

*This opinion is nonprecedential except as provided by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
A25-1871**

State of Minnesota,
Respondent,

vs.

Tathony Maudell Brown,
Appellant.

**Filed September 8, 2026
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-25-1109

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

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Lola Brown (certified law student practitioner), Minneapolis, Minnesota (for respondent)

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

Considered and decided by Johnson, Presiding Judge; Smith, Tracy M., Judge; and
Bentley, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

A Hennepin County jury found Tathony Maudell Brown guilty of fleeing a peace officer in a motor vehicle based on evidence that he sped away from a traffic stop before a state trooper had concluded an investigation. We conclude that Brown's pre-trial waiver

of his right to counsel is constitutionally valid. We also conclude that the district court did not prevent Brown from asserting the defense of self-defense. Therefore, we affirm.

FACTS

On January 2, 2025, a state trooper saw a vehicle moving at 91 miles per hour in a 60-mile-per-hour zone on interstate highway 94 in Minneapolis. The trooper initiated a traffic stop. The vehicle pulled over to the side of the highway. The trooper approached the vehicle's passenger-side window and observed what he described at trial as an "obviously illegal window tint." The trooper twice asked the driver and sole occupant of the vehicle, later identified as Brown, to lower the passenger-side window. After Brown lowered the window a few inches, the trooper asked him for his driver's license and proof of insurance and also asked him to lower the window further so he could test the window tint. Brown did not immediately comply. Brown eventually showed the trooper his driver's license by holding it in his own hand, which required the trooper to view it through the tinted window.

During the traffic stop, the trooper and Brown engaged in a contentious verbal exchange. Brown stated that he would not answer any questions or exit his vehicle or "do anything until a lieutenant is here." At one point, he stated, "For my safety, I will request a lieutenant." Brown accused the trooper of yelling and being aggressive. When Brown failed to produce proof of insurance, the trooper ordered Brown to exit the vehicle and said, "If you don't get out of the car, I'm going to break your window." Brown then drove away.

Two weeks later, the state charged Brown with fleeing a peace officer in a motor vehicle, in violation of Minn. Stat. § 609.487, subd. 3 (2024). At his first appearance on

February 18, 2025, Brown declined representation by a public defender. When asked by the district court whether he was “sure about that,” Brown responded, “Yeah. I’m pro se. I represent myself.”

At the omnibus hearing on April 10, 2025, the district court asked Brown whether he wished to apply for representation by a public defender. Brown responded by saying that he did not wish to apply, had not applied, and “never will” apply. After the district court inquired further, Brown confirmed that he wished to represent himself. The district court warned Brown of the hazards of self-representation:

That’s a really big decision. It’s very, very advantageous to have an attorney. And you have the right to represent yourself, but it’s really – you’ll be at a significant disadvantage if you do so. I’m not telling you that because I want you to not exercise your rights. I’m telling you that because there are so many things that an attorney knows and goes to school for, knows the rules of evidence, and you’ll be held to have to know all of those and do all of that in your own case. And I have the pro se petition here that goes over a number of these things, but I understand that you did not fill this out. If you want to go forward representing yourself, you’re going to have to fill this out so that I have a record that you understand what you’re doing.

The district court then reviewed a *pro se* petition, which Brown had refused to sign, and questioned Brown about each paragraph of the petition, on the record.

The case was scheduled for trial on May 19, 2025. Brown did not appear for trial on that date. He was arrested the next day and brought before the district court. When the district court asked whether Brown wished to be represented by an attorney, he stated that he “would like to proceed on with *pro se*, speaking for myself.” On the following day,

Brown had a first appearance on three new charges. He again expressed a desire to represent himself, saying, “I will speak for myself.”

Brown appeared for a pre-trial hearing on June 24, 2025. He again was told that he had the right to be represented by an attorney, and he again stated that he did not want to be represented by a public defender. The district court again reviewed an unsigned *pro se* petition, on the record, in the same manner as at the April 10, 2025 hearing. At the conclusion of that colloquy, the district court asked Brown whether he wished to be represented by an attorney or to represent himself. Brown responded by stating, “I don’t wish. I demand.” The district court made handwritten notes on the petition that Brown “acknowledged comprehension of” the petition and “makes *the demand*” that he represent himself. (Emphasis in original.)

