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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0595**

State of Minnesota,
Respondent,

vs.

William Arthur Butler,
Appellant.

**Filed February 9, 2026
Affirmed
Frisch, Chief Judge**

Washington County District Court
File No. 82-CR-24-952

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

Kevin Magnuson, Washington County Attorney, Andrew T. Jackola, Assistant County Attorney, Stillwater, Minnesota (for respondent)

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

Considered and decided by Bentley, Presiding Judge; Frisch, Chief Judge; and Worke, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

In this direct appeal from judgments of conviction for second-degree assault, threats of violence, and fifth-degree assault, appellant seeks reversal because the district court

appointed counsel over appellant's objection and his trial commenced more than 60 days after his demand for a speedy trial. Alternatively, appellant argues that the district court erred by entering convictions for both threats of violence and second-degree assault because these convictions were based on the same behavioral incident. Because the district court did not violate appellant's right to self-representation or a speedy trial, and the convictions are not for included offenses under Minn. Stat. § 609.04 (2022), we affirm.

FACTS

Respondent State of Minnesota charged appellant William Arthur Butler with two counts of second-degree assault, two counts of threats of violence, one count of possession of a firearm by a prohibited person, and one count of misdemeanor fifth-degree assault in connection with an incident occurring on March 11, 2024. Throughout the pretrial proceedings, Butler invoked his right to act as his own counsel at trial and his right to a speedy trial.

At Butler's first appearance, the district court appointed counsel from the public defender's office to represent Butler. Counsel from the public defender's office continued to represent Butler at subsequent hearings, including at a contested omnibus hearing in May 2024. During this hearing, Butler objected twice to his counsel's remarks. Counsel informed the district court that Butler wished to discharge the public defender's office, and the district court did so. The district court then asked Butler if he was prepared to proceed with the hearing, and Butler replied:

So I would like to say may the record show I have absolutely no understanding of what's happening up to this point. And I am in a state of confusion in this controversy. I

believe there may be revealed data in my good name and without being able to contest the validity of such unrevealed data in determining if there's a conflict of interest. I do not wish to move forward until I have all data involving my person.

Let the record show that I call a point of order and that I reserve my right not to be compelled to perform under any contract or commercial agreement that I did not enter knowingly, voluntarily, and intentionally. I do not accept the liability of any compelled benefit of any unrevealed contract or commercial agreement. Let the record show I defend myself not pro se but in my own proper person of my own right, possessing full social and civil rights not under any legal disability or the power of another guardianship.

I won't understand what's going on until I have full and honest disclosure of all unrevealed data and revealed data. And I'm not referring to the discovery, but I'm referring to all unrevealed data in my mind.

After exchanging comments with Butler about his claimed lack of understanding regarding the proceedings, the district court ordered an examination pursuant to Minn. R. Crim. P. 20.01.

On July 8, 2024, Butler appeared for a review hearing. He was not represented by counsel. The district court stated on the record that Butler had chosen not to participate in the Rule 20 examination. Nonetheless, the Rule 20 evaluator determined that Butler was competent to proceed based on available information, and the district court adopted the evaluator's findings. The district court asked Butler if he wanted the district court to appoint an attorney. Butler declined. Butler formally asserted his right to a speedy trial and waived a pretrial omnibus hearing. The district court proposed a trial date of August 5, 2024. When the prosecutor indicated that she was scheduled to be out of town that day, the district court responded, "your office will have to reassign that case then because

Mr. Butler is in custody and has a right to a speedy trial. And the next date is beyond the 60 days.”

One week later, the district court held a hearing to address a letter filed by the state requesting to reschedule Butler’s jury trial. The state requested that the speedy-trial timeframe be extended by ten days to September 16—the district court’s next available trial block—so that the case would not have to be reassigned to another prosecutor. The district court asked Butler his position on the state’s request, and Butler responded: “Right now, I’m getting counsel on my end. But I did request a speedy trial and that is outside of my speedy trial, so.” Butler told the district court that he was “in the process of retaining” private counsel, he did not know whether his prospective attorney would be available for trial on August 5, and Butler had “yet to talk to him.” Butler suggested he would know in “the next couple days” whether he would have an attorney at trial. The district court explained that any attorney would likely need a continuance of the trial date to enable adequate preparation. The district court also expressed reservations about protecting Butler’s right to counsel and keeping the matter on schedule for a trial on August 5. The district court ultimately found good cause to extend the speedy-trial timeframe:

THE COURT: Because once you retain counsel, your attorney’s likely going to want to get all of the discovery information from the State and review all of that evidence with you. This is a fairly significant case in the sense that there are six charges, five of which are serious felonies, with a number of different alleged victims.

And so, I’m anticipating that if you retain an attorney one of the things they may request is some additional time to review all of that material and prepare with you in your defense.

THE DEFENDANT: All right. But I'll leave that up to him. That has nothing to do with me. I'll leave that up to him.

