

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0195**

State of Minnesota,
Respondent,

vs.

Ron Henry Lee Jaeger,
Appellant.

**Filed September 19, 2022
Affirmed
Worke, Judge**

Steele County District Court
File No. 74-CR-17-981

Keith Ellison, Attorney General, Ed Stockmeyer, Assistant Attorney General, St. Paul, Minnesota; and

Daniel A. McIntosh, Steele County Attorney, Owatonna, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Segal, Chief Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his attempted second-degree murder conviction, arguing that the restrictions placed on him while in custody violated his rights to due process and a fair trial. We affirm.

FACTS

In June 2017, appellant Ron Henry Lee Jaeger was charged with attempted second-degree murder and first-degree assault. A third count of first-degree aggravated robbery was later added. Jaeger was placed in custody at the Steele County Detention Center (SCDC).

Jaeger's behavior while in custody at SCDC raised mental-competence and suicide concerns. SCDC placed Jaeger on suicide watch three times. Following a suicide attempt in June 2019, Jaeger remained on suicide watch for the duration of his time at SCDC.

While on suicide watch, Jaeger's cell was located in the intake area of SCDC so that he could be monitored. SCDC staff conducted routine safety checks, which required SCDC staff to see Jaeger in person every 15 minutes. Jaeger repeatedly misused materials inside of his cell to obstruct SCDC staff's ability to see into his cell during safety checks. Restrictions imposed by SCDC during Jaeger's suicide watch included a "23-hour lockdown" and the removal of any items from his cell that he could use to harm himself or others. Prohibited items included Jaeger's eyeglasses, pens, and pencils.

On multiple occasions, Jaeger threw his urine or a mixture of urine and feces at SCDC staff. Jaeger threatened to kill, stab, or otherwise physically harm SCDC staff.

After Jaeger underwent several competency evaluations, he was ultimately determined competent to stand trial in May 2019. Jaeger was initially represented by counsel, but in June 2019, he moved the district court to discharge his counsel. The district court granted the motion, and Jaeger proceeded pro se with the assistance of court-

appointed advisory counsel. In August 2019, a jury convicted Jaeger of all charges. The district court sentenced Jaeger to 240 months in prison.

In February 2020, Jaeger filed a notice of appeal. He then moved to stay the appeal to file a postconviction petition and this court granted the motion. In August 2020, Jaeger petitioned the district court for postconviction relief. He argued that he was entitled to a new trial because SCDC staff engaged in conduct that resulted in the systematic denial of his “right to due process, including his pretrial rights, trial rights, right to a fair trial, access to counsel, and access to the court.” Following an evidentiary hearing, the district court denied postconviction relief. Jaeger’s direct appeal was reinstated and follows.

DECISION

“When a defendant initially files a direct appeal and then moves for a stay to pursue postconviction relief, we review the [district] court’s decisions using the same standard that we apply on direct appeal.” *State v. Beecroft*, 813 N.W.2d 814, 836 (Minn. 2012).

“Whether a due process violation has occurred presents a question of constitutional law, which we review de novo.” *Id.* When an issue presents a mixed question of law and fact, we “review the district court’s finding of fact under a clearly erroneous standard, and its application of the law to those facts de novo.” *State v. Barthman*, 938 N.W.2d 257, 265 (Minn. 2020).

Jaeger argues that his rights to access counsel, discovery, and the court were violated while in custody at SCDC. The district court carefully considered each of Jaeger’s claims and concluded that the restrictions imposed by SCDC “were reasonable and fell within the imminent threat of injury exception.” We agree.

Access to counsel

Jaeger argues that he was denied his constitutional right to effectively consult with counsel because SCDC restricted access to counsel. The district court determined that “SCDC regulated Jaeger’s access to his attorneys because of its reasonable determination Jaeger posed an imminent, ongoing threat of injury to SCDC staff, to other detainees, to visitors, and to himself based on repeated, well-documented misconduct.”

Under Minn. Stat. § 481.10, subds. 1, 2 (2020),

All officers or persons having in their custody a person restrained of liberty, except in cases where imminent danger of escape or injury exists, shall admit any attorney retained by or on behalf of the person restrained, or whom the restrained person may desire to consult, to a private interview at the place of custody. Such custodians, upon request of the person restrained, as soon as practicable, and before other proceedings shall be had, shall notify the attorney of the request for a consultation with the attorney.

