

**IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY**

<b>STATE OF IOWA,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. FECR 147696</b>
	)	
<b>v.</b>	)	<b>RULING ON DEFENDANT'S</b>
	)	<b>MOTION TO APPOINT</b>
<b>STANLEY LIGGINS,</b>	)	<b>SUBSTITUTE COUNSEL</b>
	)	
<b>Defendant.</b>	)	

On April 6, 2017, Defendant’s counsel, Derek G. Jones, filed a Motion to Appoint Substitute Counsel. Mr. Liggins sent a letter to the undersigned, which was received on April 3, 2017 and filed of record on April 10, 2017. The State filed a resistance to Defendant’s Motion to Appoint Substitute Counsel on April 17, 2017. Oral argument on Defendant’s motion was held on April 20, 2017. Mr. Liggins appeared and was represented by his attorneys, Derek G. Jones and Miguel A. Puentes. The State was represented by Scott County Attorney Michael J. Walton and Assistant Scott County Attorney Julie A. Walton.

**PERTINENT FACTS**

The court heard from both Derek G. Jones, lead counsel for Mr. Liggins, and from Mr. Liggins. Mr. Liggins argues he has no trust in Mr. Jones and believes Mr. Jones has unilaterally changed the theory of defense, which is not the defense Mr. Liggins wants to present. Mr. Liggins also argues there is newly discovered evidence that Mr. Jones refuses to put forth and Mr. Liggins cannot understand why. Mr. Liggins claims there is a complete breakdown of the attorney-client relationship and he wants substitute counsel. He claims he will not get a fair trial if Mr. Jones continues as lead counsel and feels Mr. Jones is working with the State. Mr. Liggins claims he cannot believe anything Mr. Jones says to him and is uncomfortable with him as his lawyer.

Mr. Jones disputes much of what Mr. Liggins said and stated Mr. Liggins is not remembering many of their conversations accurately and/or conveying them accurately to the court. However, Mr. Jones also stated his relationship with Mr. Liggins is toxic and they are unable to move forward. Mr. Jones said the attorney-client relationship has completely broken down and their conversations have not helped. Mr. Jones claims their conversations have been lengthy, but he has been unable to communicate properly with Mr. Liggins because of Mr. Liggins' distrust of him.

The State argues justice delayed is not justice and the victim's family deserves closure. The State also argues Mr. Liggins and Mr. Jones are communicating and Mr. Liggins does not have a right to "call the shots" with respect to trial strategy. The State also argues this is a delay tactic on Mr. Liggins' part and this motion is essentially filed on the eve of trial even though trial was approximately 45 days away from the date the motion to appoint substitute counsel was filed. The State has sent many, many out-of-state subpoenas to witnesses, as has the defense; and both sides have spent countless hours preparing for trial. The State has never requested a continuance in this matter. All continuances have been at the request of Mr. Liggins. As a result, Mr. Liggins has remained in the Scott County jail since February of 2014 when he was returned from prison to stand trial again after his last post-conviction case was granted.

Mr. Liggins and Mr. Jones were allowed to respond to the State's arguments. Mr. Liggins insists, and Mr. Jones agrees, this motion is not a delay tactic on Mr. Liggins' part. Rather, they both claim their attorney-client relationship has broken down completely making it impossible for them to work together on this case.

#### **APPLICABLE LAW**

A defendant has a right to counsel at all critical stages of the criminal process. *State v. Boggs*, 741 N.W.2d 492, 506 (Iowa 2007). However, no defendant has an absolute right to be

represented by a particular counsel. *State v. Kirchner*, 600 N.W.2d 330, 333 (Iowa 1999). The grounds to justify the appointment of substitute counsel include a conflict of interest, irreconcilable conflict, or a complete breakdown in communication between the defendant and counsel. *Boggs*, 741 N.W.2d at 506. In making its decision, the court has a “duty of inquiry” when it receives a request from a defendant for substitute counsel on account of an alleged breakdown in communication, which is what Liggins argues. *State v. Wells*, 738 N.W.2d 214, 219 (Iowa 2007). The defendant must show the grounds to justify substitute counsel. *Boggs*, 741 N.W.2d at 506. “When faced with a motion to appoint substitute counsel, the district court must balance several factors, including ‘the need to ensure effective legal representation, the need to thwart abusive delay tactics, and the reality that a person accused of crime is often genuinely unhappy with an appointed counsel who is nonetheless doing a good job.’ ” *United States v. Kelley*, 774 F.3d 434, 438 (8<sup>th</sup> Cir. 2014) (quoting *Hunter v. Delo*, 62 F.3d 271, 274 (8<sup>th</sup> Cir. 1995)).

In determining whether to grant a request for substitute counsel, “the court must balance ‘the defendant's right to counsel of his choice and the public's interest in the prompt and efficient administration of justice.’ ” *Id.* (quoting *Webb*, 516 N.W.2d 824, 828 (Iowa 1994)). The court should not permit a defendant to manipulate the right to counsel to delay or disrupt the trial. *United States v. Swinney*, 970 F.2d 494, 499 (8<sup>th</sup> Cir. 1992). Additionally, the court should not allow “last-minute requests to substitute counsel ... to become a tactic for delay.” *Id.*; accord *Webb*, 516 N.W.2d at 828. For these reasons, the court has considerable discretion in ruling on a motion for substitute counsel made on the eve of trial. *State v. Brooks*, 540 N.W.2d 270, 272 (Iowa 1995).