THE COURT: Right. Well, right now, you haven't retained an attorney and so that's why I'm asking these questions of you. One of the things the Court can consider in scheduling a trial even with respect to a speedy trial is the seriousness of the charges, the efforts . . . for both sides to prepare their case, the complexity of the matter in determining whether or not there's good cause to extend the speedy trial timeframe.

So, what I am going to do is notwithstanding the fact the State failed to raise the issue of the complexity of the case and the relatively short period of time that has occurred from the date of Mr. Butler's demand for speedy trial and the setting of the speedy trial, the number of witnesses involved, and the like, I'm making a finding after reviewing the file myself in determining that there is good cause to schedule the matter on September 16th for jury trial with a settlement conference on Tuesday, September 10th at 1:30.

On September 10, 2024, the parties appeared before the district court for a pretrial conference. Butler appeared without counsel. Butler asked to proceed with the jury trial. The state informed the district court that it had filed an amended complaint that day. The amended complaint contained the same probable-cause statement and removed two felony counts, leaving the following four charges for trial: one count of second-degree assault, two counts of threats of violence, and one count of misdemeanor fifth-degree assault. Butler indicated he was ready to proceed with trial on September 16.

At the state's suggestion, the district court attempted to conduct a waiver-of-counsel colloquy with Butler. During that colloquy, Butler told the district court that he understood that he had a right to an attorney and that he was choosing to represent himself. He acknowledged that he would be held to the same standard as an attorney, that he was giving up the right to have the benefit of an attorney, and that there are "perils associated" with

proceeding without counsel. Butler agreed that he had been represented by the public defender's office and voluntarily terminated that representation. He also agreed that if he made mistakes because of unfamiliarity with the law, he would "be bound by those decisions and have to deal with them [himself]."

When asked whether he had the opportunity to review the state's evidence, Butler stated that he had reviewed the evidence "[t]o a certain extent." The state explained that Butler had not reviewed video evidence because he refused to comply with the jail's policy, which requires the presence of a corrections officer while reviewing such materials. The district court inquired, "Mr. Butler, do you understand that by making the choice not to abide by the Washington County Sheriff's policies and procedures for access to the computer equipment to review any materials on that equipment, you are handicapping yourself with respect to your preparation for this trial?" Butler did not answer the question, rather stating: "But also, the fact that I haven't had the ability to get out has hampered my defense as well. So can we talk about that?" As the district court explained its previous decision with respect to Butler's conditions of release, Butler repeatedly interrupted the district court to argue that his bail was excessive. The district court terminated the hearing and informed the parties that trial would begin the following Monday as planned.

On September 13, the district court held another hearing to address several pretrial issues. Butler informed the district court that he refused to complete, or even read through, a written petition to proceed as pro se counsel. When the district court asked Butler why he refused to do so, he responded: "It's just, like, asking why hasn't my bail been reduced? Same question that I have." After noting that Butler had not filed a motion to modify his

conditions of release, the district court explained to Butler that his right to self-representation is not absolute:

I want you to also be aware that your right to self-representation is not absolute. So if you continue to fixate on issues and have argument about issues that are not properly before the Court, and prevent the proceedings to continue in their normal course, and obstruct the proceedings from occurring in their normal course, the Court could be left with no other choices but to appoint counsel for you. Do you understand that?

When the district court did not hear Butler's response and asked again whether Butler understood that his right to self-representation is not absolute, Butler responded, "No." As the district court began explaining again, Butler again repeatedly interrupted the district court:

THE COURT: All right. Well, I'll explain it one more time. So, do you understand that you don't necessarily have—you don't have a constitutional right to self-representation—

THE DEFENDANT: Yes, you do.

THE COURT: —that's absolute? No, you don't.

THE DEFENDANT: Yes, you do.

THE COURT: Mr. Butler, this is what I'm talking about. If you continue and continue to—

THE DEFENDANT: I know my constitutional rights.

THE COURT: Mr. Butler, stop and listen. Making repeated irrelevant or inappropriate comments or delving into arguments repeatedly that are off-topic can result in your conduct being considered obstructionist because we need to make sure that the proceedings are going to run smoothly and efficiently. So do you understand that if you continue to fixate on a particular issue and not address the things, the issues that we are talking about, that you could lose your right to represent yourself?

THE DEFENDANT: No, I don't understand that.

THE COURT: Well, I don't know how else to explain it to you other than to tell you that you could lose your right to

self-representation if you conduct yourself the way you conducted yourself on Tuesday afternoon.

THE DEFENDANT: Personally, that's not how that works, but I appreciate it.

Because Butler had refused to complete a petition to proceed pro se, the district court asked Butler's former counsel from the public defender's office to appear to address whether he had discussed the benefits and perils of self-representation with Butler prior to being discharged. Counsel told the district court that he and Butler had a "substantive conversation" about Butler proceeding pro se but did not discuss the pros and cons of self-representation.