Except . . . in cases where imminent danger of escape or injury exists, all officers or persons having in their custody a person restrained of liberty . . . shall provide private telephone access to any attorney retained by or on behalf of the person restrained. . . . Reasonable telephone access . . . shall be provided following the request of the person restrained and before other proceedings shall be had regarding the alleged offense causing custody.

Jaeger was placed on suicide watch three times. The associated restrictions “included removal of paper from his cell, 23-hour lockdown and lack of access to his glasses.”¹ According to a SCDC administrator, before being placed on suicide watch,

¹ A copy of SCDC’s policies and procedures was not included as an exhibit in the record. Instead, some SCDC policies are referenced in an affidavit signed by a SCDC administrator.

“Jaeger had access to his case materials and legal research.” And while Jaeger was on suicide watch, he “was allowed unlimited time to go through material with his advisory counsel.” A SCDC administrator stated that “[o]ther than [suicide watch] status or if an inmate directly misuses the paper, there is no policy restricting an inmate from having his or her legal materials.” And that while in custody at SCDC, “inmates are free to meet with their attorneys . . . provided the meetings can be done safely for all involved.” We consider the restrictions imposed by SCDC on Jaeger’s access to counsel individually.

1. Private legal visits

Jaeger claims that SCDC violated his right to private visits with his attorneys. “The Sixth Amendment guarantees the fundamental right of an accused to be represented by counsel. This right encompasses not only the provision of counsel, but also actual assistance from counsel.” *Cooper v. State*, 565 N.W.2d 27, 30 (Minn. App. 1997) (citation omitted), *rev. denied* (Minn. Aug. 5, 1997). The “imperfect communication” between a defendant and his attorney is, “nonetheless, assist[ance] by counsel.” *See id.* at 31 (stating that appellant who raised ineffective-assistance-of-counsel claim failed to show prejudice because he did not show total failure of representation). But “[t]he attorney-client privilege is a statutory right . . . not a constitutional right.” *State v. Andersen*, 784 N.W.2d 320, 333 (Minn. 2010). And the “intrusion into the attorney-client relationship, standing alone, does not, as a matter of law, constitute a violation of the Sixth Amendment.” *Id.* However, this does not mean that “in some situations government interference with the confidential relationship between a defendant and his counsel may implicate the constitutional right to counsel.” *Id.*

Many, if not most, of Jaeger's meetings with counsel were conducted in public areas at SCDC because Jaeger acted violently and aggressively towards SCDC staff, other detainees, and himself. Restrictions were imposed due to Jaeger's status on suicide watch and, as the district court noted, because of Jaeger's "extended campaign of threats, physical violence, and assaults with bodily fluids" against SCDC staff and others.

SCDC imposed restrictions on Jaeger's access to private meetings with counsel based on two concerns: (1) self-harm, and (2) harm to others. Under Minn. Stat. § 481.10, subd. 1, inmates are required to have access "to a private interview at the place of custody" with counsel, "except in cases where imminent danger of . . . injury exists." The record shows that SCDC staff had legitimate and ongoing safety concerns regarding Jaeger's behavior that required this restriction. Here, the restriction imposed on Jaeger's ability to have a private meeting with counsel falls within the statutory exception.

Even if the restriction imposed by SCDC was not considered as such an exception, Jaeger has failed to show that this restriction resulted in an intrusion into the attorney-client relationship by the state.

In *Andersen*, the appellant argued that while in custody "his constitutional right to counsel was violated when his phone calls to his attorney's cell phone were monitored and recorded." *Id.* at 333. The supreme court noted that "[e]ven if the act of recording, but not listening to, attorney-client phone conversations is an intrusion into the attorney-client relationship, such an intrusion does not automatically translate into a violation of a defendant's right to counsel." *Id.* at 333-34. The supreme court concluded that Andersen's claim failed because the record did not show "that the intrusions were intentional, that

evidence presented at trial was produced by the intrusions, that the prosecution received confidential information about trial preparations or defense strategy, or that any information in the calls was used in a way to Andersen's detriment." *Id.* at 334.

