

*This opinion is nonprecedential except as provided by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
A25-1151**

State of Minnesota,
Respondent,

vs.

Michael Lavale Powell,
Appellant.

**Filed May 26, 2026
Affirmed in part, reversed in part, and remanded
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-24-87

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Connolly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

In this appeal from the final judgment of conviction for third-degree criminal sexual conduct, appellant argues that his conviction must be reversed because the state failed to prove beyond a reasonable doubt that he used coercion to accomplish sexual

penetration. Alternatively, appellant argues that the district court erred in calculating his criminal-history score. Appellant also asserts that, if his criminal-history score was properly calculated, then his waiver of counsel was not knowing, intelligent, and voluntary and he would not have discharged counsel. Because the evidence was sufficient to support the jury's finding that appellant used coercion to accomplish sexual penetration, and because appellant's waiver of counsel was knowing, intelligent, and voluntary, we affirm. But because the district court did not have the opportunity to address whether two of appellant's prior convictions arose from the same behavioral incident, and what impact, if any, this would have on appellant's criminal-history score, we remand for a resentencing hearing.

FACTS

In August 2022, Brooklyn Park police responded to a report of a sexual assault. M.C., an 18-year-old female, reported that she was sexually assaulted by her cousin, appellant Michael Lavale Powell, earlier that day.¹ M.C. reported that she spent the night at Powell's house and awoke to Powell touching her breasts and vagina. M.C. reported that Powell penetrated her vagina with his fingers and penis. M.C. underwent a sexual assault examination. A sperm cell fraction was identified on vaginal swabs from the kit. The deoxyribonucleic acid (DNA) profile matched the DNA profile of Powell.

The state charged Powell with third-degree criminal sexual conduct—using coercion to accomplish sexual penetration—in violation of Minnesota Statutes section

¹ M.C. is related to Powell as he is her mother's first cousin.

609.344, subdivision 1(a) (2022). The state later amended the complaint to include a second count of fifth-degree criminal sexual conduct in violation of Minnesota Statutes section 609.3451, subdivision 1 (2022). In the complaint, officers noted that Powell is six feet, three inches tall and weighs approximately 275 pounds, whereas M.C. is five feet, six inches tall and weighs approximately 160 pounds.

On the first day of trial, Powell informed the judge that he wanted to discharge his public defenders and proceed pro se. The district court judge extensively questioned Powell about this decision and explained that “it’s a huge undertaking to represent [himself] in any kind of trial but especially in a trial like this where the downside is a long prison commit.” Powell repeatedly stated that he wanted to represent himself.

The district court judge stated, “[J]ust so we’re clear, [the prosecutor] is not wrong that there’s 15 years under the statute. With your criminal-history score, you have a score of 4. It looks like this, tells me your prior convictions. Your range is 100 months to 140 months.” Powell stated that he understood but that he wanted to try his own case. Powell filled out a petition to proceed pro se. With the assistance of his public defenders, the district court judge made him read through the petition on the record. The district court judge then granted Powell’s motion and discharged the public defenders.

The state offered Powell a plea to fifth-degree criminal sexual conduct with no jail time. Powell rejected the state’s offer. Powell later stated, “[T]he only reason why I was thinking about a plea bargain is just to save everybody a headache, like, you know? But honestly, I just can’t do something like that for something I’m not guilty. I can’t do it.”

The district court judge then re-explained the presumptive sentence for third-degree criminal sexual conduct with Powell's criminal-history score:

The Court: So like I say, I just want to make sure you understand.

Powell: 117 months; correct?

The Court: Well –

Prosecutor: That's the middle of the box.

The Court: That's the middle. That's the presumptive, yes. But it could be as much as – I don't know what [the prosecutor] is going to ask for and I don't know what the [presentence investigation report (PSI)] is going to say. But the top of the box is 140 months, almost 12 years, just short of 12 years.

Powell: Right.

The Court: The bottom of the box is 100 months.

Powell: Right.

The Court: And you currently have four criminal history points. Any conviction here –

Powell: Three.

The Court: This says four. So you have four.

Powell: How is it – I'm just curious as to – it will be four if I get convicted of this crime.

The Court: No. It will be five, according to this.

