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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0150**

David Chukuma Jirinzu, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed September 8, 2026
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-CR-22-15814

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

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

Mary F. Moriarty, Hennepin County Attorney, Adam Petras, Senior Assistant County Attorney, N. Nate Summers, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from the district court's order denying appellant David Chukuma Jirinzu's petition for postconviction relief from his conviction for third-degree criminal

sexual conduct, Jirinzu argues that he is entitled to a new trial because his waiver of counsel was involuntary. We affirm.

FACTS

The following facts are drawn from the record regarding Jirinzu's pretrial waiver of counsel.

In August 2022, respondent State of Minnesota charged Jirinzu with one count of criminal sexual conduct in the third degree in violation of Minnesota Statutes section 609.344, subdivision 1(a) (2022). Jirinzu requested a public defender, and the district court appointed one. Between November and December 2022, Jirinzu's original public defender left the public defender's office, and the office assigned a new public defender to his case. At an omnibus hearing in December 2022, Jirinzu asserted his right to a speedy trial.

In another court appearance in January 2023, Jirinzu expressed his desire to discharge counsel. The district court asked Jirinzu if he wanted to discharge the public defender's office, to which Jirinzu replied, "I'm not saying that I don't want the help of the public defender." Jirinzu stated that he had no issue with his original public defender and clarified multiple times that he did not wish to represent himself and could not afford to hire a private attorney. The district court informed Jirinzu that it had no control over which lawyer the public defender's office chose to represent Jirinzu and that it could only discharge the office if Jirinzu wished to represent himself. Because Jirinzu stated multiple times that he did not want to represent himself, the district court did not discharge the public defender's office.

In February 2023, the district court held a hearing at which Jirinzu renewed his request to discharge counsel and further indicated that he wished to discharge the public defender's office in its entirety. Jirinzu indicated that he and counsel "were not getting along, not being able to communicate to the Court." Jirinzu then repeatedly told the district court that he felt he had no choice but to represent himself. The district court discussed with Jirinzu what self-representation entails and inquired into the source of Jirinzu's dissatisfaction with counsel. The district court then informed Jirinzu that it was necessary to complete a petition to proceed as pro se counsel. Jirinzu did not sign a written petition, so the district court instead read the petition to Jirinzu and obtained his oral affirmation that he understood it. The district court then discharged the public defender's office.

Jirinzu represented himself at trial, and the jury found him guilty. The district court sentenced Jirinzu to 117 months in prison with 10 years of conditional release.

Jirinzu filed a petition for postconviction relief seeking a new trial, alleging that his waiver of counsel was not voluntary. The district court denied Jirinzu's petition.

Jirinzu appeals.

DECISION

Jirinzu argues that the district court abused its discretion by denying his petition for postconviction relief because his waiver of counsel was not voluntary.

Appellate courts "review the denial of a petition for postconviction relief for an abuse of discretion." *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion when it makes erroneous legal determinations, makes clearly erroneous factual findings, or exercises its discretion in an arbitrary and capricious manner.

Id. “[W]hether the defendant’s waiver of counsel is knowing, voluntary, and intelligent . . . is a legal question that the appellate court reviews de novo.” *State v. Turner*, 32 N.W.3d 546, 554 (Minn. 2026). But the factual findings underlying a district court’s determination that a waiver of counsel is valid are reviewed for clear error. *Id.* “A 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).

The United States and Minnesota Constitutions guarantee a criminal defendant the right to counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. Before a defendant may invoke their right to self-representation, they must validly waive their right to counsel. *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009). A waiver of the right to counsel is valid if it is knowing, intelligent, and voluntary. *Id.*

Jirinzu argues that the district court erred by (a) failing to appoint substitute counsel, (b) failing to conduct a searching inquiry into his concerns about counsel, and (c) misstating the law by telling him that it had no authority to appoint substitute counsel. He argues that these errors left him with the involuntary and unconstitutional choice between either having incompetent counsel or representing himself. We address his arguments in turn.

A. Failure to Appoint Substitute Counsel

Jirinzu argues that exceptional circumstances existed such that the district court erred by not appointing substitute counsel.