Here, as the district court noted, "there is no indication that any evidence presented at trial was produced by these alleged intrusions on Jaeger's attorney-client relationships." And the record does not show that information related to his trial preparation or defense strategy was used as part of the state's case against him. *See Andersen*, 784 N.W.2d at 333-34. Thus, the district court's determination that SCDC did not violate Jaeger's right to private legal visits was not clearly erroneous.

2. Access to the telephone

Jaeger claims that by restricting his telephone access to one hour each day while he was on suicide watch, SCDC denied him reasonable access to the telephone to contact counsel. The district court determined that this restriction did "not rise to an unreasonable restriction on Jaeger's telephone access, particularly considering his conduct and the SCDC's staff availability."

Under Minn. Stat. § 481.10, subd. 2, persons in custody must be provided "private telephone access to any attorney . . . at no charge to the attorney or to the person restrained." This court has stated that Minn. Stat. § 481.10, subd. 2, "specifically allows prison personnel to limit inmate calls to 'reasonable telephone access.' The statute, by definition, allows for discretion." *Mullins v. Churchill*, 616 N.W.2d 764, 769 (Minn. App. 2000), *rev. denied* (Minn. Nov. 15, 2000). "[R]easonable restriction[s] on inmates' ability to access

counsel by telephone does not deny inmates their constitutional right to access the courts and counsel.” *Id.* at 769-70 (quotation marks omitted).

As part of the restrictions for an inmate on suicide watch, SCDC placed Jaeger on “23-hour lockdown.” This restriction gave Jaeger one hour a day to access the telephone to contact counsel. The district court determined that because Jaeger was able to access the telephone “to leave voicemail messages for his attorneys, who then responded to his message,” Jaeger still had reasonable telephone access. The district court noted that Jaeger “failed to show any instance where he sought to contact his attorneys via phone and was denied, or how the denial prejudiced his defense.”

Jaeger contends that “[o]nly allowing an inmate to call his attorney during non-business hours cannot be considered ‘reasonable telephone access.’” But the record supports the district court’s decision that SCDC provided Jaeger reasonable telephone access. Jaeger was not prohibited from using the telephone, only limited to the time he could access the telephone. Jaeger could leave a voicemail message for counsel daily. The restriction imposed on Jaeger’s access to the telephone to call counsel was due to his suicide watch. The record shows that placing Jaeger on suicide watch was a reasonable precaution unrelated to disciplinary or retaliatory actions by SCDC staff. Under Minn. Stat. § 481.10, subd. 2, reasonable restrictions to telephone access may be imposed on persons in custody when there is an “imminent danger of . . . injury.” Because Jaeger posed an imminent and ongoing threat of injury to himself while on suicide watch, restricting his access to the telephone to contact counsel to one hour a day was reasonable. We agree that SCDC did not violate Jaeger’s right to reasonable telephone access.

3. Access to legal mail

Jaeger claims that SCDC interfered with his access to legal mail. The district court determined that because “Jaeger chiefly misused materials in his cell to assault officers with bodily fluids and to obstruct SCDC staff’s view of his cell,” on multiple occasions, the restrictions imposed on Jaeger’s legal mail were reasonable. The record supports the district court’s determination.

Due to safety concerns related to entering Jaeger’s cell, SCDC staff taped Jaeger’s legal mail to the window outside of his cell. SCDC also wanted to prevent Jaeger from using his legal mail to obstruct the view into his cell. Jaeger claims that because SCDC “frequently denied access to his reading glasses, he was unable to read his mail.” However, on November 17, 2017, Jaeger *refused* to read the legal mail taped to his window, claiming that the restriction was illegal. SCDC denied Jaeger access to his glasses as part of his suicide watch because “[t]he glass and metal components of glasses are a clear safety hazard.” Jaeger was allowed to have his glasses while meeting with attorneys. According to a SCDC administrator, “SCDC staff observed that . . . Jaeger was able to read and write without access to his glasses.”