During jury selection, Powell declined to ask any questions to the jury panel. Powell left the courtroom during jury selection and later returned to continue making his preemptory strikes. Powell also declined to provide an opening statement in the trial.

The state's first witness was a forensic scientist from the Minnesota Bureau of Criminal Apprehension. The forensic scientist testified that Powell's DNA was found on M.C.'s vaginal swab and that Powell could not be excluded as a contributor to DNA found on M.C.'s breast. Powell declined to cross-examine the witness.

The state's next witness was a forensic nurse examiner. The nurse testified that on August 23, 2022, she conducted a sexual-assault examination on M.C. at North Memorial

Hospital and that, following the examination, M.C. reported the sexual assault to police. Powell declined to cross-examine the witness.

The state's next witness was M.C., who testified as follows: On August 22, 2022, M.C. was staying at her grandmother's house in the Twin Cities. On that date, Powell, whom M.C. had only met once before, was also at the grandmother's house. M.C. and her grandmother had an argument, and M.C. went to stay at Powell's house. That night, M.C. slept on the bed and Powell slept on the floor. Sometime during the night, Powell got on the bed, pulled his pants down, and, without M.C.'s consent, inserted his penis into her vagina. M.C. was "paralyzed," afraid of Powell, and couldn't speak. M.C. felt that she could not leave. She had never been to Powell's house before, did not know how to get back to her grandmother's, and did not have a cellphone with her. At some point, the penetration "stopped for a couple minutes," Powell returned to the floor, and then Powell got back on the bed and reinserted his penis into M.C.'s vagina. She couldn't tell him to stop because she was paralyzed. After Powell stopped, M.C. went to the bathroom, sat on the toilet, and cried.

M.C. testified that she had gone into the bathroom to see if she could escape. M.C. thought about escaping through the bathroom window but couldn't because Powell was "knocking on the door every second" and asking, "Are you done yet?" When asked if she thought Powell would find her if she left, M.C. responded "probably."

M.C. testified that, the next morning, Powell dropped her off at his mother's house. M.C. told Powell's mother what happened, but Powell's mother did not believe her. Later that day, M.C. went with her grandmother to an appointment at North Memorial Hospital.

M.C. was in a room by herself crying when a nurse asked what was wrong. M.C. told the nurse what had happened and then reported the sexual assault to police.

Powell cross-examined M.C. Powell asked M.C. if, “during the assault, [she] felt like she couldn’t move[.]” M.C. responded “yes,” and that “it felt like [she] just got paralyzed.” Powell asked M.C. if she “was paralyzed with fear,” and M.C. responded “yes.” Powell then asked M.C., “So when I assaulted you, what did I do?” M.C. responded, “You came up on the bed and pulled your pants down and stuck your d-ck inside of me.”

On re-direct, the prosecutor asked M.C. the following:

Prosecutor: You talked about – Mr. Powell asked you, you know, what you meant by paralyzed. And you said you were paralyzed with fear; is that right?

M.C.: Yes.

Prosecutor: Because you were afraid of Mr. Powell?

M.C.: Mm-hmm. Yes.

Prosecutor: Is that a yes? You were afraid of what he could do to you if – is that right?

M.C.: Yes.

Prosecutor: You were afraid being in his house; is that right?

M.C.: Yes.

Prosecutor: All right. And you were afraid because you felt that you couldn’t leave?

M.C.: Yes.

A police officer with the Brooklyn Park police department testified that, on August 23, 2022, he spoke with M.C. over the phone. M.C. reported to the officer that she had been sexually assaulted by her cousin “Mike” at his house.

A detective with the Brooklyn Park Police Department testified that he spoke with M.C. regarding the assault. The detective testified that M.C. told him she had been sexually assaulted by her cousin “Mike.”

The detective also testified that he spoke with Powell over the phone on two occasions. Recordings of both calls were played for the jury. During both calls, Powell denied having sexual contact with M.C. After initial BCA testing indicated that Powell’s DNA “may have been observed in one of the swabs taken from [M.C.],” the detective obtained a search warrant and collected a sample of Powell’s DNA. While in custody, Powell agreed to speak with the detective and, for the third time, Powell denied having sexual contact with M.C.