A district court's denial of a request for substitute counsel is reviewed for an abuse of discretion. *State v. Clark*, 722 N.W.2d 460, 464 (Minn. 2006). The right to counsel is "the right to the effective assistance of counsel." *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (quoting *Strickland v. Washington*, 466 U.S. 668, 686 (1984)). "However, the right of an indigent to have counsel does not give him the unbridled right to be represented by counsel of his choice." *State v. Vance*, 254 N.W.2d 353, 358 (Minn. 1977). An indigent defendant may request a substitution of counsel, but the "request will be granted only if exceptional circumstances exist and the demand is timely and reasonably made." *Id.* at 356. "[E]xceptional circumstances are those that affect a court-appointed attorney's ability or competence to represent the client." *State v. Gillam*, 629 N.W.2d 440, 449 (Minn. 2001). The defendant bears the burden of demonstrating that exceptional circumstances exist. *State v. Worthy*, 583 N.W.2d 270, 277 (Minn. 1998).

General dissatisfaction, personal tension, and strategy disagreements with an appointed attorney are not exceptional circumstances warranting substitution of counsel. *See id.* at 279 ("General dissatisfaction or disagreement with appointed counsel's assessment of the case does not constitute the exceptional circumstances needed to obtain a substitute attorney."); *State v. Voorhees*, 596 N.W.2d 241, 255 (Minn. 1999) (holding that "personal tension" does not go to an appointed attorney's ability or competence to represent a client and therefore did not entitle defendant to substitute counsel); *Gillam*, 629 N.W.2d at 449-50 (holding that disagreement between a defendant and appointed attorney about trial strategy was not an exceptional circumstance).

Here, the district court found that Jirinzu's allegations fell into these categories and therefore were not exceptional circumstances. We agree. Jirinzu told the district court about his counsel, "[H]e's not doing what he's supposed to do" and "there are a couple of impressions I get from him that he's not going to do anything to be helpful in the case." Those comments merely expressed general dissatisfaction with a perceived or anticipated lack of effort by his counsel. Other interactions in the record simply reflect personal tension between Jirinzu and his counsel. At the February hearing, counsel was discussing the discharge request and his attempts to meet with Jirinzu. Jirinzu interrupted with a string of obscenities directed at counsel and told him to "just get off the case." Finally, Jirinzu complained of disagreement with counsel about trial strategies. He said, "[I]f I bring up certain things to present, I would like us to present, or to talk about with prosecution and we didn't talk about it, then I mean, what's the use, matter of fact? They might as well just sit there in the corner," and "I'm not going to stay with someone that's not willing to present a defense for myself." We conclude that Jirinzu's complaints about his counsel fell into the categories of general dissatisfaction, personal tension, and strategy disagreements and thus were not exceptional circumstances requiring appointment of substitute counsel.

Jirinzu contends, though, that there was a complete breakdown in communication in the attorney-client relationship and that such a breakdown is an exceptional circumstance requiring appointment of substitute counsel. He bases this argument on the federal case of *United States v. Webster*, which defines an exceptional circumstance as "a conflict of interest, an irreconcilable conflict, or a complete breakdown in communication between the attorney and the defendant." 84 F.3d 1056, 1062 (8th Cir. 1996). In *Gillam*, the

Minnesota Supreme Court expressly rejected that standard because it is “more stringent” than Minnesota’s “ability or competence” standard. 629 N.W.2d at 449. Jirinzu argues that, because Minnesota’s “ability or competence” standard is less stringent than the federal standard, a finding of a complete breakdown in communication between the attorney and the defendant *must* establish an exceptional circumstance under Minnesota’s ability-or-competence standard.

But, as the district court pointed out in its order, a breakdown in communication that is caused by the defendant—rather than the attorney—does not reflect the attorney’s ability or competence to represent that defendant. Indeed, federal courts evaluate whether a breakdown in communication prevented an adequate defense and consider the defendant’s own conduct in contributing to the breakdown. *See, e.g., United States v. John Doe No. 1*, 272 F.3d 116, 123-26 (2d Cir. 2001). Thus, while a breakdown in communication caused by counsel could satisfy Minnesota’s “ability and competence” standard, the record and the district court’s findings here do not support Jirinzu’s contention that his attorney caused the breakdown in communication.