On July 9, 2025, Brown filed a handwritten, one-page motion to dismiss in which he asked the district court to dismiss the complaint for lack of probable cause. He stated that he did not “flee,” as that term is defined by statute, and that the trooper was not “acting in the lawful discharge of an official duty,” *see* Minn. Stat. § 609.487, subd. 1 (2024), because the officer “was aggressive, yelling, intentionally mishandling me [and] used unreasonable . . . force.”

Brown presented oral argument on his motion at a pre-trial hearing on July 14, 2025, one day before trial began. During the hearing, the district court commented that Brown’s motion “isn’t really a motion to dismiss” but, rather, “sounds like argument for the trial.” Brown responded by saying, “No, this is probable cause.” The district court replied that the issue of probable cause was not implicated, by questioning whether Brown had a reason

for not complying with the officer's orders, and by stating that the matter is "something that the jury's going to have to sort out."

At the same hearing, the district court addressed a pending motion filed by the state to preclude Brown from presenting defenses that had not been properly noticed. The district court stated its understanding that Brown had not given notice of any defenses. Brown responded by stating that he had filed a motion to dismiss that included his defense. Brown later stated to the district court, "You do know that it's a self-defense of retreating." The district court responded by stating that Brown had not given notice of "anything like that." Brown replied, "That's law. I shouldn't have to say. You all should know the law. . . . It's in my motion." The district court reminded Brown that he was representing himself and was responsible for complying with the applicable rules.

The case was tried to a jury over two days. In his opening statement, Brown stated that he intended to prove that he left the traffic stop because he was in fear due to the officer's actions. The state called only one witness: the trooper who conducted the traffic stop. The state also introduced and played for the jury two videorecordings of the traffic stop. Brown cross-examined the trooper and, in doing so, elicited evidence about their interactions during the traffic stop. The trooper confirmed that he said that he would break a window of Brown's vehicle if Brown did not get out of the vehicle. When Brown asked the trooper whether he would have removed Brown from his vehicle with force, the trooper stated, "If I would have broken your window and unlocked your car and opened the door, I would have asked you to step out of the vehicle, and if you did not do such, I would have removed you with force, yes." In his closing argument, Brown argued that he requested

the presence of another officer during the traffic stop because he “was not feeling safe on the side of a highway with just me and one other officer that’s being overaggressive.”

During its deliberations, the jury sent the district court a note with a question: “Is there any legally permissible reason to leave without the officer’s permission?” During a conference conducted outside the jury’s presence, Brown asked the district court to “give them the answer to their question.” The district court stated its intention to respond by stating, “You’ve been provided with the applicable law and the instructions you need to decide this matter.” Brown reiterated that the district court should answer the jury’s question by instructing the jury that a person has “a right in self-defense to retreat.” After jurors returned to the courtroom, the district court responded to their question in the manner previously indicated. After the jury had exited the courtroom, the district court commented on the positions of both parties concerning the jury’s question. With respect to Brown’s position, the district court stated that Mr. Brown’s self-defense theory “is not the correct state of the law.”

The jury found Brown guilty. The district court imposed a sentence of 19 months of imprisonment. Brown appeals, with the assistance of an appellate public defender.

DECISION

I. Waiver of Right to Counsel

Brown argues that his waiver of the right to counsel was not knowing, intelligent and voluntary and, thus, not constitutionally valid.

The law applicable to Brown’s argument is summarized in a recent supreme court opinion:

Both the United States Constitution and the Minnesota Constitution guarantee a criminal defendant the right to counsel. A defendant may waive the constitutional right to counsel if that waiver is knowing, intelligent, and voluntary. Indeed, when a defendant makes an informed choice to proceed without counsel, he has a constitutional right to do so; a state may not constitutionally hale a person into its criminal courts and there force a lawyer upon him, even when he insists that he wants to conduct his own defense.

A district court judge has the serious and weighty responsibility of ensuring that a defendant's waiver of counsel is constitutionally valid. In determining whether a defendant's waiver is constitutionally valid, the district court should examine the facts and circumstances of the case, including the background, experience, and conduct of the accused. Specifically, the district court must investigate as long and as thoroughly as the circumstances of the case before him demand.

State v. Turner, 32 N.W.3d 546, 552-53 (Minn. 2026) (citations and quotations omitted).

