

IN THE SUPREME COURT OF IOWA

NO. 19-1228

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DANTREON LEVON NEWMAN,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR POLK COUNTY
HONORABLE DISTRICT JUDGE JEFFREY FARRELL (PLEA/
SENTENCING ORDER AND ORDER TO ACCEPT PLEA)

DEFENDANT-APPELLANT'S APPLICATION FOR FURTHER
REVIEW

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QUESTIONS PRESENTED

I. Did the District court violate Dantreon Levon Newman's right to due process by accepting his guilty plea in light of alleged questions about his competency?

PROOF OF SERVICE

I hereby certify that on the 8th day of October, 2021, I did serve the within Defendant-Appellant's Application for Further Review on Appellant, listed below, by mailing one copy thereof to the following Defendant-Appellant:

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BY: /s/ Eric W Manning

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CERTIFICATE OF FILING

I, the undersigned, hereby certify that I did file a copy of the Defendant-Appellant's Final Brief with the Clerk of Supreme Court, Des Moines, Iowa 50319 by means of the Appellate Electronic Document Management System the same on the 8th day of October, 2021.

/S/ Eric W Manning

QUESTIONS PRESENTED FOR REVIEW

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OTHER AUTHORITIES

Iowa Code § 812	
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Iowa State Constitution, Section 9	
United States Constitution, Amendment XIV	

STATEMENT OF THE ISSUES

I. MR. NEWMAN’S DUE PROCESS RIGHTS WERE VIOLATED

Dusky v. United States, 362 U.S. 402 (1960)
Lafferty v. Cook, 949 F.2d 1546 (10th Cir. 1991)
State v. Damme, 944 N.W.2d 98 (Iowa 2020)
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OTHER AUTHORITIES

Iowa Code § 812
Iowa Code § 814.6
Iowa State Constitution, Section 9
United States Constitution, Amendment XIV

ROUTING STATEMENT

This case should be transferred to the Court of Appeals because the issues raised involve applying existing legal principles. Iowa R. App. P. 6.903(2)(d) and 6.1101(3)(a).

STATEMENT FOR FUTURE REVIEW

This application for further review should be granted as it presents an issue of broad public importance. The competence of any Defendant reflects due process questions. The District Court erred by not ordering a thorough evaluation of Mr. Newman's competency prior to sentencing Mr. Newman.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

On March 3, 2019, Dantreon Levon Newman was charged by Trial Information in Polk County case FECR322068 with the crime of Sexual Abuse – 3rd Degree in violation of Iowa Code Section 709.4(1)(b)(2), a Class C Felony. Trial Counsel Conducted Discovery in this matter including a specific request for Brady Materials. (App. 23).

On May 28, 2019, the Defendant entered a plea of guilty to an Amended charge of Lascivious Acts with a Child, a Class D Felony, in violation of Iowa Code Section 709.8(1)(d). (App 46). A Presentence Investigation Report was completed and filed on July 3, 2019. (App. 70). A Sentencing Hearing was conducted on July 10, 2019 (App. pp. 25-28).

At the Sentencing Hearing, Trial Counsel addressed the court about a potential issue concerning Mr. Newman's competency. (App. pp. 53-54). Trial Counsel also expressed the potential of proceeding to trial and using a diminished responsibility defense if Mr. Newman were to be found guilty. (Id.). Trial counsel stated that he had explored these possibilities after receiving the Presentence Investigation Report and had discussed the ramifications with Mr. Newman. (Id). Trial counsel stated that he agreed to proceed to sentencing even with these potential issues. (Id at 54). Mr. Newman stated that he understood the issues and the Trial Judge stated that he believed that Mr. Newman was competent to continue with sentencing. (Id at 54).

Mr. Newman was found guilty of Lascivious Acts with a Child – Solicitation and sentenced to 5 years in prison and a requirement to sign up for the Sex Offender Registry for a period of ten years. (App. pp. 25-6). This sentence was part of a negotiated plea with the State. (App. p. 58).

Mr. Newman now appeals the District Court's Orders on Plea and Sentencing and Order to Accept Plea and requests further review from the Iowa Supreme Court after the Affirmed opinion issued on September 22, 2021.