Jirinzu alleged that his attorney screened his calls and failed to show up to scheduled meetings. But the district court found that, during the 9 to 13 weeks that counsel had been on the case, he had met with Jirinzu four times: the same day as the December 2022 hearing; once during the week before the January 2023 hearing; and twice after the January hearing. It also found that his counsel’s supervisor had attempted to meet with Jirinzu. Jirinzu conceded that counsel attempted to visit him to discuss the case and that he refused the meeting. The district court found that it was Jirinzu who did not want to meet. And it

found that Jirinzu had not offered “concrete or discernible allegations of poor communication that would indicate his attorney had an inability or was incompetent in his communication.” On this record, we see no clear error in the district court’s factual findings and no error in its determination that Jirinzu failed to establish the exceptional circumstance of inability or incompetence of his lawyer.

Because Jirinzu did not show that his concerns implicated his counsel’s ability or competence to represent him, he did not satisfy his burden of demonstrating exceptional circumstances requiring appointment of substitute counsel. *See Gillam*, 629 N.W.2d at 449-50; *Worthy*, 583 N.W.2d at 279. As such, the district court did not abuse its discretion when it did not appoint substitute counsel.

B. Searching Inquiry

Jirinzu also argues that the district court erred by failing to conduct a searching inquiry into his complaints about counsel.

“When the defendant ‘voices serious allegations of inadequate representation,’ the district court should conduct a ‘searching inquiry’ before determining whether the defendant’s complaints warrant the appointment of substitute counsel.” *State v. Munt*, 831 N.W.2d 569, 586 (Minn. 2013) (quoting *Clark*, 722 N.W.2d at 464). Allegations that an attorney is ineffective “on their face, amount to ‘serious allegations’ implicating an attorney’s ability and competence to represent their client.” *State v. Tillman*, 33 N.W.3d 221, 236-37 (Minn. 2026). “The district court’s inquiry must be commensurate with the specificity of the defendant’s allegations, the defendant’s responses during the inquiry, and the record support for the claims.” *Id.* at 235.

In its postconviction order, the district court found that a searching inquiry was not required because Jirinzu never raised a serious allegation regarding his attorney's ability or competence. Jirinzu argues that his "assertion that there was a complete breakdown in his communication with [counsel] was a serious allegation" warranting a searching inquiry. Jirinzu voiced concerns about his appointed counsel's communication at the February 2023 hearing. But, as discussed above, the breakdown in communication alleged by Jirinzu did not implicate his counsel's ability or competence and thus does not constitute a serious allegation of inadequate representation. Accordingly, a searching inquiry was not required.

Even if a searching inquiry had been required, the district court conducted such an inquiry at the February hearing. The district court asked Jirinzu a series of probing questions intended to clarify his complaints. Jirinzu's responses were vague and did not concern counsel's ability or competence to represent him. Referring to the public defender's office, he said, "[T]hey don't do what they're . . . appointed to do," and "[j]ust the communication is not good at all." At the culmination of the exchange, the district court asked Jirinzu how much communication from counsel would be enough to satisfy him, to which Jirinzu responded, "I don't know the answer to that. I just wish to dismiss the office. That's all. They're not helping me." The specificity of the district court's searching inquiry was commensurate with Jirinzu's allegations and responses. *See Tillman*, 33 N.W.3d at 235.

The district court did not err by not conducting a searching inquiry.

C. Misstatement of the Law

Jirinzu next argues that the district court abused its discretion by failing to consider appointing substitute counsel based on an erroneous view of the law—namely, that it could only appoint or remove the public defender’s office but had no control over whether substitute counsel was assigned.

A district court errs by informing a defendant that it cannot appoint a different public defender “under any circumstances.” *State v. Lamar*, 474 N.W.2d 1, 3 (Minn. App. 1991), *rev. denied* (Minn. Sept. 13, 1991) (holding that the district court misstated the law by telling defendant that “he could not have a different public defender under any circumstances” but concluding that error was harmless).

