

While the burden on the State of guaranteeing counsel in all such proceedings would not approach the burden of doing so in all violation cases that might be considered as such proceedings, we find that the risk of error is too slight to justify placing a further burden on public funds in every habitual offender case. Thus we conclude that neither State nor federal standards of due process should be construed to require counsel at a hearing to determine status as an habitual offender.

As our citations to such cases as *Lassiter* and *Duval* imply, we recognize that there could be a violation trial or an habitual offender hearing with issues potentially so complicated that a defendant pro se probably could not represent himself adequately. When such cases arise the trial courts have authority to recognize a right to counsel on grounds of due process. But such cases will be rare, and the facts before us do not suggest that this is one of them.

Remanded.

All concurred.

Coos
No. 88-100

THE STATE OF NEW HAMPSHIRE

v.

JOHN P. BOSWELL

August 27, 1984

Gregory H. Smith, attorney general (*Loretta S. Platt*, assistant attorney general, on the brief and orally), for the State.

Philip R. Waystack, Jr., of Colebrook, by brief and orally, for the defendant.

MEMORANDUM OPINION

Counsel for the defendant advised the court that the State had withdrawn the habitual offender petition filed against his client.

Before that withdrawal, the defendant had raised the issue of an indigent defendant's right to appointed counsel at an habitual offender proceeding. The companion case of *State v. Cook*, 125 N.H. 452, 481 A.2d 823 (1984), raised the same issue, and we have ruled on it by our opinion of even date. Counsel is not entitled to payment from public funds.

Remanded.

Rockingham
No. 83-304

THE STATE OF NEW HAMPSHIRE

v.

MAURICE LEMIRE

August 27, 1984

[REDACTED]

Gregory H. Smith, attorney general (*Douglas L. Patch*, assistant attorney general, on the brief), by brief for the State.

Joanne Green, assistant appellate defender, of Concord, by brief for the defendant.