Butler then asked questions about the amended complaint. He stated that a charging decision "makes no sense to me," to which the district court responded: "It's made by the prosecuting authority and this is one of the reasons why it's helpful to have an attorney to explain all of these things to you. I can't represent you. I can't give you legal advice." In response, Butler asserted that "shady stuff" was going on with his prosecution and that he was "done," again arguing with and repeatedly interrupting the district court:

THE DEFENDANT: And the fact that you guys only amended the complaint because I brought up to the prosecutor that one of her key witnesses had lied. That's why the complaint was amended, which me and her had a conversation when she brought me to the plea deal.

THE COURT: All right. Mr. Butler, the parties' settlement negotiations and conversations—

THE DEFENDANT: Okay. Like I said. It's a lot of shady stuff going on.

THE COURT: Now the other thing you need to understand is that—

THE DEFENDANT: I'm actually done here.

THE COURT: —is that—stop.

THE DEFENDANT: I'm done.

THE COURT: You cannot continually interrupt—

THE DEFENDANT: I'm done.

THE COURT: —the proceedings.

THE DEFENDANT: This is a bunch of shady stuff going on.

THE COURT: All right. Mr. Butler, I don't understand what you mean when you say you're done. Because this is a proceeding that is scheduled for trial on Monday.

THE DEFENDANT: It's a bunch of shady stuff going on.
(Overlapping discussion.)

THE COURT: —has to be taken care of so we can have a trial on Monday which you indicated you wanted.

When the district court then inquired whether Butler had arranged for clothing at trial so he would not have to wear jail clothing, Butler refused to answer:

THE COURT: All right. Another thing that you need to tell me, what plans you have for your clothing. Normally your attorney would make arrangements for you to have clothing that is not jail clothing during a trial. So how do you intend to proceed on that front? (Pause.) Mr. Butler, how do you intend to proceed with respect to your clothing so that you're not wearing jail clothing during, in front of, the jurors during the trial? (Pause.) Mr. Butler, we only have a limited amount of time because I have another calendar and [the prosecutor] has—

THE DEFENDANT: Stop wasting my time then.

THE COURT: So how do you plan to be dressed for trial?

THE DEFENDANT: I have nothing further to say.

THE COURT: Pardon?

THE DEFENDANT: Nothing further to [s]ay.

The district court thereafter found that Butler had forfeited his right to self-representation by engaging in conduct to obstruct the proceedings:

All right. So, the Court is making a finding that Mr. Butler has forfeited his right to proceed as a self-represented individual based upon his continuous obstructionist conduct by either fixating on an issue that's not before the Court or interrupting the Court or others while they're speaking and, failing to respond to the Court's questions about matters that are necessary to be able to proceed

with the trial in a self-represented capacity, including his refusal to complete the petition to proceed as pro se counsel as well as his refusal to answer on the record the questions related to his petition to proceed as a self-represented individual.

The district court reappointed the public defender's office to represent Butler.

The district court also continued trial to the next available trial date—October 28. Butler objected, arguing that the continuance violated his right to a speedy trial. The district court stated that it was “finding that there's good cause because of Mr. Butler's conduct to extend the timeframe for the speedy trial.” The district court then adjourned the hearing, at which point Butler exclaimed, “What a f--king joke.”

On October 22, 2024, the parties appeared at another hearing, during which the district court addressed a letter that Butler had filed with the district court asking again to discharge the public defender's office. Because Butler continued to refuse to complete a written petition to proceed pro se, the district court stated that it must cover all the information contained in such petition before Butler's request to proceed pro se could be granted. Butler disagreed, arguing that he had been representing himself since May and had already waived his right to counsel on the record. As Butler became increasingly argumentative, the district court warned Butler that he would be “removed from the courtroom” if he continued to interrupt and explained that “when you obstruct the proceedings from occurring in an efficient and effective manner, you are deemed to be not capable of representing yourself under the rules and law here in Minnesota.” Butler continued to be disruptive, and the district court recessed court and removed Butler from the courtroom for five minutes.

After the recess, the district court again attempted to obtain a waiver of counsel from Butler, but Butler continued to interrupt the district court and refused to answer questions. When Butler refused to answer a question from his counsel about proceeding pro se, the district court noted Butler's obstructionist conduct:

THE PUBLIC DEFENDER: . . . Your intention, Mr. Butler, is to proceed pro se, correct?

THE DEFENDANT: I'm not answering that. Because in order—if I'm pro se—

THE COURT: All right. Mr. Butler.

THE DEFENDANT: If I'm pro se, why would I meet with a prosecutor if I'm not pro se already?

THE COURT: Mr. Butler, the problem is . . . when you come to court, you become obstructionist just like this.

THE DEFENDANT: How?

