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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0224**

State of Minnesota,
Respondent,

vs.

Marcus Angelo Caples-Guerra,
Appellant.

**Filed February 1, 2021
Affirmed
Cochran, Judge**

Ramsey County District Court
File No. 62-CR-19-1433

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Jesson, Judge; and
Slieter, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal from the judgment of conviction, appellant argues that the district court violated his Sixth Amendment right to counsel by failing to inquire whether it would be appropriate to appoint substitute counsel after granting appellant's request to

discharge his public defender. Because the district court acted within its discretion when it discharged appellant's public defender without conducting such an inquiry, we affirm.

FACTS

The state charged appellant Marcus Angelo Caples-Guerra in February 2019 with first-degree aggravated robbery and simple robbery, both felony offenses. The complaint alleged that he punched a man at a light-rail station and took money from the man's wallet. At Caples-Guerra's first appearance, the district court appointed a public defender to represent him.

Caples-Guerra appeared before the district court at an April 8, 2019 omnibus hearing. At the hearing, defense counsel told the district court that Caples-Guerra intended to plead not guilty and moved to dismiss the complaint for lack of probable cause. Defense counsel also noted that he was "still missing some discovery" from the state, and that he was working with the prosecutor's office to get the missing discovery. When the district court asked counsel why he believed that probable cause was lacking, defense counsel said, "I don't have much of an argument there." Caples-Guerra then interrupted and said, "Yes, you do," and indicated that he had "several things" he wanted to submit to the district court. Defense counsel explained, "[Caples-Guerra] has some motions that he wanted to make that I don't believe there is a procedural basis for at this time. But, if he would like to make them, I don't have any issues." Caples-Guerra then submitted to the district court a one-page document labeled "Motion to dismiss." It listed two issues: (1) "Failed to be duly arraigned," and (2) "Prosecutorial misconduct. Suppression of evidence." At the bottom, the document declared, "This is an untimely motion due to incompetency by counsel."

During the hearing, the district court addressed the concerns raised by Caples-Guerra's "[m]otion to dismiss." Regarding the failure-to-be-arraigned allegation, the district court explained to Caples-Guerra that, because the charges against him were felony charges, he would not be arraigned until after he entered a plea. The district court further explained that he would enter a plea only after the district court made a probable-cause determination. Next, the district court asked the prosecutor about the suppression-of-evidence allegation. The prosecutor told the court, "[W]e have disclosed all evidence that we have. And if there is more evidence in the future, then that will be disclosed to the defense." The district court then asked defense counsel about the motion's allegation of incompetency. Defense counsel responded:

Judge, I don't know what to say about that. Me and Mr. Caples-Guerra had a meeting at my office, maybe, two weekends ago. I wasn't aware that he had any intention for me to raise . . . these motions. I've had several phone conversations with him and in person. We did a full case review.

Ah, he has disagreements, of course, on whether or not certain things are procedurally applicable, and he feels his rights have been violated. But, there isn't a basis from which I can raise an actual motion. So, this is just, sort of, I think, sentiments and resentment for the system.

The district court asked Caples-Guerra whether he was asking "that the [p]ublic [d]efender's [o]ffice be discharged from representing [him]." Caples-Guerra said that he was not and that he still wanted an attorney. At the conclusion of the hearing, the district court denied Caples-Guerra's motion, concluding that it lacked merit, and found probable

cause to support the charges in the complaint. Caples-Guerra then entered a plea of not guilty to both charges.

Caples-Guerra next appeared before the district court at a pretrial hearing on May 2, 2019. Defense counsel noted that the light-rail train video that was provided by the state did not include video of the alleged incident. Defense counsel asked to continue the pretrial hearing for one week so the prosecutor could review the video to determine whether the state had provided the complete video.

Defense counsel then told the district court that Caples-Guerra no longer wanted to be represented by him. The following exchange occurred between the district court and Caples-Guerra:

THE COURT: All right. You want to discharge the public defender?

THE DEFENDANT: That is correct.

THE COURT: And you intend to try to retain someone privately?

THE DEFENDANT: Possibly not. No. Myself, yes.

THE COURT: To proceed representing yourself?

THE DEFENDANT: Prob—yes.

THE COURT: And so once I discharge the public defender, you're pretty much done with that option of having a public defender represent you. Is that something you want to do now or you want to think about it a little bit further? Because obviously you know that this is a serious charge, and I don't want you to talk about—

THE DEFENDANT: I have no choice but to discharge him, so that's what I will do.

THE COURT: You want to do that today?