Powell testified in his own defense as follows. Powell was at M.C.’s grandmother’s house. M.C. and her grandmother got into an argument, and M.C. asked Powell if she could “come spend the night with [him.]” Powell was sleeping on the floor in the bedroom and M.C. was sleeping on the bed. Powell woke up to M.C. on top of him with his “penis in her mouth.” Powell pushed M.C. off of him, but M.C. stated, “Come on. Let me do this.” Powell stated, “It’s kind of embarrassing. Me being 43 years old, I should really know better, you know. And I fell for it, you know. Shame on me . . .” “She’s my little cousin. I just feel like that never should have took place, you know. And I know better than that.”

Powell also testified that he had felonies on his record and was looking at 140 months in prison. He also said that M.C. was a liar and that she threatened to tell people what had happened if he did not provide her \$300 and a cellphone.

On cross-examination, Powell acknowledged that he had sex with M.C. but stated that it was consensual. Powell also acknowledged that he had repeatedly told police that he did not have sexual contact with M.C.

On the last day of trial, Powell did not appear in court. The district court judge made a record of Powell's conduct during the trial. The judge stated that Powell had been late to court every day, had been late returning from every break, had been warned multiple times that he needed to appear on time, and was warned that his failure to appear would result in the case continuing without him present.²

The district court judge instructed the jury and provided the following definition of coercion:

Coercion means the use by the defendant of words or circumstances that cause [M.C.] reasonably to fear the infliction of bodily harm upon herself or another person or the use by the defendant of confinement or superior size or strength against [M.C.] to accomplish the act.

Bodily harm means physical pain or injury, illness, or any impairment of physical condition. Proof of coercion does not require proof of a specific act or threat.

The state gave a closing argument. Because Powell was not present, he did not give a closing argument. While the jury was deliberating, Powell appeared.

² Powell's conduct is extensively documented in the record. The day prior to his failure to appear, the district court judge informed Powell, "I'm going to proceed without you if you're not here and ready to go, which is my right. I don't want to do it. I just want you to be on time."

The jury asked, “Could we get more clarification, explanation as to what qualifies as coercion?” With the agreement of all parties, the judge re-read the original jury instruction but did not provide any additional clarification.

The jury found Powell guilty on both counts. Sentencing was scheduled for a later date, and the district court judge ordered a PSI. The PSI and sentencing worksheet showed that Powell had five criminal-history points.

The district court entered judgment of conviction for third-degree criminal sexual conduct. At sentencing, Powell again claimed that he had three criminal-history points. The district court judge noted that Powell had five criminal-history points and imposed the presumptive sentence of 153 months’ imprisonment.

Powell appeals.

DECISION

In this direct appeal from the final judgment of conviction for third-degree criminal sexual conduct, Powell argues that his conviction must be reversed because the state failed to prove beyond a reasonable doubt that he used coercion to accomplish sexual penetration. Alternatively, Powell argues that the district court erred in calculating his criminal-history score. Powell also asserts that, if his criminal-history score was properly calculated, he must be granted a new trial because his waiver of counsel was not knowing and intelligent.

I. The evidence was sufficient to support the jury’s finding that Powell used coercion to sexually penetrate M.C.

Powell challenges the sufficiency of the evidence supporting his conviction of third-degree criminal sexual conduct. To determine whether the evidence is sufficient to support

a conviction, this court undertakes “a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient . . .” *State v. Jones*, 977 N.W.2d 177, 187 (Minn. 2022) (quotation omitted). We carefully examine “the record to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). “We assume that the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Friese*, 959 N.W.2d 205, 214 (Minn. 2021) (quotation omitted). This standard of review applies so long as a conviction is adequately supported by direct evidence. *State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016).

The jury found Powell guilty of third-degree criminal sexual conduct in violation of Minnesota Statutes section 609.344, subdivision 1(a). A person is guilty of this offense if they “engage[] in sexual penetration with another person . . . us[ing] coercion to accomplish the penetration.” Minn. Stat. § 609.344, subd. 1(a).³

Coercion is defined as:

[T]he use by the actor of words or circumstances that cause the complainant reasonably to fear the infliction of bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant to accomplish the act. Proof of coercion does not require proof of a specific act or threat.

Minn. Stat. § 609.341, subd. 14 (2022).

³ Powell concedes that “M.C.’s testimony is sufficient to prove lack of consent.”