THE COURT: And you get fixated on issues and we can't move forward.

Butler also refused to answer further questions from the district court about proceeding pro se. The district court therefore ordered that Butler be represented at trial by counsel from the public defender's office:

THE COURT: Mr. Butler, you need to either answer the questions or [the public defender] will be prepared to represent you on Monday. And whether or not you stay in the courtroom is entirely up to you and how you behave and whether or not you obstruct the proceedings.

So, are you going to answer the questions with respect to your desire to represent yourself and proceed as pro se counsel? (Pause.) Are you going to answer the questions?

I would like the record to reflect that Mr. Butler is refusing to answer the questions on his petition or his request to proceed by pro se counsel—

THE DEFENDANT: I answered the questions in May.

THE COURT: —under Minnesota Rule 5.04 and Minnesota Statute 611.19. So, based on that, Mr. Butler, you will be represented by [the public defender] on Monday morning and we'll proceed to a jury trial unless such time as you make a

waiver of your right to a jury trial. We'll see everybody at 8:30 on Monday. We're adjourned.
THE DEFENDANT: What a joke.

Trial commenced on October 28, 2024—113 days from Butler's formal request for a speedy trial. At the outset of trial, the district court again attempted to question Butler about his request to proceed pro se, but Butler objected to answering any of the district court's questions:

THE COURT: . . . Mr. Butler is currently represented by [the public defender] as I indicated. Mr. Butler has previously made his desires clear that he wishes to be self-represented. And the Court has attempted on at least two or more occasions to either have Mr. Butler complete and sign Form 11, petition to proceed pro se, or in the alternative, answer the questions in the record—on the record as required by Minnesota Statute 611.19, Minnesota Rule of Criminal Procedure 5.04 subdivision 1(4), and various cases from Minnesota appellate courts.

Despite Mr. Butler's opinion and assertions, the required inquiry for him to proceed pro se have not [been] made and despite Mr. Butler's opinion that an attempt to cure the deficiency in the required inquiry is error, he is mistaken. The Court has previously attempted to vindicate Mr. Butler's request and right to proceed pro se with no success. The Court will again attempt to vindicate Mr. Butler's right to proceed pro se this morning to allow him to represent himself.

But, Mr. Butler, you are advised that your right to be self-represented as we have previously discussed at prior hearings is not without limitations. So Mr. Butler, is your full name William Arthur Butler?

THE DEFENDANT: Objection. Why are we bringing this up? We discussed this last—on the 22nd.

THE COURT: Mr. Butler—

THE DEFENDANT: I didn't bring this up again.

THE COURT: —is your full name William Arthur Butler?

THE DEFENDANT: Objection.

Butler went on to state that he “accepted [the district court’s] decision” about being represented by counsel from the public defender’s office and wanted to “move on” to other legal issues. When the district court explained that Butler’s attorney would raise any legal issues and make legal arguments, Butler again argued with the district court. Counsel explained that he and Butler disagreed about making certain legal arguments.

The district court asked again, “Mr. Butler, are you intending to have [the public defender] continue to represent you or would you like to proceed as pro se counsel and answer the questions as required?” Butler did not answer the question, instead arguing that his right to a speedy trial had been violated. The district court stated that the speedy-trial issue had already been decided, after which Butler again interrupted the district court to argue and accuse the district court of corruption and bias. The district court asked Butler, “So are you ready to proceed to trial and are you ready to not disrupt the proceedings?” Butler replied, “This Court is a joke, man.”

The trial proceeded with Butler represented by counsel. At the conclusion of trial, the jury acquitted Butler on one count of threats of violence and found Butler guilty on the three other counts. According to the warrant of commitment, the district court entered final judgments of conviction on all three counts, but it imposed a sentence only on the counts for second-degree assault and fifth-degree assault.

This appeal follows.

DECISION

I. Butler forfeited his right to self-representation.

Butler argues that his convictions must be reversed and vacated because the district court deprived him of the right to self-representation by appointing counsel to represent Butler at trial over his objection. The state argues that the district court properly found that Butler forfeited his right to self-representation by engaging in serious obstructionist conduct during pretrial proceedings. Because the district court's finding that Butler engaged in obstructionist misconduct such that he forfeited his right to self-representation has ample support in the record, we conclude that the district court's appointment of counsel over Butler's objection did not violate Butler's right to self-representation.