Under this standard, a criminal defendant who is dissatisfied with appointed counsel must show “justifiable dissatisfaction” to warrant substitution of counsel, such as “a conflict of

interest, an irreconcilable conflict, or a complete breakdown in communication between the attorney and the defendant.” *United States v. Exson*, 328 F.3d 456, 460 (8<sup>th</sup> Cir. 2003); *see also Mott*, 759 N.W.2d at 148-49. As reiterated in *Boggs*, a complete breakdown in communication supports the appointment of substitute counsel because it deprives counsel of a critical component to an adequate defense – attorney-client relationship and communication. *Boggs*, 741 N.W.2d at 506.

### ANALYSIS AND RULING

This motion presents a difficult question for the court. Despite the fact there is a month before trial, this motion is essentially filed on the eve of trial as the State asserts. Due to the complexity of this case, this is not a case that another attorney can become familiar enough with to step in and still try the case in a month. It could conceivably take another year before different attorneys are familiar enough with this case to go to trial. In the meantime, the money spent on out-of-state subpoenas will have been wasted. Furthermore, both sides have attorneys who have spent numerous hours of time on this case. That time will have to be duplicated by the State’s attorneys and is simply lost by Mr. Liggins’ current lawyers. Finally, and most importantly, the victim’s family will have to wait for a long while again before they can get any closure for this case. Those facts are not lost upon this court.

The court also notes Mr. Liggins is entitled to a fair trial. Mr. Liggins is not entitled to determine all trial strategy questions or to “call the shots” as the State correctly points out. He is expected to abide by his attorney’s advice and rely on his attorney’s knowledge of the law and trial court experiences. Although, he is not entitled to have the attorney of his choosing, he is entitled to have an attorney with whom he can communicate and trust. Mr. Liggins has a right to participate in his defense and in order to do so, must have an adequate attorney-client relationship.

The facts that make this question difficult include the right of the victim's family to have closure and the impending trial date, including all the work, time and expense that will be wasted if new attorneys are appointed. Moreover, Mr. Liggins never mentioned he had any issues with his attorneys until he wrote a letter to the undersigned dated March 19, 2017, which was received on March 21, 2017. That letter stated Mr. Liggins liked his attorneys, but did not agree with everything they have done. He indicated he may want to talk about that later. Upon receiving that letter, the court issued an order that it be provided to all counsel of record and if a hearing needed to be set, defense counsel was to have it set. No hearing was set.

The next letter the undersigned received from Mr. Liggins was dated March 20, 2017 and mentioned a complaint about his eyes and needing glasses. Again, the undersigned issued the same order as for the March 19, 2017 letter. No hearing was set. The only other letter the undersigned received from Mr. Liggins was received on April 3, 2017. In that letter, Mr. Liggins complained his lawyers had not returned papers to him. That letter was the first time this court was made aware Mr. Liggins claimed he had new evidence. Mr. Liggins stated he had fired Mr. Jones and if a motion was not filed by his lawyers, he would file his own motion. The Motion to Appoint Substitute Counsel was filed by Mr. Jones on April 10, 2017.

This court held hearings on February 20-22, 2017 on fourteen different motions filed by the parties. Mr. Liggins sat through all of these motions and never indicated to the court he was unhappy with the way his lawyers were representing him. Nor did he mention there was any newly discovered evidence until the letter he wrote to the court and which was received on April 3, 2017. In fact, during the motion hearings, Mr. Jones was asked and emphatically stated that the State had turned over everything he requested and he believed the State was not withholding any other evidence.

This court has had experience with Mr. Jones and Mr. Puentes in another Class A case. In addition, the court has also had experience with Mr. Jones in a variety of other cases including Class B felonies. In this court's experience, Mr. Jones has always been a well-respected attorney, a hard worker, and a zealous advocate for his clients.

Despite all of these reasons, the court feels it has no choice but to grant this motion. Mr. Jones' statements that his relationship with Mr. Liggins is "toxic" and that the attorney-client relationship has completely broken down are the two hurdles the other facts cannot overcome, and which show justifiable dissatisfaction to warrant substitution of counsel. *See Boggs*, 741 N.W.2d at 506. The court feels it important to point out that the granting of this motion does not mean this type of motion will always be granted, but if another is filed in the future, the court will give it the scrutiny it deserves.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** by the Court that Defendant's Motion to Appoint Substitute Counsel is **GRANTED** for the reasons stated herein.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Derek Jones and Miguel Puentes and the local State Public Defender's office are withdrawn as attorneys for Mr. Liggins.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the State Public Defender's office is appointed to represent Mr. Liggins at state expense. The Clerk shall notify the State Public Defender of this appointment. The State Public Defender shall promptly file an appearance with the court for the attorneys appointed to represent Mr. Liggins. If a continuance is needed, all counsel shall confer with Court Administration to have that matter set for hearing in front of the undersigned.



State of Iowa Courts

**Type:** OTHER ORDER

**Case Number**      **Case Title**  
FECR147696      STATE OF IOWA VS LIGGINS, STANLEY CARTER

So Ordered

A handwritten signature in cursive script that reads "Marlita A. Greve".

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Marlita A. Greve, Chief District Judge,  
Seventh Judicial District of Iowa