To prove coercion, the state does not need to show that the defendant “us[ed] actual force [or] verbalized threats of force.” *State v. Carter*, 289 N.W.2d 454, 455 (Minn. 1979). Instead, the state must show that the defendant “intentionally created an atmosphere of fear which caused [the] complainant to finally submit to [the defendant’s] sexual advances.” *Id.*

Here, the evidence was sufficient to sustain Powell’s conviction. “[A] conviction can rest on the uncorroborated testimony of a single credible witness.” *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). And in criminal-sexual-conduct trials, “the testimony of a victim need not be corroborated.” Minn. Stat. § 609.347, subd. 1 (2022).

M.C. testified that, during the night of the incident, Powell got on the bed, pulled his pants down and, without M.C.’s consent, inserted his penis into her vagina. M.C. testified that she was “paralyzed,” afraid of Powell, couldn’t speak, and felt that she could not leave. M.C. had never been to Powell’s house before, did not know how to get back to her grandmother’s, and did not have a cellphone with her. After the first assault had stopped and Powell left the bed, Powell returned and, without consent, reinserted his penis into M.C.’s vagina. Again, M.C. testified that she could not tell him to stop because she was paralyzed. M.C. further testified that after the assault, she went into the bathroom to see if she could escape but could not because Powell was continually knocking on the door. M.C. thought Powell would “probably” find her if she left. On cross-examination, M.C. admitted that she was paralyzed with fear during the assaults. And on re-direct, M.C. admitted that she was afraid of Powell, was afraid of what he could do to her, was afraid of being in his house, and felt like she couldn’t leave. Based on M.C.’s testimony, it was

a “legitimate inference[]” that M.C. feared the infliction of bodily harm by Powell should she have resisted his sexual advances. *Waiters*, 929 N.W.2d at 900.

While M.C.’s testimony conflicts with Powell’s testimony, this court must “assume that the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *Friese*, 959 N.W.2d at 214 (quotation omitted). And given M.C.’s testimony, a jury could reasonably conclude that Powell used coercion to sexually penetrate her. *See State v. Woolridge Carter*, 986 N.W.2d 7, 13 (Minn. App. 2023) (reasoning that the evidence of coercion was sufficient when the victim “testified that she did not physically resist or yell for help because she was afraid that [the appellant] might physically harm her”), *aff’d*, 9 N.W.3d 839 (Minn. 2024).

Moreover, other evidence corroborated M.C.’s testimony and the coercive circumstances of the sexual assault. Powell’s DNA was found on M.C.’s vaginal swab, and Powell could not be excluded as a contributor to DNA found on M.C.’s breast. M.C. repeatedly told police that she had been sexually assaulted by her cousin “Mike” at his house. The jury heard testimony and the recorded calls in which Powell repeatedly denied having sexual contact with M.C. And it was only after the DNA evidence implicated Powell that he changed his story to claim that M.C. not only consented but also initiated the sexual encounters.

In *Carter*, a 35-year-old defendant drove a 15-year-old victim to an isolated area where he sexually assaulted her. 289 N.W.2d at 455. In that case, the supreme court determined that, while the defendant “neither us[ed] actual force nor verbalized threats of force,” that he “intentionally created an atmosphere of fear which caused the complainant

to finally submit to his sexual advances,” and that this evidence was sufficient to show that the defendant used coercion. *Id.* Similar to *Carter*, the evidence in this case demonstrates that Powell created an atmosphere of fear by isolating M.C. so that she finally submitted to two instances of nonconsensual sexual penetration.

Accordingly, the trial evidence, viewed in the light most favorable to the verdict, supports the jury’s determination that Powell used coercion to sexually penetrate M.C.

II. The issue of whether two prior convictions arose from the same behavioral incident must be remanded to the district court for a resentencing hearing.

Powell argues in the alternative that his criminal-history score, which was listed as five in his PSI, may have been calculated incorrectly and instead should have been four, which caused the district court to sentence him to an incorrect presumptive sentencing guidelines range.⁴ Powell requests that his case be remanded for the district court to determine whether his criminal-history score was properly calculated.