A defendant has a constitutional right to self-representation in state criminal trials guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution. *State v. Richards*, 456 N.W.2d 260, 263 (Minn. 1990) (citing *Faretta v. California*, 422 U.S. 806 (1975)). The right to self-representation is not absolute. "When a criminal defendant asks to represent himself, the court must determine (1) whether the request is clear, unequivocal, and timely, and (2) whether the defendant knowingly and intelligently waives his right to counsel." *Id.* (footnote omitted). And a criminal defendant may forfeit his right to self-representation. *See, e.g., State v. Worthy*, 583 N.W.2d 270, 280 n.7 (Minn. 1998) ("Under certain circumstances, a trial court may refuse a defendant's request to proceed pro se, where a defendant has waived or forfeited the right to self-representation."). The Minnesota Supreme Court has "held that the district court may rescind the pro se status of a defendant who 'deliberately engages in serious and obstructionist misconduct' and

[has] stated that the court cannot allow a defendant to use the right of self-representation to delay proceedings or to force a mistrial.” *State v. Christian*, 657 N.W.2d 186, 191 (Minn. 2003) (quotation omitted). If a defendant “engage[s] in disruptive or uncooperative conduct, including but not limited to . . . disrupting court proceedings, . . . the trial court may conclude in its discretion that defendant has waived his limited right to represent himself and may permit counsel to proceed with his defense.” *State v. Richards*, 463 N.W.2d 499, 499 (Minn. 1990) (mem.).

We review the district court’s denial of a request for self-representation for clear error. *Christian*, 657 N.W.2d at 190. A district court’s finding is clearly erroneous “when there is no reasonable evidence to support the finding or when an appellate court is left with the definite and firm conviction that a mistake occurred.” *State v. Rhoads*, 813 N.W.2d 880, 885 (Minn. 2012). “If the defendant’s right to self-representation is violated, he is entitled to a reversal and new trial.” *State v. Blom*, 682 N.W.2d 578, 613 (Minn. 2004).

Against this backdrop, we consider whether the district court clearly erred by appointing counsel to represent Butler at trial over Butler’s objection. The district court found at a pretrial conference that Butler had “forfeited his right to proceed as a self-represented individual based upon his continuous obstructionist conduct” and therefore reappointed counsel from the public defender’s office to represent Butler at trial. At that time, the district court described Butler’s continuous obstructionist conduct as

either fixating on an issue that’s not before the Court or interrupting the Court or others while they’re speaking and, failing to respond to the Court’s questions about matters that

are necessary to be able to proceed with the trial in a self-represented capacity, including his refusal to complete the petition to proceed as pro se counsel as well as his refusal to answer on the record the questions related to his petition to proceed as a self-represented individual.

Butler maintains that the district court should have allowed him to represent himself at trial because he clearly and unequivocally invoked his right to self-representation at various pretrial hearings, the record reflects that he knowingly and intelligently waived his right to counsel, and his conduct “was neither serious nor obstructionist.” Butler asserts he merely expressed “frustration” with the district court over its bail ruling and its granting of a continuance of trial outside of the 60-day speedy-trial timeline. He also argues that the district court “should have given him the chance to represent himself rather than preemptively deciding Butler was incapable of representing himself at trial” because there was “no reason to believe” that Butler’s conduct would continue during trial. We disagree.

Even assuming that Butler’s requests were clear and unequivocal and that Butler knowingly and intelligently waived his right to counsel, the district court did not err in appointing counsel over Butler’s objection because Butler’s pretrial behavior was serious and obstructionist. Contrary to Butler’s assertions, the record is replete with examples of Butler’s serious obstructionist misconduct at pretrial proceedings, and this pattern of obstructionist conduct continued through the first day of trial. Butler consistently demonstrated his unwillingness to participate in the proceedings by interrupting and arguing with the district court and refusing to provide responsive answers. At the September 10 hearing, Butler became increasingly argumentative and repeatedly returned to issues not then before the district court during attempts to obtain a waiver of counsel.

After Butler repeatedly interrupted the district court, the district court terminated the hearing. A few days later, Butler refused to complete, or even read through, a written petition to proceed as pro se counsel. Despite the district court's explanations that Butler's right to self-representation was not absolute, Butler insisted that he did not understand that he could lose his right to self-representation and told the district court, "Personally, that's not how that works, but I appreciate that." After asking multiple questions about the amended complaint—while interrupting and talking over the district court—Butler asserted that "shady stuff" was going on with his prosecution and stated multiple times that he was "done." Butler further refused to answer the district court's questions about his arrangements for clothing for trial, telling the district court it should "[s]top wasting my time then" and that he had "nothing further to say."

And despite Butler's assertion that the district court had "no reason to believe" that Butler's obstructionist conduct would continue at trial, Butler continued to argue with and interrupt the district court. After the district court reappointed counsel from the public defender's office in September, the district court again attempted to secure a waiver of counsel from Butler at a pretrial proceeding, but Butler's disruptive conduct led to him being removed from the courtroom. And when Butler returned to the courtroom, he refused to answer questions. Butler similarly refused to answer questions during the first day of trial. The district court again attempted to secure a waiver of counsel from Butler before trial commenced, but Butler objected when the district court asked him to confirm his name. Butler continued to refuse to answer questions about his request to proceed pro se, instead arguing about what he perceived as a violation of his right to a speedy trial. Butler

was argumentative with his counsel and the district court. And in response to the district court's question about whether Butler was ready to proceed to trial and not disrupt the proceedings, Butler replied, "This Court is a joke, man."