To the extent that the validity of a defendant's waiver of counsel depends on factual findings concerning "the facts and circumstances of the case," an appellate court applies a clear-error standard of review. *Id.* at 554. To the extent that the relevant facts are undisputed or given, the validity of the waiver is a question of law, to which an appellate court applies a *de novo* standard of review. *Id.*

In this case, Brown first contends that his waiver was not knowing, intelligent and voluntary on the ground that he "was not informed of the consequences of not satisfying his notice and burden of production requirements for his defense to the charges." He bases this contention on a rule of criminal procedure, which provides that, if a defendant wishes to represent himself, the district court "must advise the defendant of," among other things, the "nature of the charges," the "range of allowable punishments," the fact that "there may

be defenses,” and “all other facts essential to a broad understanding of the consequences of the waiver of the right to counsel, including the advantages and disadvantages of the decision to waive counsel.” *See* Minn. R. Crim. P. 5.04, subd. 1(4)(a), (c), (d), (f). Brown specifically contends that the district court did not advise him that “there may be defenses.” *See* Minn. R. Crim. P. 5.04, subd. 1(4)(d). The state agrees that the district court omitted some items when orally giving Brown the advisory required by the rule, including the fact that “there may be defenses.” But the state argues that Brown’s waiver is not *per se* invalid merely because the district court omitted some items from its advisory.

The state’s argument is supported by *Turner*, in which the defendant made a very similar argument based on a district court’s failure to give some of the advisories required by rule 5.04, subdivision 1(4). *Turner*, 32 N.W.3d at 554. The supreme court rejected the argument, stating, “A district court’s failure to follow required procedures does not automatically invalidate a defendant’s waiver of counsel.” *Id.* at 555. The supreme court resolved the defendant’s argument by focusing on the facts and circumstances of the case, including the appellant’s background, experience, and conduct. *Id.* The supreme court reasoned that “the district court engaged Turner in a lengthy discussion of the responsibilities and implications of self-representation,” that “the district court’s uncontested factual findings regarding Turner’s demeanor and comprehension during the hearing suggest that Turner’s waiver was knowing and intelligent,” and that Turner’s agreement to a *pro se* petition “demonstrates that his choice to represent himself was knowing, voluntary, and intelligent.” *Id.* at 555-56.

In light of *Turner*, the validity of Brown's waiver of counsel depends on the facts and circumstances of this case, including his background, experience, and conduct. *See id.* Brown's brief concedes that he is an experienced litigant in criminal cases and "he rarely, if ever, has been represented by counsel." To be specific, the record reveals that he has seven prior convictions. In this case, he filed a written motion to dismiss and argued it to the district court before trial. At trial, Brown gave an opening statement, cross-examined the state's witness, and made a closing argument. These facts strongly suggest that Brown knowingly and intelligently waived his right to counsel.

In addition, Brown was specifically informed by the district court of the consequences of waiving counsel and representing himself. Twice the district court read through an unsigned *pro se* petition. *See* Minn. R. Crim. P. 5.04, subd. 1(4). On one occasion, a judge gave him an extensive warning about the issue, stating that it is "a really big decision" and that he would be at a disadvantage without an attorney. On another occasion, a different judge told him that "it's extremely difficult to represent yourself at trial, especially when you're in custody." Nonetheless, Brown repeatedly, emphatically, and unequivocally expressed a desire to represent himself. The record contains ample support for the conclusion that Brown knowingly, intelligently, and voluntarily waived his right to counsel.

Thus, the facts and circumstances of the case, including Brown's prior experience with self-representation and his clearly expressed preference to represent himself, establishes that Brown's waiver of his right to counsel was knowing, voluntary, and intelligent and, thus, constitutionally valid.

II. Self-Defense Defense

Brown argues that the district court erred by prohibiting him from asserting the defense of self-defense. Brown's brief does not clearly state when and how the district court prohibited him from asserting a self-defense defense. He does not identify any evidentiary rulings that prevented him from introducing evidence supporting the defense. He also does not identify any rejection of a proffered jury instruction before the case was submitted. It appears that Brown's argument is based on the district court's on-the-record statements on two specific occasions.