THE DEFENDANT: Right now, yes, sir.

The district court explained that there was still the issue of whether some of the video evidence was missing, which would be addressed in a future pretrial hearing. The district court noted that the state's response might "change[] the landscape for possible resolution."

The district court continued:

THE COURT: So that's why I'm just sort of urging you to consider the possibility of maintaining representation until you have more certainty on what potential offer there might be, possibilities of resolution there might be.

THE DEFENDANT: Yeah, I'm not sure if I can continue . . . to . . . possibly test it as acquiescence that is happening, so I don't know if I'd be able to. I don't want to go to trial . . . you know, by myself, so I'm not sure.

THE COURT: Yeah, that's—

THE DEFENDANT: -- but I have the right to a competent attorney and that's what I want, and he's incompetent. And so . . . my hands are tied behind my back as far as what I can do. You know, every time I come to the clerk, I'm not able to get any kind of evidence or anything . . . or have discovery now that I want to give. I'm not able to do that . . . if I have somebody representing—

THE COURT: That is not what the purpose of this hearing is . . . for you to provide evidence. So—

THE DEFENDANT: Well, I would say that . . . once again, the previous judge said both parties . . . must do disclosure per Rule 9 and 7, and I'm doing my part to do so, and maybe they're not—

THE COURT: You would do that through your lawyer.

THE DEFENDANT: Well, sometimes he didn't allow me to do so.

THE COURT: He's got to operate under the rules. He's an officer of the court. He can't—

THE DEFENDANT: Then he's fired. He's fired, Your Honor. I have no choice. Yes, he's discharged

Caples-Guerra then indicated that he had brought a petition to proceed as pro se counsel and that he wanted to proceed pro se. The district court went over the pro se petition with Caples-Guerra, accepted the petition, and discharged the public defender.

One week later, the district court appointed advisory counsel. After several hearings, the state agreed to amend the complaint to a single count of attempted simple robbery and to dismiss the first-degree aggravated-robbery and simple-robbery charges. Caples-Guerra waived his right to a jury trial, and the parties agreed to submit the case to the court for a trial on stipulated facts. The district court found Caples-Guerra guilty of attempted simple robbery and sentenced him to 18 and one-half months in prison, a presumptive sentence.

Caples-Guerra appeals.

DECISION

Caples-Guerra argues that the district court violated his constitutional right to counsel by accepting his request to discharge his public defender without conducting an inquiry to determine whether to appoint substitute counsel. The state contends that the district court acted within its discretion when it granted Caples-Guerra's request to discharge his attorney without conducting such an inquiry because there were no exceptional circumstances warranting an inquiry, and the district court provided advisory counsel to Caples-Guerra. We agree with the state.

The United States Constitution and the Minnesota Constitution both guarantee a criminal defendant's right to counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. An indigent defendant has the right to competent counsel in all criminal proceedings. *State v. Vance*, 254 N.W.2d 353, 358 (Minn. 1977). But the right to counsel does not give an indigent defendant an unlimited right to be represented by the attorney of his choosing. *Id.*

When a defendant refuses to be represented by a court-appointed public defender, the district court is required to appoint substitute counsel “only if exceptional circumstances exist.” *State v. Worthy*, 583 N.W.2d 270, 278 (Minn. 1998) (quotation omitted) (holding that the district court did not abuse its discretion in denying a request for substitute counsel after both defendants “fired” their court-appointed attorneys because the defendants failed to demonstrate “exceptional circumstances”). Exceptional circumstances that warrant the appointment of substitute counsel are “those that affect a court-appointed attorney’s ability or competence to represent the client.” *State v. Gillam*, 629 N.W.2d 440, 449 (Minn. 2001). On the other hand, a defendant’s general dissatisfaction with his attorney or disagreement about his attorney’s trial strategy do not rise to the level of exceptional circumstances. *Id.* at 449-50. “When the defendant voices serious allegations of inadequate representation, the district court should conduct a searching inquiry before determining whether the defendant’s complaints warrant the appointment of substitute counsel.” *State v. Munt*, 831 N.W.2d 569, 586 (Minn. 2013) (quotation omitted). We review a district court’s decision of whether to appoint substitute counsel for an abuse of discretion. *State v. Clark*, 722 N.W.2d 460, 464 (Minn. 2006).