I. MR. NEWMAN'S DUE PROCESS RIGHTS WERE VIOLATED

A. ISSUE PRESERVATION. A defendant's challenge to his sentence,

including a challenge that the sentence was illegal, need not be preserved below to assert error on appeal. *State v. Thomas*, 520 N.W.2d 311, 313 (Iowa Ct. App. 1994).

B. STANDARD OF REVIEW.

“Under the United States Constitution, the United States Supreme Court has declared that the conviction of an incompetent defendant violates due process.” *State v. Einfeldt*, 914 N.W.2d 773, 778 (Iowa 2018). “We have emphasized that whether to hold a competency evaluation presents a legal question.” *Id.* at 780. “When a constitutional question is raised, our review of a district court decision regarding whether to hold a competency evaluation is de novo.” *Id.*

C. LAW.

Mr. Newman’s appeal is controlled by the amended Iowa Code section 814.6 (2019). See *State v. Damme*, 944 N.W.2d 98, 103 n.1 (Iowa 2020) (“[R]eiterat[ing] that date of the judgment being appealed controls the applicability of the amendment to section 814.6.”). Section 814.6(1)(a)(3) prevents defendants from challenging their guilty pleas for anything other than a class “A” felony unless they establish “good cause.” The threshold question is whether Newman has good cause to appeal in this circumstance. The court cannot proceed to the merits of this claim unless it finds good cause exists for this appeal.

“The legislature did not define ‘good cause’ in this statute” and “[g]ood

cause’ is defined in a variety of ways elsewhere in the Iowa Code and Rules of Procedure.” *Id.* at 104. In *Damme*, the Iowa supreme court adopted the definition “[a] legally sufficient reason” as the meaning of “good cause” within section 814.6. *Id.* But “what constitutes good cause is context-specific.” *Id.* And “we must determine when a defendant who pled guilty has a legally sufficient reason to appeal.” *Id.*

The Iowa supreme court has not yet considered whether a defendant’s claim of incompetence at the time of the guilty plea provides good cause for a direct appeal under section 814.6. Good cause for a direct appeal would likely exist if issues regarding Newman’s competency were raised and contested before the district court. The Court should find that good cause exists to challenge competency at the time of the plea irrespective of whether the issue was contested.

Iowa Code section 812.3 lays out a procedural mechanism designed to ensure due process is satisfied when there are questions regarding the competency of a criminal defendant. See *Einfeldt*, 914 N.W.2d at 779.

If at any stage of a criminal proceeding the defendant or the defendant’s attorney, upon application to the court, alleges specific facts showing that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the defense, the court shall suspend further proceedings and determine if probable

cause exists to sustain the allegations. The applicant has the burden of establishing probable cause. *The court may on its own motion schedule a hearing to determine probable cause if the defendant or defendant's attorney has failed or refused to make an application under this section and the court finds that there are specific facts showing that a hearing should be held on that question.*

Iowa Code § 812.3 (emphasis added). “Probable cause exists for a competency hearing when a reasonable person would believe that there is a substantial question of the defendant’s competency.” *Einfeldt*, 914 N.W.2d at 779 (citing *State v. Kempt*, 282 N.W.2d 704, 706 (Iowa 1979)). There is a presumption that a defendant is competent to stand trial, and the defendant has the burden to prove incompetence. *State v. Gaston*, No. 18-1293, 2020 WL 1307690, at *2 (Iowa Ct. App. Mar. 18, 2020). Thus, the question we must answer is whether there were “specific facts” regarding Cue’s competency that required the court to order a competency hearing on its own motion.

Relevant factors in determining whether due process requires an inquiry as to competency include (1) defendant’s irrational behavior, (2) demeanor at trial, and (3) any prior medical opinion on competence to stand trial. The critical question is “whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.” *State v.*

Lucas, 323 N.W.2d 228, 232 (Iowa 1982) (quoting *Dusky v. United States*, 362 U.S. 402, 402 (1960)).

If there is serious doubt about a defendant's competency, the trial court has an absolute responsibility to order a hearing sua sponte. *State v. Mann*, 512 N.W.2d 528, 531 (Iowa 1994). To evaluate whether that responsibility was required here, the court should consider those competency factors known to the court at the time of the guilty plea hearing. See *State v. Walton*, 228 N.W.2d 21, 23 (Iowa 1975) ("Our task . . . is to examine all the circumstances before [the] trial court to determine if at the time his plea was accepted there existed an unresolved reasonable doubt as to defendant's competence to plead guilty."); see also *State v. Jasper*, No. 16-2039, 2017 WL 6513603, at *3 (Iowa Ct. App. Dec. 20, 2017) ("But we only consider factors known by the court at the time of the plea colloquy.").

