

*This opinion is nonprecedential except as provided by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
A24-1149**

State of Minnesota,
Respondent,

vs.

Christopher Ryan Shappell,
Appellant.

**Filed April 28, 2025
Reversed and remanded
Smith, Tracy M., Judge**

Douglas County District Court
File No. 21-CR-24-342

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

Chad M. Larson, Douglas County Attorney, Alexandria, Minnesota (for respondent)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Ross, Judge; and
Bratvold, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Christopher Ryan Shappell challenges his felony convictions for motor-vehicle theft and fleeing a peace officer in a motor vehicle, arguing that the convictions must be reversed because his waiver of counsel was invalid and, as a result, his subsequent

guilty plea was also invalid. Alternatively, Shappell argues that this matter should be remanded for resentencing because the district court erred by calculating his criminal-history score to include one felony point for a prior conviction for fourth-degree sale of marijuana, even though, he asserts, the statute under which he was convicted was repealed prior to his sentencing in this case. Because Shappell's waiver of counsel was invalid, we reverse and remand without addressing his sentencing argument.

FACTS

In March 2024, Shappell was taken into custody and charged with two counts of felony motor-vehicle theft in violation of Minnesota Statutes section 609.52, subdivision 2(a)(17) (2022), and one count of felony fleeing a peace officer in a motor vehicle in violation of Minnesota Statutes section 609.487, subdivision 3 (2022). On the day that he was charged, Shappell applied for and was appointed a public defender and his bail hearing was held, during which Shappell's counsel appeared on his behalf.

At the beginning of the bail hearing, the district court informed Shappell about the charges against him:

THE COURT: Sir, you've been charged with a felony motor vehicle theft. That has a maximum penalty of five years in prison, a \$10,000 fine or both. That is both Count 1 and Count 2. Count 3 is a felony fleeing a peace officer in a motor vehicle. That has a maximum penalty of three years and one day and a \$5,000 fine. . . .

Do you understand the charges, sir?

SHAPPELL: Yes.

Bail was then set, and an omnibus hearing was scheduled.

In April 2024, Shappell appeared at his omnibus hearing with his public defender. At the beginning of the hearing, Shappell's counsel stated: "[Shappell] asked that my representation be terminated, so I will be withdrawing representation at this time." The district court then questioned Shappell about how he wanted to proceed before granting his request to discharge his public defender:

THE COURT: And, Mr. Shappell, are you intending then to represent yourself or hire an attorney, sir?

SHAPPELL: I'm going to represent myself.

THE COURT: Okay. And you certainly can do that, Mr. Shappell. You understand that there are significant maximum penalties for each of these charges, the most serious being Counts 1 and 2, five years in prison, a \$10,000 fine or both?

SHAPPELL: Yes, ma'am.

THE COURT: And you've qualified for court-appointed counsel, and you want -- you're asking that counsel be terminated; is that correct?

SHAPPELL: Yeah. . . . I'm asking him to do things that are beneficial and not waste the time of the courts . . . and he just wants to wait for, like, plea deals and not even make emails, nothing.

THE COURT: Well, Mr. Shappell, part of [your counsel's] job is to review disclosures from the State. . . . The alleged offense date here is not even a month ago, March 8th. So I certainly think that [your counsel] is doing everything he can in light of the timing with these court hearings. . . . [W]e're just at an omnibus hearing. No decision has been made as to whether you want to have a hearing to contest evidence that the State has against you, whether you have a legal basis even to do that. Do you understand you are held to the same responsibilities, obligations as an attorney if you represent yourself?

SHAPPELL: Yeah. . . .

. . . .

THE COURT: . . . I just want to make sure before I discharge [your counsel] that that's what you want me to do.

SHAPPELL: Thank you, Your Honor.

THE COURT: So you want to proceed on your own?

SHAPPELL: Yeah. And then can I ask for an interim commit, too?

THE COURT: . . . Somewhere I have an email from the [Department of Corrections] saying there has to be exceptional circumstances for there to be an interim commit.

. . . .

THE COURT: Well, Mr. Shappell, for today's purposes I'm denying [the interim commit] request. As I said, we're just at omnibus. You haven't had a chance to review the disclosures. I will grant your request to discharge [the public defender] as court-appointed counsel.

It is undisputed that Shappell never signed a written waiver of counsel.