Caples-Guerra argues that the district court erred by not conducting a “searching inquiry” after he told the district court that he wanted to discharge his attorney. The district court’s duty to inquire further is triggered only when the defendant makes “serious allegations of inadequate representation.” *See Munt*, 831 N.W.2d at 587. For example, in *Munt*, the supreme court held that the district court did not abuse its discretion by failing to make an inquiry after the defendant complained about the effectiveness of his counsel at a pretrial hearing. *Id.* at 586-87. The defendant told the district court that his attorneys “didn’t represent [his] interest” and “are not following the code of conduct that requires them to be pursuing [his] objectives in the matter.” *Id.* at 586. The district court then permitted the defense attorneys to confer with the defendant off the record, and, when he returned, the defendant did not raise any additional complaints. *Id.* at 587. The supreme court held that the defendant’s allegations against his attorneys were merely expressions of dissatisfaction and did not constitute allegations of inadequate representation. *Id.* For this reason, the supreme court concluded that the district court was not obligated to inquire further to determine whether appointment of substitute counsel was necessary. *Id.*

Here, Caples-Guerra’s statements to the district court, like the allegations at issue in *Munt*, did not constitute serious allegations of inadequate representation. When he “discharged” his attorney at the May 2, 2019 pretrial hearing, Caples-Guerra told the district court that he had “no choice but to discharge him” and that “he’s incompetent.” These comments were merely general allegations that his attorney was not doing a good job. Caples-Guerra did not explain how his attorney was incompetent or specify how his attorney was failing to represent him adequately. Similar to the defendant’s statements in

Munt, Caples-Guerra's statements to the district court were generalized expressions of dissatisfaction with his attorney. They were not the type of allegations that required the district court to conduct a searching inquiry.

Moreover, the record does not support Caples-Guerra's contention that his attorney was incompetent. At the time he discharged his attorney, he told the district court, "[E]very time I come to the clerk, I'm not able to get any kind of evidence or anything," and he complained that his attorney was not allowing him to disclose evidence. When the district court explained that defense counsel had to follow court rules, Caples-Guerra responded, "Then he's fired. He's fired, Your Honor. I have no choice." This exchange shows that Caples-Guerra was upset that his attorney was not taking certain actions that were not allowed under the rules of criminal procedure. These statements do not suggest that defense counsel failed to adequately represent him.

Caples-Guerra's actions and statements at the April 8, 2019 omnibus hearing—roughly one month before he "fired" his attorney—provide additional context that further diminishes the notion that Caples-Guerra's attorney was incompetent. Caples-Guerra, on his own, submitted a "[m]otion to dismiss" to the district court. The arguments raised in Caples-Guerra's motion were that he had not been duly arraigned, and that the prosecutor had suppressed evidence. Defense counsel told the district court that he did not believe there was a procedural basis for the motion. The district court addressed both issues raised by the motion and quickly confirmed that neither had merit. The motion also stated that it was untimely "due to incompetency by counsel." The district court asked defense counsel about the allegation of incompetency, and the attorney responded that he had met with

Caples-Guerra, that they had reviewed his case in full, and that he did not know that Caples-Guerra intended to raise the issues in the motion. Defense counsel also said that “there isn’t a basis from which I can raise an actual motion,” and that he believed Caples-Guerra was merely expressing “sentiments and resentment for the system.” The events at the April 8, 2019 hearing suggest that Caples-Guerra was dissatisfied with his attorney because his attorney was not bringing unsupported motions or raising frivolous arguments. Caples-Guerra’s statements when discharging his attorney at the May 2, 2019 hearing were in the same vein—that he was unhappy that his attorney was not taking certain actions that would have been improper. Nothing in the record supports Caples-Guerra’s generalized contention that his attorney was incompetently representing him.

In sum, Caples-Guerra’s expressions of frustration with his attorney at the time he discharged him, viewed in the context of the events at the two pretrial hearings, make clear that Caples-Guerra was expressing only statements of general dissatisfaction, not serious allegations of inadequate representation. The district court therefore was not obligated to conduct a searching inquiry, and there were no exceptional circumstances requiring the district court to appoint substitute counsel. The district court did not abuse its discretion by not appointing substitute counsel, particularly given that the district court appointed advisory counsel to assist Caples-Guerra.

Caples-Guerra also raises several arguments in a pro se supplemental brief. His arguments are difficult to follow, but they appear to rely on corporate law and the law governing trusts, which are not applicable to criminal prosecutions. To the extent that we can discern Caples-Guerra’s arguments, we conclude that they provide no basis for relief.

See Ture v. State, 681 N.W.2d 9, 20 (Minn. 2004) (rejecting criminal defendant's pro se arguments as meritless without detailed legal analysis).

Affirmed.