As the district court determined in its postconviction order, the district court did not base its decision to deny substitute counsel on an erroneous view of the law. At the January hearing, Jirinzu told the district court, referring to counsel, “He said he just received the case in December. I don’t feel like he’s doing anything to help me prepare that’s sufficient enough.” Counsel’s supervisor, who was present at the hearing, stated that he had met with Jirinzu and “explained to him that he’s entitled to a public defender, but he’s not entitled to the public defender of his choice; that the Court appoints the Public Defender’s Office, but *absent some really unique circumstance*, that the Court doesn’t have a role in determining which public defender represents him.” (Emphasis added.) The district court then informed Jirinzu that it had no control over the public defender’s office’s policy and said, “[A]ll I can decide is whether you are represented by the Public Defender’s Office or whether you’re not represented by the Public Defender’s Office.” Jirinzu explained to the

district court why he wanted to discharge counsel, saying that he did not get the “impression by him that he’s going to do to his best ability to fight [his] situation” and that was why he “told his supervisor he’s fired.” The district court reiterated to Jirinzu, “All I can do is discharge the Public Defender’s Office if you were to tell me you want to represent yourself.” Jirinzu confirmed that he did not want to represent himself. The district court then encouraged Jirinzu to speak further with appointed counsel regarding his concerns, saying, “[T]here’s nothing I can do *at this point*, as far as your representation.” (Emphasis added.) Based on Jirinzu’s unambiguous statements that he did not want to represent himself, the district court declined to discharge the public defender’s office.

The district court’s statements correctly reflected the scope of its authority. Absent exceptional circumstances, which Jirinzu had not shown or even alleged, it could not appoint a substitute lawyer within the public defender’s office. Thus, the district court did not base its decision on the erroneous view that it had no power to appoint substitute counsel.

Finally, we find no error in the district court’s rejection of Jirinzu’s overall argument that he involuntarily waived counsel because he was presented with a Hobson’s choice between proceeding with incompetent counsel or representing himself. In its postconviction order, the district court found that Jirinzu’s counsel was competent. We see nothing in the record that indicates that Jirinzu’s appointed counsel would have been unable to adequately prepare for trial. Jirinzu invoked his right to a speedy trial at the January hearing. Aside from Jirinzu’s assertion that he did not “feel like [counsel is] doing anything to help [Jirinzu] prepare that’s sufficient enough” and noting that counsel had only recently

been assigned the case, the record contains no substantive concerns about his counsel's ability to provide adequate representation. Moreover, we observe that the district court repeatedly asked Jirinzu if he was sure that he wanted to represent himself and offered to reappoint the public defender's office. The district court also offered to continue the trial to allow time for preparation. Jirinzu declined to waive his right to a speedy trial and reaffirmed that he wanted to represent himself. Jirinzu has not shown that the district court erred by finding that counsel was competent. And, because his counsel was competent, Jirinzu was not faced with an involuntary, unconstitutional choice. The district court therefore did not err by concluding that his waiver of counsel was constitutionally valid.¹

Affirmed.

¹ Jirinzu also appears to suggest that the district court erred by failing to obtain a written waiver of counsel because he did not explicitly "refuse to sign" a written waiver. Rule 5.04 of the Minnesota Rules of Criminal Procedure provides, "If the defendant refuses to sign the written waiver form, the waiver must be made on the record." Minn. R. Crim. P. 5.04, subd. 1(4). While it appears that Jirinzu did not explicitly refuse to sign a written waiver, he did refuse to review the waiver petition with counsel and did not object to proceeding with an oral waiver. Moreover, because we conclude that Jirinzu's oral waiver of counsel was voluntary and Jirinzu has not argued that his waiver was not knowing or intelligent, the claimed procedural error does not require reversal. *See Rhoads*, 813 N.W.2d at 886 (stating that a district court's failure to follow procedure "does not require reversal when the particular facts and circumstances of the case demonstrate a valid waiver").