In May 2024, Shappell appeared for his next hearing and represented himself. He waived his omnibus issues and then pleaded guilty to one count of felony motor-vehicle theft and one count of felony fleeing a peace officer in a motor vehicle. The state explained that it was seeking a conviction for only one of the two counts of motor-vehicle theft.

Before accepting the plea, the district court asked whether Shappell understood his right to counsel:

THE COURT: . . . Sir, I just need to review with you your rights to make sure you understand what you're doing going forward, what you're giving up.

Mr. Shappell, because of your incarceration, you would be eligible for court-appointed counsel. And in fact, there was an attorney who was appointed to represent you in this matter. You requested that he be discharged and that you be able to represent yourself. Do you feel like you understand that decision that you've made and want to go forward without counsel?

Shappell responded, "Yes, I do." The district court also reviewed other constitutional rights with Shappell, which are not at issue in this appeal, and determined that Shappell made a knowing, voluntary, and intelligent waiver of his rights.

Shappell then testified about the factual basis for his pleas, which the district court determined was adequate to support Shappell's guilty pleas.

Finally, hearing no objections from the parties, the district court proceeded to sentencing. The district court determined Shappell's criminal-history score based on the pre-plea worksheet, which included one point for Shappell's 2013 conviction for "Drugs-4th Degree (Sale of Marijuana)." Based on Shappell's criminal-history score, the district court imposed the presumptive sentences, sentencing Shappell to 26 months' imprisonment for felony motor-vehicle theft and to a concurrent 19 months' imprisonment for felony fleeing a peace officer in a motor vehicle.

Shappell appeals.

DECISION

Shappell challenges his convictions and, in the alternative, his sentence. Regarding his convictions, he argues that they must be reversed because his waiver of counsel was constitutionally invalid and, as a result, his subsequent guilty plea was unintelligently made and therefore also constitutionally invalid. Although Shappell places his challenge to the

validity of his waiver of counsel within the framework of a challenge to the validity of his guilty plea, we need not separately analyze the validity of his guilty plea because the issue of the validity of his waiver of counsel is determinative.

A criminal defendant is guaranteed the right to counsel by the United States and Minnesota Constitutions. U.S. Const. amend. VI; Minn. Const. art. I, § 6. A defendant may waive their right to counsel, but the waiver must be knowing, voluntary, and intelligent. *State v. Jones*, 772 N.W.2d 496, 504 (Minn. 2009). When the facts are not disputed, as is the case here, the question of whether a waiver-of-counsel was valid “is a constitutional one that is reviewed de novo.” *State v. Rhoads*, 813 N.W.2d 880, 885 (Minn. 2012). If a defendant’s waiver of counsel was invalid, a structural error occurs and requires reversal of a conviction. *State v. Gant*, 996 N.W.2d 1, 7 (Minn. App. 2023).

When a defendant is charged with a felony, a waiver of appointment of counsel must be in writing and signed by the defendant (unless the defendant refuses to sign, in which case the district court must make a record of the defendant’s refusal). Minn. Stat. § 611.19 (2022); Minn. R. Crim. P. 5.04, subd. 1(4). Before accepting a waiver of counsel by a defendant charged with a felony, district courts must advise the defendant of the “nature of the charges,” “all offenses included within the charges,” the “range of allowable punishments,” that “there may be defenses,” that “mitigating circumstances may exist,” 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.” Minn. R. Crim. P. 5.04, subd. 1(4).

If a waiver is not procedurally valid—because it was not written and signed as required by statute and rule or did not follow an advisory by the district court of all the information required by rule—it may still be constitutionally valid “if the circumstances demonstrate that the defendant has knowingly, voluntarily, and intelligently waived his right to counsel.” *State v. Haggins*, 798 N.W.2d 86, 90 (Minn. App. 2011). The circumstances to be considered “includ[e] the background, experience, and conduct of the accused.” *State v. Worthy*, 583 N.W.2d 270, 275-76 (Minn. 1998) (quotation omitted). “A defendant who seeks to waive the right to counsel ‘should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what he is doing and his choice is made with eyes open.’” *Id.* at 276 (quoting *Faretta v. California*, 422 U.S. 806, 835 (1975)).

The district court did not obtain a written waiver signed by Shappell nor did it specifically advise him on all the topics outlined by rule 5.04, subdivision 1(4). We therefore turn to the question of whether Shappell’s waiver was valid based on the particular circumstances of this case. *See Haggins*, 798 N.W.2d at 90.