The record does not support Jaeger’s claim that the restrictions were unreasonable. The restrictions were imposed to ensure the safety of Jaeger and others, and we agree that SCDC did not violate Jaeger’s access to legal mail.

Access to discovery

Jaeger argues that SCDC denied him meaningful access to discovery. A criminal defendant has “a broad right to discovery in order to prepare and present a defense.”

State v. Hokanson, 821 N.W.2d 340, 349 (Minn. 2012). However, “[a]n inmate’s rights and privileges are limited by the considerations of the penal system.” *See Weber v. Hvass*, 626 N.W.2d 426, 435 (Minn. App. 2001), *rev. denied* (Minn. June 27, 2001).

Jaeger’s access to discovery was restricted for two reasons; first, because of Jaeger’s status on suicide watch, and second, because Jaeger repeatedly misused materials to obstruct SCDC staff from seeing inside of his cell and unfettered access could pose safety concerns for Jaeger and SCDC staff. Additionally, Jaeger misused discovery materials by displaying in his cell photographs of the victim’s nude torso. The district court noted that it is the policy of SCDC “to provide inmates access to their legal paperwork unless the inmate is on suicide watch or misuses them.”

Because of these restrictions, Jaeger’s advisory counsel would review discovery with Jaeger by (1) reading it to him; (2) showing him physical copies; and (3) displaying images and videos on counsel’s computer—meaning Jaeger still had access to discovery materials while in custody at SCDC. The district court determined that these “restrictions hampered counsel’s ability to review discovery material with Jaeger, yet these restrictions were reasonable and fell within the imminent threat of injury exception” under Minn. Stat. § 481.10, subd. 1. We agree that restrictions were reasonable to ensure the safety of Jaeger and others.

Access to the courts

Jaeger argues that SCDC denied him meaningful access to the courts because he was “denied total access to the law library, all legal materials, and pencil and paper.” The district court determined that “[t]here was no denial of access to the courts, systematic or

otherwise,” because “Jaeger had access to the courts through his attorneys until he discharged them on June 25, 2019,” and then through advisory counsel after he proceeded pro se.

The state provides meaningful access to the courts “either by providing counsel for discretionary appeals or by providing an adequate law library.” *State v. Seifert*, 423 N.W.2d 368, 372 (Minn. 1988) (emphasis omitted), *superseded on other grounds by rule*, Minn. R. Crim. P. 28.02, subds. 5(17)-5(19). If a defendant proceeds pro se, he does so “at his own risk, which . . . is considerable. If he makes that choice, the defendant must proceed with whatever limited resources are on hand.” *Id.* at 373. If an inmate receives “adequate assistance from an attorney he ha[s] meaningful access to the courts.” *West v. State*, 390 N.W.2d 368, 371 (Minn. App. 1986), *rev. denied* (Minn. Aug. 27, 1986).

Jaeger had access to the courts through his attorneys until he discharged them. After granting Jaeger’s motion to discharge his attorneys and proceed pro se, the district court appointed advisory counsel and ordered that SCDC give Jaeger access to legal materials for two hours Monday through Friday. Jaeger’s access to legal materials was conditioned on his good behavior. The record shows that SCDC relocated a kiosk with access to the law library closer to Jaeger’s cell to accommodate Jaeger’s access to legal materials. However, when SCDC staff told Jaeger about the kiosk, Jaeger threatened “to shatter that . . . kiosk.” Jaeger was reasonably denied access to legal materials because of his ongoing misconduct while in custody at SCDC.

Further, Jaeger, as a self-represented litigant, prepared and filed motions and a pretrial notice of defense, subpoenaed a witness, and submitted exhibits. The district court

noted that “[Jaeger] presented his case effectively with the assistance of advisory counsel.” And that “[t]hough the circumstances were far from ideal, Jaeger had constitutionally sufficient means to prepare his case and present it to the jury while subject to suicide watch restrictions.” We agree that restrictions limiting Jaeger’s access to the courts, while in SCDC’s custody, were reasonably related to the legitimate security interests Jaeger posed to himself and others.

In sum, the restrictions imposed on Jaeger related to his misconduct and suicide watch and did not violate his rights to access counsel, discovery, or the courts.

Affirmed.