

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1034**

State of Minnesota,
Respondent,

vs.

Nathan Lee Adams,
Appellant.

**Filed July 9, 2018
Affirmed
Reyes, Judge**

Sherburne County District Court
File No. 71-CR-16-841

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Reyes, Judge; and T. Smith, Judge.

UNPUBLISHED OPINION

REYES, Judge

Appellant argues on appeal that the district court failed to follow the proper procedures to ensure that he was competent both to stand trial and validly waive his right

to counsel. Appellant also argues in his pro se supplemental brief that the state tampered with evidence. We affirm.

FACTS

On June 22, 2016, St. Cloud police officers received a dispatch call about possible drug-selling activity. When the officers encountered appellant Nathan Lee Adams, who matched the description of the suspect, and attempted to stop him, appellant ran away and threw items on the ground. Officers soon detained appellant and recovered the items, which included a baggie containing what was later confirmed to be methamphetamine. The police officers' squad-car video recorded the entire event.

Respondent State of Minnesota charged appellant with second-degree controlled-substance crime in violation of Minn. Stat. § 152.022, subd. 2(a)(1) (2016), misdemeanor fleeing police on foot in violation of Minn. Stat. § 609.487, subd. 6 (2016), and petty misdemeanor possession of drug paraphernalia in violation of Minn. Stat. § 152.092 (2016).

Court-appointed counsel initially represented appellant, but appellant later fired counsel during a contested omnibus hearing in September 2016 because he did not agree with counsel's trial strategy. Before counsel's discharge, the district court asked him whether appellant was competent, and counsel confirmed that he was. In November 2016, the district court secured a written waiver from appellant and provided appellant with standby counsel.

During a second contested omnibus hearing, appellant cross-examined one of the police officers who testified that he saw appellant reach into his pocket and discard

something out of it. Appellant secured an answer from the officer that the officer could not see the pocket of the shorts that appellant wore that day. The district court noted the effectiveness of appellant's cross-examination.

During the pretrial hearing in January 2017, appellant asked the district court to subpoena his previously discharged counsel for appellant to question regarding whether the state or the police tampered with the squad-car-video evidence. After the district court denied his request, appellant had an outburst and made extremely disrespectful comments to the district court. The district court removed appellant from the courtroom and asked standby counsel for his opinion about appellant's competency. Standby counsel answered that there may be an issue. However, the district court did not order further inquiry into appellant's competency because, after a recess, appellant had calmed down and promised to be respectful. The district court asked appellant whether he felt competent to proceed to trial, to which appellant answered, "I am of sound mind." The district court instructed appellant to be respectful to the witnesses, the prosecutor, and others, and resumed the hearing.

During the subsequent jury trial, the state and appellant each examined witnesses and made arguments. While conducting the cross-examination of a police officer, appellant had another brief outburst, used profane language, and demanded counsel. He calmed down after consulting with standby counsel and continued pro se. The jury found appellant guilty of all charges. This appeal follows.

DECISION

I. The district court did not err by not inquiring further into appellant's competency.

Appellant argues that the district court should have conducted further inquiry into his competency. We are not persuaded.

The Due Process Clause of the United States Constitution protects legally incompetent defendants¹ from being tried or convicted. *Bonga*, 797 N.W.2d at 718. A defendant must also be competent in order to waive his or her constitutional right to counsel. *State v. Camacho*, 561 N.W.2d 160, 171 (Minn. 1997).

A district court does not deprive a defendant of his or her due-process right to a fair trial if it “observe[s] procedures adequate to protect a defendant’s right not to be tried or convicted while incompetent to stand trial.” *Drope v. Missouri*, 420 U.S. 160, 172, 95 S. Ct. 896, 904 (1975). The question of whether the district court followed adequate procedures is different than the question of whether the defendant was actually competent. *Bonga*, 797 N.W.2d at 718. Here, appellant challenges only the adequacy of the procedures used by the district court to determine that he was competent to stand trial.