A defendant’s presumptive sentence is determined by the severity of the present offense and the defendant’s criminal-history score. Minn. Sent. Guidelines 2 (2022). A criminal-history score is the “sum of points” that are assigned for eligible prior convictions and custody status at the time of the offense. Minn. Sent. Guidelines 2.B. “The State bears the burden of proof at sentencing to show that a prior conviction qualifies for inclusion within the criminal-history score.” *Williams v. State*, 910 N.W.2d 736, 740 (Minn. 2018). We review a district court’s determination of a defendant’s criminal-history score for an

⁴ A criminal-history score of four would reduce Powell’s sentencing range from 131-183 months to 100-140 months and the presumptive sentence from 153 months to 117 months.

abuse of discretion. *State v. Edwards*, 900 N.W.2d 722, 727 (Minn. App. 2017), *aff'd mem.*, 909 N.W.2d 594 (Minn. 2018).

At sentencing in this case, Powell asserted that his criminal-history score was not correctly calculated. He asserted that his score should be three, rather than the score of five that was calculated by the probation agent. He did not explain the basis for his objection, and the district court rejected his objection and sentenced him with a criminal-history score of five.

Under the sentencing guidelines, prior convictions for which a sentence was imposed may be counted in a defendant's criminal-history score. *See* Minn. Sent. Guidelines 2.B.1; 2.B.3. At sentencing, a defendant may challenge the inclusion of prior convictions in computing the criminal-history score on the ground that the prior offenses arose out of a single behavioral incident and should not have been considered in determining the sentence under Minnesota Statutes section 609.035. *State v. Nordby*, 448 N.W.2d 878, 879 (Minn. 1989) (citing *Bixby v. State*, 344 N.W.2d 390, 393-94 (Minn. 1984)). Offenses arise out of a single behavioral incident if they share a unity of time and place and have a single criminal objective. *State v. Bauer*, 792 N.W.2d 825, 828 (Minn. 2011). The state has the burden of proving that offenses did not arise from the same behavioral incident. *State v. Williams*, 608 N.W.2d 837, 841 (Minn. 2000).

Powell argues there is reason to believe that his criminal-history score was miscalculated because two prior convictions,⁵ with the same 2014 offense date, may have arisen from the same behavioral incident. If they did arise from the same behavioral incident, Powell should have been sentenced for only one of those offenses and his criminal-history score for the sentence imposed in this case should have included only the properly sentenced conviction. Because excluding one of the convictions from his criminal-history score would make a difference in Powell's presumptive sentence, he argues that we must remand for the district court to determine his correct criminal-history score.

The state opposes remand, suggesting that, even if the prior convictions were improperly *sentenced* because they arose out of the same behavioral incident, it does not matter because the *convictions* would still be used to calculate criminal-history score. The state's reasoning ignores that, under the sentencing guidelines, only convictions that are sentenced are counted in a criminal-history score. *See* Minn. Sent. Guidelines 2.B.1; 2.B.3. Further, the state's reasoning is inconsistent with *Nordby* and *Bixby*, which hold that a sentencing court must not include in a defendant's criminal-history score prior convictions that were sentenced in violation of section 609.035. *Nordby*, 448 N.W.2d at 879; *Bixby*, 344 N.W.2d at 393-94.

⁵ Specifically, Powell argues that two prior convictions—domestic assault and interference with a 911 call—“arose from a single behavioral incident during which Powell assaulted a domestic partner and broke her phone during the assault.”

Powell did not alert the district court to the precise question that he raises on appeal—whether the two prior convictions arose from the same behavioral incident. But review of the accuracy of a criminal-history score cannot be forfeited. *State v. Maurstad*, 733 N.W.2d 141, 147 (Minn. 2007). This question must therefore be remanded for a resentencing hearing. But, because Powell did not put the state on notice that he was raising a same-behavioral-incident challenge in the district court, the state must be permitted to develop a record on remand. *Cf. State v. Outlaw*, 748 N.W.2d 349, 356 (Minn. App. 2008) (remanding with an instruction that the state may develop the record regarding whether out-of-state convictions were felonies when the issue was not raised in the district court), *rev. denied* (Minn. July 15, 2008).

Accordingly, we remand to the district court to determine whether the two challenged prior convictions arose from the same behavioral incident and, if so, whether Powell’s criminal-history score was properly calculated.