D. DISCUSSION. Mr. Newman's statutory rights under Iowa Code Section 812, Section 9 of the Iowa State Constitution, and the 14th Amendment U.S. Constitutional due process rights under US Constitution. were violated when the Court failed to grant a competency hearing sua sponte.

As has previously been discussed in the present appeal, the Trial Attorney did not request a competency hearing for Mr. Newman. However, the Trial Court also could have granted a competency hearing sua sponte. The Court did not have

on the record interactions with the Defendant regarding competency outside of the Sentencing Hearing. However, prior to the hearing, the Court would have had access to Mr. Newman's PSI report which stated that Mr. Newman suffered from bi-polar disorder, schizophrenia and had special education in school. While none of these factors can solely lead a court to determine that a competency hearing is required, it is valuable evidence regarding Mr. Newman's ability to assist in his own defense and appreciate the severity of the potential punishments that he faced as part of his plea and subsequent sentencing.

The Trial Court is to give great weight based on the statements of trial counsel regarding their client's competency. *United States v. Sandoval*, 365 F. Supp. 2d 319, 321-22, 325-26 (E.D.N.Y. 2005) (relying heavily on the opinions of defense counsel regarding competence). Based on the record, the Trial Court took the statements of Trial Counsel as a sufficient basis for proceeding with sentencing even with the diagnoses found through the PSI Report.

Further, the "rational understanding" required under Dusky means more than being "oriented to time and place" but includes accurate perception of reality and proper response to the world around the defendant, not disruptive behavior and a paranoid relationship with counsel. *Lafferty v. Cook*, 949 F.2d 1546, 1550 (10th Cir. 1991) (quoting *Dusky*, 362 U.S. at 402, 80 S. Ct. at 789). The current record showing the PSI and statements of counsel and the trial court are not sufficient to

determine Mr. Newman's rational understanding of the proceedings before him. He was able to answer the court's questions, but it is unclear as to his level of understanding and ability to appreciate their consequences.

Based on the information in the transcripts of the plea, sentencing and the PSI Report, there is a basis for determining that Mr. Newman may not have been competent to stand trial and should have been given a competency hearing and subsequent examination. His competency was not thoroughly addressed by the district court or by his trial counsel.

On direct appeal, the possibility of making a meaningful determination of competency at the time of trial given the passage of time is simply not possible. See *State v. Myers*, 460 N.W.2d 458, 460 (Iowa 1990) (holding failure to hold a competency hearing not capable of cure by an ex post facto determination sometime after trial). As a result, Mr. Newman requests that this Court reverse the judgment of the district court and remand the case for a new trial. In any subsequent trial, the district court should monitor the proceedings and ensure that the defendant's due process and statutory rights related to competency are properly protected throughout the proceedings.

CONCLUSION

For the above stated reasons, Mr. Newman respectfully requests a further review and that this honorable court reverse and remand the holdings by the district

court with instructions specifying that Mr. Newman is entitled to a new Sentencing from the District Court with instructions to order an evaluation of Mr. Newman's competency.

NOTICE OF ORAL ARGUMENT

Counsel requests to be heard in oral argument.

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE
REQUIREMENTS**

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) (no more than 14,000 words) because this brief contains 1,541 words, excluding the parts of the brief exempted by Rule 6.903(1)(g)(1), which are the table of contents, table of authorities, statement of the issues, and certificates.

This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2018 in font size 14, Times New Roman.

/S/ *Eric W Manning*

Eric W. Manning
ATTORNEY FOR APPELLANT

Dated: October 8, 2021

IN THE COURT OF APPEALS OF IOWA

No. 19-1228
Filed September 22, 2021

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DANTREON LEVON NEWMAN,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Jeffrey Farrell, Judge.

Dantreon Newman appeals following his guilty plea to lascivious acts with a child. **AFFIRMED.**

Eric W. Manning of Manning Law Office, P.L.L.C., Urbandale, for appellant.

