

*This opinion is nonprecedential except as provided by  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  
A22-0115**

State of Minnesota,  
Respondent,

vs.

Chad Lawrance Bachmeier,  
Appellant.

**Filed November 14, 2022  
Affirmed  
Worke, Judge**

Wright County District Court  
File No. 86-CR-17-5488

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

Brian A. Lutes, Wright County Attorney, Ashley J. Liestman, Assistant County Attorney,  
Buffalo, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant  
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Worke, Judge; and Jesson,  
Judge.

**NONPRECEDENTIAL OPINION**

**WORKE**, Judge

Appellant challenges his first-degree burglary conviction, arguing that the district  
court erred by (1) denying his request for substitute counsel, (2) failing to secure a waiver

of counsel, and (3) applying the manifest-injustice standard to deny his presentence motion to withdraw his guilty plea. We affirm.

## FACTS

In June 2018, appellant Chad Lawrance Bachmeier pleaded guilty to first-degree burglary. In exchange for Bachmeier's guilty plea, the state agreed to dismiss two additional charges in the complaint and another court file. There was no agreement regarding sentencing. Bachmeier intended to argue for a downward dispositional departure. Bachmeier indicated that he understood that there was no agreement regarding sentencing and the rights he was waiving by pleading guilty. He agreed that he was satisfied with his attorney's representation; that nobody had threatened, coerced, or promised him anything in exchange for his plea; and that he was thinking clearly and pleading guilty "freely and voluntarily."

In establishing the factual basis, Bachmeier admitted that he entered a residence without consent and took a shower. While he was in the shower, a teenager returned home. Then, without consent, he took a vehicle from the garage. Sentencing was to occur in August 2018, but it was continued while Bachmeier participated in treatment.

On July 3, 2019, Bachmeier moved to withdraw his guilty plea. Bachmeier claimed that he pleaded guilty believing that he would not receive a prison sentence.<sup>1</sup> A plea-

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<sup>1</sup> Although he claimed that his attorney advised him that he would not go to prison, Bachmeier's attorney wrote in a letter to Bachmeier: "[You] entered into an agreement . . . that if you pled guilty to one of the matters, the others would be dismissed. Then after you successfully completed treatment we would move for a departure at sentencing in hopes of avoiding an executed prison sentence." Bachmeier's attorney then

withdrawal hearing was continued many times because Bachmeier's attorney had difficulty meeting with him.

In March 2021, Bachmeier's attorney moved to withdraw from representation because Bachmeier failed to appear for several hearings. On April 19, 2021, Bachmeier's attorney was discharged. On June 21, 2021, Bachmeier was approved for a public defender. Bachmeier's plea-withdrawal hearing was continued to allow the public defender time to prepare.

In September 2021, Bachmeier filed ex parte communications in district court. Bachmeier then requested a new public defender, and his public defender requested to be discharged. The district court held a hearing on October 18, 2021. Bachmeier described his "personal conflict" with his public defender. The district court asked to hear from Bachmeier's public defender's supervisor. The supervisor stated that she investigated the matter and determined that Bachmeier's public defender had not done anything that would break down the attorney-client relationship. The district court denied Bachmeier's motion for substitute counsel.

Bachmeier discharged the public defender and filed a motion waiving counsel for the plea-withdrawal hearing. The district court appointed advisory counsel at the October 29, 2021 plea-withdrawal hearing. Bachmeier argued that plea withdrawal was necessary because a phone indicated a third-party's involvement. The district court asked how the phone related to the established factual basis. Bachmeier responded:

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noted that a departure was "virtually impossible" because Bachmeier failed to succeed on probation and had been charged with additional criminal offenses, including two felonies.

When you accepted my plea of guilty I was unsure of what happened at the time because there was cohesion going on inside of the Bluetooth and stuff and I was getting directions. And what they did, you know, and we have done the talk about it, and there's a fire starter situation and now they call it gang stalking on the street. That's what it is.

The district court denied Bachmeier's motion and sentenced him to 39 months in prison.

This appeal followed.

## DECISION

### *Substitute counsel*

Bachmeier first argues that the district court abused its discretion by denying his request for substitute counsel. This court reviews the district court's decision to deny the appointment of substitute counsel for an abuse of discretion. *State v. Clark*, 722 N.W.2d 460, 464 (Minn. 2006).

A criminal defendant has a constitutional right to the assistance of counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. When a defendant is unable to employ counsel, he is entitled to appointed counsel. *Gideon v. Wainwright*, 372 U.S. 335, 343-45 (1963). However, a defendant does not have an "unbridled right to be represented by counsel of his own choosing." *State v. Fagerstrom*, 176 N.W.2d 261, 264 (Minn. 1970).

When a defendant requests substitute counsel, the district court should inquire into the defendant's "serious allegations of inadequate representation." *Clark*, 722 N.W.2d at 464. The district court should appoint substitute counsel "only if exceptional circumstances exist and the demand is timely and reasonably made." *State v. Worthy*, 583 N.W.2d 270, 278 (Minn. 1998) (quotation omitted). The defendant has the burden to

establish the existence of exceptional circumstances of inadequate representation. *See State v. Munt*, 831 N.W.2d 569, 587 (Minn. 2013).

Exceptional circumstances are those that affect counsel's "ability or competence to represent the client." *State v. Gillam*, 629 N.W.2d 440, 449 (Minn. 2001). Generally, "dissatisfaction" with counsel is not an exceptional circumstance. *Id.* at 449-50. Disagreement with counsel's assessment of the case is not an exceptional circumstance. *Worthy*, 583 N.W.2d at 279. And counsel's honest and blunt statements to a defendant about his case are not exceptional circumstances. *State v. Voorhees*, 596 N.W.2d 241, 255 (Minn. 1999).

Bachmeier claims that the district court abused its discretion because it mistakenly believed that it did not have the authority to appoint substitute counsel and deferred to the chief public defender's decision.

Here, the district court questioned if it had "jurisdiction to appoint a specific public defender . . . or change public defenders." Bachmeier's public defender's supervisor stated that caselaw supported the district court inquiring into the potential breakdown of the attorney-client relationship. The district court heard from the supervisor regarding her investigation into the matter. The district court then questioned Bachmeier about the potential breakdown of the relationship. The record shows that the district court did not abuse its discretion by properly inquiring into the matter and making its own findings and decision.

Bachmeier next claims that his request for substitute counsel should have been granted because it was timely and reasonably made. He asserts that he requested substitute

counsel on October 4, 2021, and the district court did not hold a hearing on his request until October 18, 2021.

Bachmeier accurately describes this timeframe; however, he was approved for a public defender on June 21, 2021, and began submitting ex parte communications to the district court in early September 2021. Thus, Bachmeier was acting outside the attorney-client relationship at least one month before he requested substitute counsel. But even if his request was timely, he has not met his burden to show that exceptional circumstances exist. *See Worthy*, 583 N.W.2d at 278.

At the hearing, Bachmeier explained his complaints against his public defender: he had a “personal conflict” with his attorney, he felt like he was “being prosecuted” when he talked to his attorney, he could not effectively communicate with his attorney, and he was not allowed to participate in his defense. The district court asked Bachmeier: “So, you’re not commenting on [the public defender]’s ability to be a lawyer, you’re just saying in this particular situation your communication styles are not working.” Bachmeier stated: “[T]he answer is going to be me and my attorney would not be conducive to my – for my justice properly.”

The district court stated that it appeared that “Bachmeier felt that [his attorney] was less enthusiastic than he was about pursuing certain theories of the case [and] stated he did not feel he could adequately communicate with [his attorney] and that his opinions and theories were not being considered.” The district court accurately determined that Bachmeier was merely dissatisfied with his attorney’s representation. He did not show exceptional circumstances because he did not complain about his attorney’s ability or

competence—he merely described a personality conflict. The district court did not abuse its discretion by denying Bachmeier’s request for substitute counsel.

### *Waiver*

Bachmeier next argues that the district court failed to obtain a waiver of his right to counsel before he proceeded pro se at his plea-withdrawal hearing. If the district court failed to obtain a valid waiver, and Bachmeier was denied his right to counsel, the error is structural and does not require a showing of prejudice for reversal. *See State v. Maddox*, 825 N.W.2d 140, 147 (Minn. App. 2013).