The repeated disruptive and uncooperative behavior during court proceedings support the district court's finding that Butler engaged in "continuous obstructionist conduct" and thus forfeited his right to self-representation. Because the district court's finding that Butler forfeited his right to self-representation is not clearly erroneous, we conclude that the district court's appointment of counsel over Butler's objection did not violate Butler's rights as guaranteed by the Sixth and Fourteenth Amendments.

We are not persuaded by Butler's argument that *Richards*, 456 N.W.2d at 262, is "instructive" on this issue. In *Richards*, the supreme court reviewed the district court's ruling that the defendant could not make a knowing and intelligent waiver, not whether the defendant forfeited his right to self-representation by engaging in obstructionist behavior. 456 N.W.2d at 264-65. Moreover, the supreme court specifically noted:

We might add that, as noted by the trial judge and [defendant's] attorney . . . , defendant has shown no tendency to engage in disruptive misconduct which would justify termination of a right of self-representation. The trial court does, of course, have the power to appoint standby counsel, even over defendant's objection.

Id. at 266 (citing *Faretta*, 422 U.S. at 834 n.46). Here, the district court explicitly found that Butler had engaged in a pattern of continuous obstructionist misconduct justifying termination of the right of self-representation, and we conclude this finding was not clearly erroneous.

In sum, because the district court’s finding that Butler forfeited his right to self-representation by engaging in serious obstructionist misconduct is amply supported by the record, we discern no violation of Butler’s right to self-representation.

II. Butler’s right to a speedy trial was not violated.

Butler also argues that his convictions must be reversed and vacated because trial commenced 113 days after Butler’s demand for a speedy trial. In balancing the relevant factors, we discern no speedy-trial violation.

The United States and Minnesota Constitutions afford criminal defendants the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. Under Minn. R. Crim. P. 11.09(b), a trial must start within 60 days of a speedy-trial demand “unless the court finds good cause for a later trial date.” If a defendant has been deprived of their constitutional right to a speedy trial, the criminal case against them must be dismissed. *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017). We review a claimed speedy-trial violation de novo. *State v. Taylor*, 869 N.W.2d 1, 19 (Minn. 2015).

We apply a four-factor test to determine whether a defendant’s right to a speedy trial was vindicated. *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999) (adopting test established in *Barker v. Wingo*, 407 U.S. 514, 530 (1972)). These four *Barker* factors are: “(1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant.” *Id.* “None of these factors is either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant.” *Taylor*, 869

N.W.2d at 19 (quotation omitted). “In other words, we must engage in a difficult and sensitive balancing process.” *Id.* (quotation omitted). We address each factor in turn.

The first *Barker* factor—the length of the delay—is the “triggering mechanism” that determines whether we must conduct further review. *Windish*, 590 N.W.2d at 315 (quotation omitted); *see also Taylor*, 869 N.W.2d at 19 (“A delay that exceeds 60 days from the date of the demand raises a presumption that a violation has occurred, and we must apply the remaining factors of the test.”). The parties do not dispute that the first *Barker* factor weighs in favor of Butler because the trial did not begin until over 60 days after Butler’s speedy-trial demand.

In assessing the second *Barker* factor—the reason for the delay—the key question is “whether the government or the criminal defendant is more to blame for th[e] delay.” *Vermont v. Brillon*, 556 U.S. 81, 90 (2009) (alteration in original); *see also Taylor*, 869 N.W.2d at 19. After determining which party is responsible for the delay, we consider the specific reason for the delay. *Osorio*, 891 N.W.2d at 628 (citing *Barker*, 407 U.S. at 531). “A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government.” *Id.* (quotation omitted). And “[w]hen the overall delay in bringing a case to trial is the result of the defendant’s actions, there is no speedy trial violation.” *Taylor*, 869 N.W.2d at 20 (quotation omitted).

We conclude that the reason for the delay is primarily attributable to Butler. The district court continued trial twice after Butler requested a speedy trial for good cause. As to the first continuance, Butler argues that because the state asked the district court to continue trial because of the prosecutor’s scheduled vacation, the state is more to blame

for the delay in this case going to trial. But as Butler acknowledges, the district court did *not* grant the first continuance on this basis. Rather, the district court found good cause to continue trial because of the complexity of the case and the relatively short time between Butler’s demand for a speedy trial and the scheduling of trial. Further, Butler had informed the district court that he was in the process of retaining private counsel but was unable to confirm counsel’s availability on the trial date—which at that point was three weeks away. The district court anticipated that if Butler proceeded with private counsel, the attorney would need additional time to adequately prepare for trial. Any associated delay in the proceedings associated with this continuance is therefore attributable to Butler.