III. Powell’s waiver of counsel was knowing, intelligent, and voluntary.

The district court advised Powell that his criminal-history score was four and his sentencing range for third-degree criminal sexual conduct was 100-140 months, with a presumptive sentence of 117 months. But, at the time of sentencing, the PSI reflected that Powell’s criminal-history score was five and his sentencing range was 131-183 months, with a presumptive sentence of 153 months. The change in Powell’s criminal-history score was due to his being sentenced in a misdemeanor theft case. The unit Powell was assigned from that case generated an extra point in Powell’s criminal-history score for the current

offense. Powell argues that, “[b]ecause he was misinformed about his potential punishment, [his] waiver of counsel was invalid.” We disagree.

“Criminal defendants have a constitutional right to an attorney and a corollary constitutional right to choose to represent themselves in their own trial.” *State v. Worthy*, 583 N.W.2d 270, 279 (Minn. 1998). Accordingly, a defendant can waive his right to an attorney. When a defendant waives his constitutional right to counsel, his waiver must be “knowing, intelligent, and voluntary.” *Id.* “Whether a waiver of a constitutional right was knowing, intelligent, and voluntary depends on the facts and circumstances of the case, including the background, experience, and conduct of the accused.” *State v. Rhoads*, 813 N.W.2d 880, 884 (Minn. 2012). We review a district court’s finding of a valid waiver for clear error. *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009). But when the facts are undisputed, “the question of whether a waiver-of-counsel was knowing and intelligent is a constitutional one that is reviewed de novo.” *Rhoads*, 813 N.W.2d at 885.

The record demonstrates that, while there was disagreement about Powell’s exact criminal-history score, Powell’s waiver of counsel was knowing, intelligent, and voluntary. After Powell informed the district court that he wanted to discharge his public defenders and proceed pro se, the district court questioned Powell extensively about this decision. The district court explained, “[I]t’s a huge undertaking to represent yourself in any kind of trial but especially in a trial like this where the downside is a long prison commit.” Powell was also advised that the maximum possible sentence for third-degree criminal sexual conduct is 15 years in prison. Despite this, Powell repeatedly stated that he wanted to

represent himself. Powell also rejected a probationary plea offer and informed the district court judge that he wanted to try his case “on [his] own.”

The record further reflects that Powell discussed this decision extensively with his attorneys, and with their assistance, filled out and signed a waiver petition. Moreover, Powell was on notice that there was a dispute in his criminal-history score at the time he asked to discharge his public defenders, yet he still decided to proceed pro se. This is evidenced by the pre-plea worksheet, which was completed more than a year prior to Powell discharging his public defenders. The pre-plea worksheet calculated Powell’s total criminal-history points at four, but after Powell had discharged his public defenders, he informed the district court judge that he should have only three criminal-history points. This reflects that Powell was on notice that there was a discrepancy in his criminal-history score, but he nonetheless chose to represent himself at trial.

The surrounding circumstances also demonstrate that Powell was fully aware of the consequences of proceeding pro se. Powell was familiar with the judicial system, as he had 12 felony convictions between 1999 and 2023, as well as numerous gross-misdemeanor and misdemeanor convictions. Furthermore, Powell knew what he was charged with and understood that he was facing a lengthy prison term if convicted. Nonetheless, Powell decided to discharge his public defenders and represent himself. As such, Powell’s background, experience with the judicial system, and conduct show that his waiver was valid. *See Rhoads*, 813 N.W.2d at 884.

Powell does not cite any caselaw to support his contention that a defendant must know his exact criminal-history score before he can knowingly, intelligently, and

voluntarily waive his attorney prior to trial. Instead, the caselaw Powell cites addresses (1) whether a defendant's waiver of counsel is valid where the state filed new charges after the defendant had already waived his attorney and (2) the impact that a defendant's mistaken belief about his presumptive sentence can have on the defendant's guilty plea. *See Rhoads*, 813 N.W.2d at 882; *State v. Benson*, 330 N.W.2d 879, 880 (Minn. 1983); *State v. DeZeler*, 427 N.W.2d 231, 233 (Minn. 1988). But because the complaint charged Powell with third-degree criminal sexual conduct and because Powell did not enter a guilty plea, Powell's reliance on those cases is misplaced.

In sum, Powell's waiver of counsel was voluntary, knowing, and intelligent. Accordingly, Powell's request for a new trial fails.

Affirmed in part, reversed in part, and remanded.