Shappell argues that the circumstances compel the conclusion that his waiver was not knowing, voluntary, and intelligent. He compares the circumstances to those in *Gant*, in which we reversed and remanded for a sentencing hearing after determining that the defendant did not knowingly, voluntarily, and intelligently waive his right to counsel. 996 N.W.2d at 10.

In *Gant*, the defendant discharged his counsel at the start of his felony sentencing hearing and never signed a written waiver. *Id.* at 5, 7. On appeal, in determining the validity

of the waiver, we considered whether the defendant previously had representation by counsel, whether standby counsel was available to the defendant, the district court's engagement when explaining the right to counsel to the defendant, and the defendant's prior experience with the criminal justice system. *Id.* at 8-10. We arrived at the following determinations. First, while the defendant had counsel from after his first appearance until his sentencing hearing and had consulted with his attorney prior to the waiver, there was no evidence that he had been advised of the consequences of representing himself. *Id.* at 8. Second, the defendant was not offered standby counsel. *Id.* at 9. Third, the district court did not properly inform the defendant of the consequences of proceeding without counsel and, in relevant part, failed to explain that his sentence had been affected by him not attending previous hearings. *Id.* at 9-10. And fourth, although the defendant had a prior criminal history, the record did not suggest that he understood the consequences of proceeding pro se in the case at issue. *Id.* at 10. Accordingly, we determined that all the factors weighed against concluding that the waiver was valid, and we reversed and remanded the case. *Id.* at 8-10.

Shappell asserts that his circumstances are like those in *Gant*—specifically, though Shappell was represented by counsel for a period of time, the record does not support that he was informed by counsel about the consequences of self-representation; Shappell was not offered standby counsel; the district court had minimal engagement with Shappell, failing to describe what self-representation would require or to point out defenses and mitigating circumstances that may have existed; and although Shappell had a prior criminal

history, the record does not establish that he had ever represented himself or had an understanding of how to proceed pro se.

The state argues that the circumstances in this case support the conclusion that Shappell's waiver of counsel was knowing, voluntary, and intelligent. The state further argues that the standard was met because the district court advised Shappell (1) "of the serious nature of the offenses and the maximum penalties that could be imposed upon conviction"; (2) "about discovery disclosures, the substance of an omnibus hearing, and . . . that he would be bound to the same responsibilities and expectations of an attorney if he represented himself"; and (3) "that the Department of Corrections (DOC) was not granting interim commitments absent exceptional circumstances."¹

We agree that the record establishes that Shappell was made aware of the charges against him and the associated penalties. And, although Shappell had an attorney for only about three weeks between his bail and omnibus hearings, his attorney told the district court that Shappell wanted to discharge him, which could permit the district court to "reasonably presume" that Shappell spoke to his attorney and "that the benefits of legal assistance and the risks of proceeding without it had been described to defendant in detail by counsel." *Worthy*, 583 N.W.2d at 276 (quotation omitted).

But, while the district court told Shappell that he would be held to the same standard as an attorney, it did not explain what that meant, and it did not discuss or appoint standby

¹ We note that, in its brief, the state discusses other information provided to Shappell by the district court, but we focus our analysis on only the information that was provided before the district court discharged Shappell's counsel during his omnibus hearing.

counsel for Shappell. Additionally, the district court’s brief discussion of disclosures, the role of an omnibus hearing, and the DOC’s approach to interim commitments did not amount to explaining on the record “the dangers and disadvantages of self-representation.” *Id.* (quoting *Faretta*, 422 U.S. at 835). Finally, although Shappell had a criminal history, including several felony convictions, as in *Gant* there is no indication that he had experience representing himself in other criminal cases.

Considering these facts, we conclude that the circumstances in Shappell’s case cannot “establish that he [knew] what he [was] doing and his choice [was] made with eyes open.” *Id.* (quoting *Faretta*, 422 U.S. at 835). Accordingly, we conclude that Shappell’s waiver of counsel was invalid, and we reverse Shappell’s convictions and remand for further proceedings. *See Gant*, 996 N.W.2d at 7, 10. And, because the structural error occurred before Shappell’s guilty plea, the guilty plea cannot stand. Because we reverse the convictions, we need not address whether the district court erred in sentencing.

Reversed and remanded.