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**IN THE
COURT OF APPEALS OF INDIANA**

MARK EDWARD NEAL, SR.,)

Appellant-Defendant,)

vs.)

No. 45A05-0703-CR-155

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Salvador Vasquez, Judge
Cause No. 45G01-0606-FB-00063

OCTOBER 15, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Mark Edward Neal, Sr., appeals his conviction in a bench trial of robbery as a class B felony. We affirm.

ISSUE

The sole issue for our review is whether Neal knowingly waived his right to a jury trial.

FACTS AND PROCEDURAL HISTORY

In June 2006, Neal was charged with robbery as a class B felony, and the case was set for a jury trial. In September 2006, Neal filed a motion for a bench trial. At a pretrial conference, the trial court advised Neal that he had a constitutional right to a jury trial where the jury would determine whether the State proved its case beyond a reasonable doubt. The court further explained that if it granted Neal's motion, it was the court that would decide whether the State had met its burden. In addition, the court and defense counsel engaged in the following colloquy:

Trial Court: And, Ms. Jones, just to be very clear on the record, you have counseled Mr. Neal on the waiver of a jury trial, the constitutional rights and you believe that it's a knowing and voluntary waiver of his rights to a jury trial?

Defense Counsel: Yes, your Honor, it was at his specific request.

Trial Court: Okay. Very good. I think that the defendant Mr. Neal has certainly made a knowing waiver of his right to a trial by jury. . . .

Transcript at 5. The court convicted Neal as charged, and he appeals.

DISCUSSION AND DECISION

Neal argues that he did not knowingly waive his right to a jury trial because he was not advised that: 1) a jury is composed of twelve members of the community; 2) he could have participated in the jury selection; and 3) the jury's verdict must be unanimous. However, the Indiana Supreme Court has previously stated that there is "no . . . requirement that the trial judge explain to Defendant the difference between a trial by court and by jury; nor is there any requirement that the trial record demonstrate that Defendant understood the difference." *Kennedy v. State*, 393 N.E.2d 139, 142 (Ind. 1979), *cert. denied*, 444 U.S. 1047 (1980); *see also Earl v. State*, 450 N.E.2d 49, 50 (Ind. 1983) (stating even though it is preferable for the trial court to advise the defendant of his right to a jury trial and the consequences of the waiver of that right, such a procedure is not required by the United States or Indiana Constitutions or by statute). Neal's argument therefore fails, and we find no error.

CONCLUSION

Neal knowingly waived his right to a jury trial.

Affirmed.

FRIEDLANDER, J., and VAIDIK, J., concur.