Thomas J. Miller, Attorney General, and Timothy M. Hau, Assistant Attorney General, for appellee.

Considered by Tabor, P.J., Greer, J., and Danilson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2021).

DANILSON, Senior Judge.

Dantreon Newman appeals following his guilty plea to lascivious acts with a child–solicitation. He contends his trial counsel was ineffective in failing to request that he be “examined for competency” or use his “mental health state to assert a diminished capacity defense” and the district court “should have ordered a competency hearing.” Upon our review, we affirm.

I. Factual Background

Newman was charged with third-degree sexual abuse following an incident in which he solicited a thirteen-year-old female to an abandoned apartment, where he forced her to engage in sexual intercourse. A plea agreement was reached, in which Newman agreed to plead guilty to lascivious acts with a child–solicitation, a class “D” felony. See Iowa Code § 709.8(1)(d) (2017).

At the plea hearing, the district court engaged Newman in a colloquy to establish that his guilty plea was knowing, voluntary, and supported by a factual basis. The court inquired into Newman’s mental competency through several questions, to which Newman answered that he was not “under the influence of an alcoholic beverage, drug, or medication”; he was not “seeing a doctor, psychiatrist, or psychologist”; and he had not “been hospitalized in the last six months.” Newman agreed he was pleading guilty “voluntarily and of [my] own free will,” “because . . . it’s about the best option—the best way to go.” He further stated he understood his rights and the consequences of pleading guilty, and the court accepted his plea.

Newman waived his right to file a motion in arrest of judgment to challenge his plea. Meanwhile, the State prepared a presentence investigation report (PSI).

The PSI indicated Newman “[h]as been diagnosed with ADHD, Bipolar Disorder, and Schizophrenia” and was “taking medication to address these issues while in the Polk County Jail.” The PSI further noted Newman “was involved in special education programming while in school” and was “interested in obtaining his GED in the future.”

Newman later appeared for sentencing with counsel. At the outset of the hearing, defense counsel addressed the court regarding “something that appeared in the [PSI].” The following colloquy then took place:

DEFENSE COUNSEL: Judge, I just wanted to make a little record about references in this report to special education and mental health diagnoses by Mr. Newman of schizophrenia and bipolar. Those were things that I was not aware of at the time of his plea, but, nonetheless, I exercised a reasonable professional judgment.

The reason that those were concerning to me when I saw them in the report was two things that I would want to speak with him about would be whether to request a competency evaluation or whether to possibly advance a defense of diminished responsibility at trial. I think that I exercised reasonable professional judgment in dealing with those issues, because except with respect to the competency evaluation, although I didn’t know that Mr. Newman had received special education services, I was very aware that he limited—that he was obviously, the product of a poor school. And in talking with him about his case, I looked very closely at how he would process information and make decisions.

We talked about, in this case, obviously, he has a lot of bad options. We talked about some of the things that were very complicated. We talked about the registry and special sentences and how that information would affect him, potentially, for his whole life if he was convicted as charged. During those conversations, which were really complex, Mr. Newman was able to appropriately process the information, weigh it, and make what I thought was the best decision. So that raised absolutely no concerns for me whatsoever about his competency.

And a second piece of information that was relevant to me in exercising professional judgment on those grounds was when we got the DNA test results back I was able to discuss that with Mr. Newman, and I felt like he was really able to appreciate how having

those results changed the strength of the State's case, making trial a much worse option for him to pursue.

Those are just a few of the examples of why I would not have moved for a competency evaluation in this case. And for the same reasons, I would say that I wouldn't have advanced, and I don't think Mr. Newman would have wanted me to advance, a diminished responsibility defense at trial.

We made our decision to plead guilty recognizing that it was the best option for Mr. Newman amongst a whole bunch of really bad options. And I don't think anything about that information that I—that I learned from the PSI would change that or would change Mr. Newman's desire to continue with this guilty plea. Thank you.

COURT: All right.

Mr. Newman, you heard the statement of [defense counsel]. Do you understand what he was talking about?

NEWMAN: Yes, sir. Yes, Your Honor.

COURT: Do you have any comments or do you have any disagreement with anything that he said?

NEWMAN: No.

COURT: Okay. I need an answer out loud.

NEWMAN: No.

