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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-2071**

State of Minnesota,
Respondent,

vs.

Walter Jerry Prince, III,
Appellant.

**Filed October 15, 2013
Affirmed
Kirk, Judge**

Ramsey County District Court
File No. 62-CR-12-581

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Sara R. Grewing, St. Paul City Attorney, Tara K. Patet, Assistant City Attorney, St. Paul, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Jennifer Lauermann, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Kirk, Presiding Judge; Kalitowski, Judge; and Chutich, Judge.

UNPUBLISHED OPINION

KIRK, Judge

On appeal from his conviction of violating a harassment restraining order, appellant Walter Jerry Prince, III, argues that the district court abused its discretion when it denied his request to waive counsel and represent himself. We affirm.

DECISION

A district court's denial of a defendant's self-representation request is reviewed under the clearly erroneous standard. *State v. Christian*, 657 N.W.2d 186, 190 (Minn. 2003). Criminal defendants have the right to represent themselves in state criminal proceedings under the Sixth and Fourteenth Amendments of the United States Constitution. *State v. Richards*, 456 N.W.2d 260, 263 (Minn. 1990) (quoting *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525 (1975)); *see also* Minn. Const. art. I §§ 6, 7. A defendant also has a corollary right to the assistance of counsel under the Sixth Amendment of the United States Constitution. *Faretta*, 422 U.S. at 819, 95 S. Ct. at 2533. The right of self-representation "embodies such bedrock concepts of individualism and personal autonomy that its deprivation is not amenable to harmless error analysis." *Richards*, 456 N.W.2d at 263.

A defendant must be personally free to decide whether or not it is in his best interest to retain counsel. *Faretta*, 422 U.S. at 834, 95 S. Ct. at 2541. When a defendant requests to represent himself, the district court must evaluate (1) whether his request is clear, unequivocal, and timely, and (2) whether the defendant knowingly and intelligently

waived his right to counsel. *Christian*, 657 N.W.2d at 191 (citing *Richards*, 456 N.W.2d at 263).

In January 2012, the district court granted N.H. a harassment restraining order against appellant that prohibited him from entering or being within two city blocks of N.H.'s residence. After police found appellant in a van parked on the property of N.H.'s residence, he was charged with a misdemeanor. The district court appointed a public defender, and appellant entered a not guilty plea. At the request of appellant's attorney, the district court ordered a competency examination pursuant to Minn. R. Crim. P. 20.01, subd. 3.

Appellant completed a competency examination and a court-appointed psychiatrist deemed appellant competent to stand trial. At a competency hearing, the district court found appellant competent to stand trial on the basis of the competency examination. Appellant immediately requested permission to waive counsel and proceed pro se. The conversation between the district court and appellant went as follows:

[APPELLANT]: Um, I just thought it would be a really easy case. Um, I basically didn't plead guilty. I — I'd just like to proceed. I think it would make the process go a lot quicker, and I have nothing to hide. I'm just gonna — I would — all I would be doing was to — would be just answering questions honestly.

[DISTRICT COURT]: Do you want to go to trial?

[APPELLANT]: Yes.

[DISTRICT COURT]: I guarantee you it would not be quicker, unless you've been to law school and are law trained and know how to pick a jury, go through the voir dire process and understand the rules of evidence. Do you know all those things?

[APPELLANT]: No, I don't.

[DISTRICT COURT]: Okay. So if that's your reasoning, I'm going to deny your request to discharge the [p]ublic [d]efender, and we're going to go forward.

The district court rejected appellant's request to proceed pro se, and appellant continued to be represented by an attorney. A jury subsequently found appellant guilty as charged.

After reviewing the record, we conclude that appellant's self-representation request was equivocal. Appellant made a single request to represent himself immediately after the district court found him competent to stand trial. *Cf. Richards*, 456 N.W.2d at 263-64 (concluding that defendant unequivocally asserted his right to self-representation, even though he initially requested a court-appointed public defender, but later filed two written motions demanding his right to self-representation, and the prosecutor stated that he thought defendant's self-representation demand was unequivocal). Here, it was reasonable for the district court to conclude that appellant's request was more a reflexive reaction to being found competent to stand trial than a serious appeal to the court to proceed pro se. After the district court denied his request, appellant never raised the issue again, and he did not indicate that he had a conflict with his attorney. *See State v. Worthy*, 583 N.W.2d 270, 276 (Minn. 1998) (holding district court did not err when it found defendants had validly waived their right to counsel when they fired their court-appointed attorneys because they disagreed with the attorneys' "bleak but candid assessment of their case.").

Because appellant's request was equivocal, we conclude the district court did not err when it denied his self-representation request.

Affirmed.