The district court continued the trial for a second time because of Butler’s obstructionist conduct described above, causing the district court to find “good cause because of Mr. Butler’s conduct to extend the timeframe for the speedy trial.” On balance, these continuances of the trial date resulted from Butler’s continuous disruptive conduct during pretrial proceedings and the district court’s need to balance Butler’s requests to proceed pro se and to have a speedy trial.

As to the third *Barker* factor—whether the defendant asserted his right to a speedy trial—the parties do not dispute that Butler invoked his right to a speedy trial throughout pretrial proceedings. This factor weighs in Butler’s favor.

As to the fourth *Barker* factor, the supreme court has identified “three interests to consider in determining whether a defendant suffered prejudice associated with a delay in the commencement of trial: (1) preventing oppressive pretrial incarceration; (2) minimizing the anxiety and concern of the accused; and (3) preventing the possibility

that the defense will be impaired.” *Id.* (quotation omitted). The supreme court has noted that “the third interest, preventing impairment of a defendant’s defense, is the most serious.” *Id.* (quotation omitted).

In light of these considerations, we discern no prejudice associated with the delay. Although Butler alleges that his total pretrial incarceration spanned 230 days, his extended incarceration beyond the speedy-trial deadline was 52 days. Butler does not assert that he experienced anxiety and concern during this time.¹ Butler does not assert that his defense was impaired. And there is nothing in the record to suggest that the delay was manufactured by the state. *See id.* (stating in the context of assessing the fourth *Barker* factor that “[n]otably, there is no allegation that the delay was manufactured by the State”). Thus, this factor weighs against a speedy-trial violation.

On balance, we do not discern a violation of Butler’s right to a speedy trial. The delay was not excessive, the trial continuances were supported by good cause and overall were largely attributable to Butler’s conduct, and Butler identifies no unfair prejudice.

III. The district court properly entered judgments of conviction for threats of violence and second-degree assault.

Finally, Butler seeks remand to the district court for it to vacate the judgment of conviction for threats of violence, arguing that the district court erred by entering convictions on the charges of second-degree assault and threats of violence because both

¹ Butler states in his appellate briefing that “[a]nxiety, concern, and personal difficulty negatively affects any person awaiting trial, especially when in custody,” yet Butler does not directly claim that *he* experienced anxiety and concern while awaiting trial.

offenses arose from a single behavioral incident involving the same victim. The state agrees that Butler’s conviction for threats of violence should be vacated. We disagree.

With some exceptions not applicable here, Minn. Stat. § 609.035, subd. 1 (2022), prohibits the imposition of multiple sentences for crimes committed during a single behavioral incident. *See State v. Ferguson*, 808 N.W.2d 586, 589 (Minn. 2012) (stating that Minn. Stat. § 609.035 generally “prohibits multiple sentences, even concurrent sentences, for two or more offenses that were committed as part of a single behavioral incident” (quotation omitted)). A different statute applies when determining whether offenses were properly adjudicated by the district court. Minnesota Statutes section 609.04, subdivision 1, states that “[u]pon prosecution for a crime, the actor may be convicted of either the crime charged or an included offense, but not both.” The supreme court has explained that “[t]he statute thus proscribes multiple convictions when those convictions are for the crime charged and an ‘included offense.’” *State v. Bradley*, 4 N.W.3d 105, 111 (Minn. 2024) (quoting Minn. Stat. § 609.04). If a defendant is convicted of two offenses for the same criminal act, and “one of these crimes is a lesser-included offense of the other, [the] conviction on the included offense must be vacated.” *State v. Degroot*, 946 N.W.2d 354, 364 (Minn. 2020). The statute lists five categories of included offenses, including—as relevant here—“a lesser degree of the same crime” and “a crime necessarily proved if the crime charged were proved.” Minn. Stat. § 609.04, subd. 1(1), (4). “Whether an offense is an included offense is a question of law, which we review de novo.” *Degroot*, 946 N.W.2d at 364.

We have the responsibility “to decide cases in accordance with law.” *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990). In light of that responsibility, we consider whether the district court erred in entering convictions for both threats of violence and second-degree assault. *See State v. Cruz*, 997 N.W.2d 537, 556 (Minn. 2023) (considering sua sponte whether the district court erred in entering convictions for both first-degree felony murder and second-degree intentional murder); *cf. State v. Johnson*, 23 N.W.3d 70, 73 n.3 (Minn. 2025) (“[W]e are not bound by the arguments made by the parties.” (quotation omitted)). We therefore consider whether threats of violence is an included offense in second-degree assault because it is “a lesser degree of the same crime” or “a crime necessarily proved if the crime charged were proved.”² Minn. Stat. § 609.04, subd. 1(1), (4). We conclude that it is not.