COURT: Okay. We had a lengthy discussion during the plea hearing, and it appeared to me during that hearing that you were processing everything well and understood everything well during the hearing; is that correct?

NEWMAN: Yes, sir.

The district court proceeded and imposed Newman's sentence. Newman appealed.

II. Good Cause to Appeal

Preliminarily, the State argues that the court "should dismiss the appeal" because "Newman has no right of appeal from his guilty plea" under Iowa Code section 814.6 (Supp. 2019), his conviction was not for a class "A" felony, and he "has not alleged or established 'good cause' as to why the appeal should be permitted to proceed."¹ Iowa Code section 814.6(1)(a)(3) provides: "Right of

¹ Because the district court entered Newman's judgment of conviction and sentence after July 1, 2019, the statutory amendment to section 814.6 restricting appeals from guilty pleas is applicable to his appeal.

appeal is granted the defendant from [a] final judgment of sentence, except . . . [a] conviction where the defendant has pled guilty,” unless “the defendant establishes good cause.” “Good cause” means a “legally sufficient reason.” *State v. Tucker*, 959 N.W.2d 140, 153 (Iowa 2021) (quoting *State v. Damme*, 944 N.W.2d 98, 104 (Iowa 2020)). “A legally sufficient reason to appeal as a matter of right is a reason that, at a minimum, would allow a court to provide some relief on direct appeal.” *Id.*

Newman has not addressed the good-cause issue with respect to his claim of incompetence at the time of his guilty plea. But “[t]his court has addressed the issue and concluded ‘that good cause exists to challenge competency at the time of the plea irrespective of whether the issue was contested below.’” *State v. Chindlund*, No. 20-1368, 2021 WL 2708944, at *2 (Iowa Ct. App. June 30, 2021) (quoting *State v. Cue*, No. 19-2150, 2020 WL 6157813, at *3 (Iowa Ct. App. Oct. 21, 2020)). Accordingly, we find Newman has good cause to proceed with this appeal.²

III. Ineffective Assistance of Counsel

Newman first contends his trial counsel was ineffective in failing to request that he be “examined for competency” or use his “mental health state to assert a diminished capacity defense.” The State again responds that recent statutory amendments preclude consideration of this claim. See Iowa Code § 814.7 (stating an ineffective-assistance-of-counsel “claim shall not be decided on direct appeal

² The State filed a motion to dismiss premised upon the same grounds—that Newman failed to show good cause—and the motion was ordered to be submitted with this appeal. For the reasons provided, we find it unnecessary to further address the motion.

from the criminal proceedings”). On this point, we agree with the State. Accordingly, we do not address the merits of Newman’s claim of ineffective assistance of counsel in this direct appeal.

IV. Competency

Newman’s second issue is directed to whether the district court erred in failing to order a competency hearing.³ According to Newman, “Based on the information in the transcript[] of the plea, sentencing and the PSI Report,^[4] there is a basis for determining that [he] may not have been competent to stand trial and should have been given a competency hearing and subsequent examination.” Specifically, Newman contends the court failed to make further inquiry into his competency after it “had access to [the] PSI report which stated that [he] suffered from bi-polar disorder, schizophrenia and had special education in school.”

“Under the United States Constitution, the United States Supreme Court has declared that the conviction of an incompetent defendant violates due process.” *State v. Einfeldt*, 914 N.W.2d 773, 778 (Iowa 2018). “We review whether a trial court should have ordered a competency hearing de novo.” *Id.*

Iowa Code section 812.3(1) provides:

If at any stage of a criminal proceeding the defendant or the defendant’s attorney, upon application to the court, alleges specific facts showing that the defendant is suffering from a mental disorder which prevents the defendant from appreciating the charge, understanding the proceedings, or assisting effectively in the

³ The State does not contend Newman’s appeal of this issue is foreclosed by the amendments to Iowa Code sections 814.6 and 814.7. The State also acknowledges that a claim the district court failed to order a competency hearing sua sponte is not subject to traditional rules of error preservation. See *State v. Lucas*, 323 N.W.2d 228, 230 (Iowa 1982).