A defendant’s waiver of the right to counsel must be knowing, voluntary, and intelligent. *Id.* A district court should ensure that a defendant waiving counsel is aware of the “possible punishments, mitigating circumstances, and any other facts relevant to the defendant’s understanding of the consequences of the waiver.” *Worthy*, 583 N.W.2d at 276 (quotation omitted). The validity of a waiver “depends upon the particular facts and circumstances surrounding [the] case, including the background, experience, and conduct of the accused.” *State v. Rhoads*, 813 N.W.2d 880, 889 (Minn. 2012) (quotations omitted). “When a defendant has consulted with an attorney prior to waiver, a [district] court could reasonably presume that the benefits of legal assistance and the risks of proceeding without it had been described to [the] defendant in detail by counsel.” *Worthy*, 583 N.W.2d at 276 (quotation omitted).

Here, the facts and circumstances show a valid waiver. First, Bachmeier was represented by counsel from at least June 2018 through April 2021 and then again from June 2021 through October 2021. Thus, the district court could assume that Bachmeier

understood the benefits of legal assistance and the risks of proceeding without. Second, Bachmeier had advisory counsel present at the plea-withdrawal hearing. Third, Bachmeier filed a waiver of counsel, indicating that he intended to proceed pro se. He wrote: “I am currently without counsel and do [w]aive my right to [c]ounsel for the upcoming [plea-withdrawal] hearing.” The record shows a valid waiver of counsel.

### ***Plea-withdrawal request***

Bachmeier also argues that the district court applied the incorrect standard in denying his presentence motion to withdraw his guilty plea. A district court may “allow the defendant to withdraw a plea at any time before sentence if it is fair and just to do so.” Minn. R. Crim. P. 15.05, subd. 2. In determining whether it is fair and just to allow a plea withdrawal, rule 15 requires the district court to consider (1) “the reasons advanced by the defendant in support of the motion” and (2) “any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant’s plea.” *Id.* This court also considers “the entire context in which [the defendant]’s plea of guilty occurred, as demonstrated by the record.” *State v. Abdisalan*, 661 N.W.2d 691, 695 (Minn. App. 2003), *rev. denied* (Minn. Aug. 19, 2003). The defendant has the burden to prove that a fair-and-just reason exists to withdraw his plea. *See id.*

The district court concluded that “there is not a necessity to allow [Bachmeier] to withdraw [his] plea of guilty to correct a manifest injustice.” The state agrees that the manifest-injustice standard is incorrect and that the correct standard was the fair-and-just standard because the request occurred before sentencing. But the state argues that Bachmeier failed to meet his burden to prove that a fair-and-just reason existed to withdraw



his plea, and that the district court properly considered Bachmeier's reason before denying his request. We agree.

Even though the district court stated that plea withdrawal was not necessary "to correct a manifest injustice," it also stated that Bachmeier did not provide a reason for plea withdrawal. Bachmeier provided no reason for withdrawing his plea other than claiming that he believed that he had an agreement with the state that he would not receive a prison sentence. But the record belies that assertion. It was mentioned to Bachmeier many times that there was no agreed-to sentence and that he could argue for a departure at sentencing.

The district court also noted that Bachmeier did not contradict the facts he admitted at the plea hearing—that he entered a home without permission while a minor was present and took a vehicle from the attached garage. The district court also determined that Bachmeier admitted that he reviewed the case with his attorney, understood the rights he was waiving, and was not coerced into pleading guilty. Although the fair-and-just standard is less burdensome on Bachmeier, he still cannot withdraw his plea for any reason. *See State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). The district court did not abuse its discretion by determining that Bachmeier did not meet his burden to provide a reason supporting withdrawal.

### ***Pro se claims***

Bachmeier filed a pro se supplemental brief raising several arguments. First, he seems to argue that the district court failed to accept his guilty plea and adjudicate him guilty on the record. Second, he argues that his attorney was ineffective for failing to explain the plea agreement. Third, he argues that the district court deprived him of his

right to his choice of counsel by allowing his attorney to withdraw. Fourth, he argues that the state breached the plea agreement by opposing his motion for a downward departure. Finally, he argues that his public defender was ineffective for failing to argue the plea-withdrawal motion at a video conference, despite the district court ordering that the motion must be held in person. While we see no support in the record for Bachmeier's claims, we also deem them forfeited because Bachmeier fails to provide any supporting legal arguments. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) (stating that this court “will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority”); *Louden v. Louden*, 22 N.W.2d 164, 166 (Minn. 1946) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is [forfeited] and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”).

**Affirmed.**