First, the crime of threats of violence is not a “lesser degree” of the crime of second-degree assault under Minn. Stat. § 609.04, subd. 1(1), because these offenses do not arise from the same criminal statutory scheme. The supreme court recently concluded that “degree” as used in Minn. Stat. § 609.04, subd. 1(1), is “an unambiguous technical term referring to offenses within an ordinal statutory scheme.” *Bradley*, 4 N.W.3d at 113. In other words, an offense is only a “lesser degree of the same crime” under Minn. Stat. § 609.04, subd. 1(1), when both offenses arise from the same multi-tier criminal statutory scheme. The offenses of second-degree assault and threats of violence do not arise from

² At sentencing, the state noted “that in these specific circumstances, the Threats of Violence is a lesser-included offense of Second Degree Assault.” However, the state did not address Minn. Stat. § 609.04.

the same criminal statutory scheme. *Compare* Minn. Stat. § 609.222, subd. 1 (2022) (second-degree assault), *with* Minn. Stat. § 609.713, subd. 1 (2022) (threats of violence). Therefore, threats of violence is not a “lesser degree” of second-degree assault under Minn. Stat. § 609.04, subd. 1(1).

Because the convictions at issue here are not for multiple degrees of the same offense, we also disagree with the parties’ assertion that *State v. Balandin*, 944 N.W.2d 204 (Minn. 2020), supports the request to vacate Butler’s conviction for threats of violence. In *Balandin*, the supreme court sua sponte concluded that the district court “erred by convicting Balandin of first-degree domestic abuse murder and second-degree intentional murder, in addition to first-degree premeditated murder.” 944 N.W.2d at 221. Considering caselaw under Minn. Stat. § 609.04, the supreme court stated that it had held that “a defendant may not legally be convicted of two counts of first-degree murder when both convictions are for the same offense, are on the basis of the same act, and involve the same victim,” and that “every lesser degree of murder is an included offense.” *Id.* (quotations omitted). Accordingly, the supreme court remanded to the district court to vacate the convictions for first-degree domestic-abuse murder and second-degree intentional murder. *Id.* We do not agree that *Balandin* is apposite, because—unlike the circumstances in *Balandin*—the convictions at issue here are not for multiple degrees of the same offense, and we are unaware of any authority supporting the proposition that a defendant may not be convicted of both second-degree assault and threats of violence based on the same behavioral incident and involving the same victim.

Second, the offense of threats of violence is not “necessarily proved” upon proof of second-degree assault. *See* Minn. Stat. § 609.04, subd. 1(4). In determining whether one offense is “necessarily proved” by the other, or “necessarily included” in the other, we examine “the elements of the offense instead of the facts of the particular case.” *State v. Bertsch*, 707 N.W.2d 660, 664 (Minn. 2006); *see also Degroot*, 946 N.W.2d at 364 (“In determining whether one offense is necessarily included in the other, we compare the statutory elements of the two offenses.” (quotation omitted)). An offense is necessarily included in a greater offense if “it is impossible to commit the greater offense without committing the lesser offense.” *Bertsch*, 707 N.W.2d at 664 (quotation omitted); *see also State v. Coleman*, 373 N.W.2d 777, 781 (Minn. 1985) (“If, after comparing the elements of each offense, a person can commit the greater offense, as legally defined, without committing the lesser offense, as legally defined, the lesser offense is not necessarily included within the greater offense.” (quotation omitted)).

Second-degree assault requires (1) an act done to cause fear in another of immediate bodily harm or death; (2) a dangerous weapon; and (3) specific intent. Minn. Stat. § 609.222, subd. 1; *see* Minn. Stat. § 609.02, subd. 10(1) (2022) (defining “assault”). A person is guilty of recklessly making threats of violence, in violation of Minn. Stat. § 609.713, subd. 1, when

(1) through words or actions, [he] communicates an intention to injure another or their property; (2) the threat is to commit a statutorily defined crime of violence; (3) in context, those words or conduct create a reasonable apprehension that [he] will follow through with or act on the threat; and (4) [he] makes the violent threat in conscious disregard of a substantial and unjustifiable risk that [his] words or conduct will cause extreme fear.

State v. Mrozinski, 971 N.W.2d 233, 240 (Minn. 2022).

In comparing the statutory elements of these two offenses, we have explained that “[a]lthough both offenses include a requirement that a defendant’s action create terror or fear in the victim, proof of second-degree assault does not necessarily prove the crime of [threats of violence].” *State v. Henderson*, No. A12-1641, 2013 WL 5878138, at *6 (Minn. App. Nov. 4, 2013), *rev. denied* (Minn. Dec. 31, 2013).³ Therefore, threats of violence is not “necessarily proved” by proving second-degree assault.

Thus, threats of violence is not an “included offense” to second-degree assault under Minn. Stat. § 609.04, subd. 1. We conclude, therefore, that the district court did not err by entering convictions on both charges.

Affirmed.

³ We cite nonprecedential authority for its persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).