⁴ Newman acknowledges no evidence existed in this record to order a competency hearing until the PSI was prepared for the sentencing hearing.

defense, the court shall suspend further proceedings and determine if probable cause exists to sustain the allegations. The applicant has the burden of establishing probable cause. *The court may on its own motion schedule a hearing to determine probable cause if the defendant or defendant's attorney has failed or refused to make an application under this section and the court finds that there are specific facts showing that a hearing should be held on that question.*

(Emphasis added.) There is a presumption that a defendant is competent to stand trial, and the defendant has the burden to prove incompetence. See *State v. Gaston*, No. 18-1293, 2020 WL 1307690, at *2 (Iowa Ct. App. Mar. 18, 2020). The question here is whether there were “specific facts” regarding Newman’s competency that required the court to order a competency hearing sua sponte. See Iowa Code § 812.3(1).

In *Einfeldt*, the court reversed the defendant’s judgment and remanded for a new trial upon concluding the factors before the district court (i.e., the defendant informed defense counsel that she “suffered from mental health issues in the past” and defense counsel informed the court “regarding the difficulty of representation”; the defendant testified she “want[ed] to kill her lawyer and stab her lawyer in the neck with a pen” and that she believed “someone was ‘poisoning the water’”; the defendant did not understand the charges against her and “did not remember the events of the previous day”; the defendant told the court “she had been diagnosed with paranoid schizophrenia, bipolar disorder, posttraumatic stress disorder, and attention deficit disorder” and “she had prescriptions for these disorders but had not been taking her medication for a couple of months because she did not have the money”; and the PSI corroborated the defendant’s statements and “recommended an assessment by a licensed professional”) should have led a

reasonable trial judge to experience doubt on whether the defendant was competent to stand trial. 914 N.W.2d at 777–78, 781–83.

Newman seeks the same resolution here. However, after consideration of the appropriate factors, we conclude there is insufficient evidence to meet even the “low threshold” noted in *Einfeldt*, and we decline to determine the district court committed legal error in failing to order a competency hearing pursuant to Iowa Code section 812.3 on the record before us. *Cf. id.* at 782. Although the PSI provided information regarding Newman’s past diagnoses of several mental-health issues, we note that the PSI also stated Newman was taking his medication while in custody. We are not privy to know whether medications were taken, as Newman stated during the guilty plea proceeding that he was not on any medication. We acknowledge the district court may have been well advised to inquire at the sentencing hearing concerning Newman’s use of any medications.

Notwithstanding, we find it significant that defense counsel informed the court that he had no concern about Newman’s mental health based on their interactions. Newman concedes, “The Trial Court is to give great weight based on the statements of trail [sic] counsel regarding their client’s competency.” Here, defense counsel spoke at length at sentencing and noted no difficulties in communications with Newman. Defense counsel also noted a lack of any irrational comments or behavior by Newman during the guilty plea proceeding and other attorney-client discussions, and the fact that Newman appeared to understand and properly respond to the court’s colloquy and other statements. *Cf. id.* at 780–81 (noting “[c]ompetency evaluations include a ‘careful assessment of the accused’s ability to interact with counsel’” and a “professional statement” by defense counsel

regarding representation “plays an important role” (citation omitted)). We also note that “[a] history of mental illness standing alone . . . does not mean the defendant is incompetent.” *State v. Edwards*, 507 N.W.2d 393, 395 (Iowa 1993).

It may have helped our resolution if the district court had inquired concerning Newman’s mental-health issues and medication, but without any unusual conduct, improper responses, or apprehension by defense counsel we conclude these facts and circumstances are insufficient to order a competency evaluation under Iowa Code 812.3. See, e.g., *Chindlund*, 2021 WL 2708944, at *3 (“[O]n the record presented, Chindlund has failed to meet his burden to prove he was incompetent when his guilty plea was accepted.”); *Cue*, 2020 WL 6157813, at *4 (“In sum, Cue failed to show any behavior suggesting he was incompetent to plead guilty.”). We reach these conclusions notwithstanding the fact that “any one factor alone may sufficiently raise a reasonable doubt in the mind of a reasonable trial judge.” *Einfeldt*, 914 N.W.2d at 781. And we acknowledge a more adequate record may be developed in postconviction-relief proceedings. See *Chindlund*, 2021 WL 2708944, at *3 (“[Chindlund’s] claim is better suited for postconviction relief where an adequate record may be developed.”).

We affirm Newman’s conviction.

AFFIRMED.



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
19-1228

Case Title
State v. Newman

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