First, Brown identifies a statement made by the district court during a pre-trial hearing on the state's motions *in limine*. The state had moved to preclude Brown from presenting any defenses of which he had not given notice. The district court stated that it appeared that Brown had not given notice of any affirmative defense. Brown disputed the district court's statement, stating that he had given notice of a defense by filing a motion to dismiss. On appeal, however, Brown disputes the district court's statement on a different ground: he argues that he did not fail to give notice of his self-defense defense because the state did not serve him with a demand for disclosures. *See* Minn. R. Crim. P. 9.02, subd. 1(5).

Assuming without deciding that the district court plainly erred by stating that Brown had failed to comply with an obligation to disclose his self-defense defense, such error did not affect his substantial rights. *See* Minn. R. Crim. P. 31.02. The district court's statement at the pre-trial hearing appears to have been inconsequential. As the state notes, the district court did not expressly rule on the state's motion to preclude presentation of a defense.

Brown was allowed to elicit evidence relevant to his self-defense theory in his cross-examination of the trooper. The state did not object to Brown's cross-examination on the ground that he had not given notice of a self-defense defense, and the district court did not exclude any evidence relevant to Brown's self-defense theory. Accordingly, the district court did not commit reversible error by stating during a pre-trial hearing that Brown had not given notice of any defenses.

Second, Brown identifies statements made by the district court in a conference concerning the jury's question during its deliberations. The district court stated that Brown did not have a right of self-defense at the time of the traffic stop and that his self-defense theory is "not the correct state of the law."

Brown contends that the district court's statement of the applicable law is incorrect. He cites *State v. Kutchara*, 350 N.W.2d 924 (Minn. 1984), in which the defendant was charged with third-degree assault and fleeing a peace officer based on evidence that he "seriously beat" a police officer during a traffic stop and then fled. *Id.* at 925. At trial, the district court gave the jury a self-defense instruction with respect to the assault charge but not the fleeing charge. *Id.* at 927. On appeal, the defendant argued, among other things, that the district court erred by not instructing the jury that the defense of self-defense also could apply to the fleeing charge. *Id.* at 926. The supreme court stated that a person may "resist an officer in order to defend himself or another against unjustified bodily attack" but not "solely on the ground that the officers are violating the defendant's fourth amendment rights." *Id.* at 927 (quoting *State v. Wick*, 331 N.W.2d 769, 771 (Minn. 1983)). The supreme court also stated, "If a defendant is free to use reasonable force to resist an

offense against his person by a police officer, he also is free to flee the officer.” *Id.* The supreme court resolved the defendant’s argument about the applicability of self-defense to the fleeing charge by reasoning that, even if such an instruction had been given, the jury would not have acquitted the defendant of the fleeing charge because the jury rejected the self-defense defense when it convicted him of the assault charge. *Id.*

Assuming without deciding that Brown’s self-defense theory has a proper legal basis, the district court’s statement to the contrary was inconsequential. The case had been submitted, and the jury’s question had been answered. If we were to construe Brown’s argument as a challenge to the district court’s answer to the jury’s question, we would conclude that the district court did not err by not giving the jury a supplemental jury instruction on Brown’s theory. A district court has broad discretion in formulating a response to a jury’s question. *State v. Murphy*, 380 N.W.2d 766, 772 (Minn. 1986); *State v. Harlin*, 771 N.W.2d 46, 51-52 (Minn. App. 2009), *rev. denied* (Minn. Nov. 17, 2009). A district court’s refusal to give a supplemental jury instruction must be viewed in light of the jury instructions that previously were given to the jury. Before the case was submitted, Brown did not request a self-defense instruction, and the district court did not give one. The district court did not plainly err by not giving such an instruction without a request. *See State v. Cross*, 577 N.W.2d 721, 726 (Minn. 1998) (stating that defendant’s failure to request instruction constitutes waiver of argument, resulting in review for plain error); *State v. O’Meara*, 755 N.W.2d 29, 36 (Minn. App. 2008) (similar). Because the jury was not instructed on Brown’s self-defense theory before the case was submitted, the district court

did not abuse its discretion by not instructing the jury on the theory in a supplemental jury instruction. *See Murphy*, 380 N.W.2d at 772; *Harlin*, 771 N.W.2d at 51-52.

Thus, the district court did not commit reversible error with respect to Brown's interest in presenting a self-defense defense.

Affirmed.