We determine whether the district court observed adequate procedures by considering only whether it should have conducted further inquiry into the defendant’s

¹ A criminal defendant is competent to stand trial if he or she “‘has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding’ and ‘has a rational as well as factual understanding of the proceedings against him.’” *Bonga v. State*, 797 N.W.2d 712, 718 (Minn. 2011) (quoting *Dusky v. United States*, 362 U.S. 402, 402, 80 S.Ct. 788, 788 (1960)); see Minn. R. Crim. P. 20.01 (“A defendant is incompetent . . . if the defendant lacks ability to: (a) rationally consult with counsel; or (b) understand the proceedings or participate in the defense due to mental illness or deficiency.”).

competence. *State v. Bauer*, 310 Minn. 103, 108, 245 N.W.2d 848, 852 (1976). Specifically, we “review the record to determine whether the district court gave proper weight to the information suggesting incompetence” in concluding that there was not sufficient doubt of the defendant’s competency that required further inquiry. *Camacho*, 561 N.W.2d at 174.

There is no precise test to determine whether there was sufficient doubt that warranted further inquiry by the district court. *Bonga*, 797 N.W.2d at 719 (quoting *Drope*, 420 U.S. at 180, 95 S. Ct. at 908). Instead, the need for further inquiry “depends entirely on the surrounding circumstances.” *Bonga*, 797 N.W.2d at 720 (quotation omitted). The district court may consider relevant factors, including the “defendant’s irrational behavior, his demeanor at trial, and any prior medical opinion on competence to stand trial.” *Id.* at 719 (quoting *Drope*, 420 U.S. at 180, 95 S. Ct. at 908). Any one factor may alone be sufficient to warrant further inquiry. *Bauer*, 310 Minn. at 116, 245 N.W.2d at 855 (quotation omitted).

Here, appellant contends that his fixation on the authenticity of the squad-car video, his demeanor and outbursts at the pretrial hearing and the trial, and some of his remarks, including a joke he made during his closing argument, should have raised sufficient doubt that warranted further inquiry. However, after a careful review of the record, we are satisfied that the district court gave proper weight to each factor.

Appellant did not behave irrationally throughout the entirety of the proceedings. He worked with standby counsel, made appropriate arguments, and followed the district court’s instructions. He even conducted an effective cross-examination, as noted by the

district court. Although appellant unsuccessfully argued that the squad-car video was tampered with, nothing in the record suggests that such argument was the result of mental illness or incompetency. And appellant's joke during his closing argument is not indicative of incompetency.

Appellant's demeanor at the pretrial hearing and the trial did not warrant further inquiry into his competency. Although appellant had outbursts and was disrespectful to the district court on several occasions, they were the result of his frustration that he could not set forth his preferred defense. *See Bonga*, 797 N.W.2d at 721 (noting that being emotionally upset and legally incompetency are different). After the first outburst, appellant calmed down, acknowledged his behavior, explained that he was under a lot of stress because of the recent deaths of three family members, and promised to be respectful. After the second outburst, appellant again calmed down after consultation with standby counsel and promised to refrain from further outburst. The district court noted that a jury trial may cause stress to pro se defendants, indicating that it did not believe appellant's outburst was the result of incompetency.

Finally, although appellant argues that he was suffering from post-traumatic-stress disorder and depression at the time of trial, there is nothing in the record demonstrating that his behavior was the result of these conditions. Therefore, the district court gave sufficient weight to the evidence and did not err in determining that there was no reason to doubt appellant's competency.

II. Appellant’s pro se argument lacks merit.

In his pro se supplemental brief, appellant appears to argue that the state introduced an altered squad-car video. However, appellant did not make any legal argument or cite to legal authority, both before the district court and on appeal, and we therefore deem the issue waived. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) (appellate courts “will not consider pro se arguments on appeal that are unsupported by either arguments or citations to legal authority.”)

Affirmed.