

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESSE BARRERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87947-COA

FILED

DEC 24 2024

ELIZABETH A. BROWN,
CLERK OF SUPREME COURT

BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jesse Barrera appeals from a judgment of conviction, entered pursuant to a jury verdict, of four counts of sexual assault against a child under the age of 14 years and three counts of lewdness with a child under the age of 14 years. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Barrera argues the district court abused its discretion by failing to substitute trial counsel after a breakdown in the attorney-client relationship. Barrera contends the court erred by failing to appoint new counsel because there were irreconcilable differences between Barrera and counsel based on Barrera's belief that his defense team was trying to coerce him into pleading guilty. Barrera also contends that the court failed to make a "thorough inquiry" into the alleged conflict.

"Absent a showing of adequate cause, a defendant is not entitled to reject his court-appointed counsel and request substitution of other counsel at public expense." *Young v. State*, 120 Nev. 963, 968, 102 P.3d 572, 576 (2004). "Attorney-client conflicts justify the grant of a substitution motion only when counsel and defendant are so at odds as to prevent presentation of an adequate defense." *Gallego v. State*, 117 Nev. 348, 363, 23 P.3d 227, 237 (2001) (quotation marks omitted), *abrogated on*

other grounds by Nunnery v. State, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011). In reviewing a trial court's denial of a request for substitute counsel, this court considers the extent of any conflict, the adequacy of the trial court's inquiry, and the timeliness of the defendant's motion. *Young*, 120 Nev. at 968-69, 102 P.3d at 576. "We review the denial of a motion for substitution of counsel for abuse of discretion." *Id.* at 968, 102 P.3d at 576.

At the *Young* hearing the district court held on Barrera's motions,¹ Barrera explained that he felt coerced into accepting the plea deal offered by the State because the investigator told him that proceeding to trial where the victim would be called to testify might make the victim's mother (Barrera's former girlfriend and mother to their two biological children) less likely to allow Barrera to visit his children. When asked about this issue, counsel explained that she had offered Barrera the same advice. Candid advice of counsel regarding the consequences of proceeding to trial does not constitute coercion. *See Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015) (stating "undue coercion occurs when a defendant is induced by promises or threats which deprive the plea of the nature of a voluntary act" (internal quotation marks omitted)); *Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. 61, 69, 412 P.3d 56, 62 (2018) (noting that one of the roles of an attorney is to provide candid advice to their client). Thus, Barrera fails to establish that the alleged coercion created an irreconcilable conflict with his appointed counsel. Further, counsel relayed to the court that she believed she had the competence to remain on the case and the ethics to proceed in such a way that she would try to repair the relationship.

¹Barrera filed a "motion for new attorney" and an "amended motion for *Young* hearing."

As to the second factor, Barrera does not cogently argue how the district court's inquiry was inadequate. Moreover, our review of the record indicates the district court adequately inquired into the purported conflict. The district court allowed Barrera to express his concerns with counsel, recited those concerns, and confirmed with Barrera that it had accurately recited all of Barrera's concerns. The district court then allowed counsel to address Barrera's claims. After listening to counsel's arguments, the district court went through each of the *Young* factors and denied Barrera's motion. Therefore, this factor weighed against appointing new counsel.

As to the final factor, the district court found that the timing of the motion weighed against substituting counsel because the parties were "pretty close to trial." While the record reflects the motion was filed more than 60 days prior to trial, counsel stated at the *Young* hearing that the appointment of new counsel would likely require a continuance given the charges Barrera faced. Thus, the timing of the motion weighed against appointing new counsel. In light of these circumstances, we conclude that the district court did not abuse its discretion by denying Barrera's motion for substitution of counsel, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Barry L. Breslow, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk