant moves to reinstate his original motions for new trial and for judgment of acquittal, which were withdrawn by his counsel at the August 13 hearing. Both motions are hereby dismissed, as procedurally improper.

Defendant is currently represented by counsel and has been continuously represented by counsel throughout the course of proceedings before this Court. He is currently represented by Mr. Marks and co-counsel Harry Charles. Though Defendant has retained and discharged several different attorneys through the pre-trial, trial, and post-trial proceedings, he has never indicated or even suggested a desire to proceed *pro se*. Because of the complex constitutional concerns that arise when a criminal defendant opts to represent himself, courts in the Eleventh Circuit will not act on an ambiguous claim to self-

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representation, and require a defendant "to clearly and unequivocally assert the desire to represent himself." United States v. Cross, 893 F.2d 1287, 1290 (11<sup>th</sup> Cir. 1990). There has been no such assertion in this case. To the contrary, in his motion to withdraw Mr. Marks as counsel, Defendant states his intent that Mr. Charles continue to represent him. Because Defendant is represented by counsel, the Court will not entertain *pro se* motions from him. The Eleventh Circuit "has held repeatedly that an individual does not have a right to hybrid representation." *Id.*, at 1291-92. Any motions must come through counsel. If Defendant has elected to terminate his relationship with Mr. Marks, it remains for Mr. Marks to notify the Court of his withdrawal from the case.

SO ORDERED this 31<sup>st</sup> day of August, 2004.

  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE

CW/jec