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In re Benson, A Year Later

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In October 2024, the Minnesota Supreme Court ruled on *Matter of Commitment of Benson*, holding that those subject to civil commitment have a right to waive counsel. The Minnesota Commitment and Treatment Act (MCTA) provides a statutory right to counsel for those in commitment proceedings under both § 253B and § 253D. However, unlike other statutes, the MCTA does not include a right to waive that counsel. Also unlike other statutes, the MCTA does not specify that the right is "unwaivable." Benson, who is committed under Minn. Stat. § 253D, requested that he, without counsel, be allowed to present evidence and examine witnesses in a review hearing. His request was denied. On appeal, the Minnesota Supreme Court reversed and remanded, holding that those committed under § 253D have a right to waiver, so long as that waiver is deemed competent. Lower courts were instructed to use criminal waiver procedure as guidance.

The impact of *Benson* on analogous cases is clear, but its ancillary impacts are less so. Notably, Benson was committed under § 253D, which governs the civil commitment of certain sex offenders. Though it's a type of civil commitment, the statute does not require a mental illness finding. In contrast, § 253B governs the civil commitment of those with mental illnesses and developmental disabilities. The two statutes are both cabined under the MCTA, but they are separate chapters. *Benson* did not extend the right to waiver to its mental illness counterpart. The ruling also did not clarify whether respondents must be informed of this right, whether the holding had a retroactive effect, or when respondents may challenge a denial of waiver. A series of unpublished cases, described below, address these questions.

Benson again appeared before the Minnesota Court of Appeals, arguing that the 2024 ruling was a changed circumstance necessitating a new trial. Specifically, he argued that, because he was not permitted to represent himself at his initial trial in 1993, his commitment must be ended and that he be allowed to represent himself in a new trial. The court denied his motion, as he never raised the issue of self-representation at his initial trial.

In *Matter of Commitment of Hazley*, Hazley appealed his commitment under § 253D. He argued, *inter alia*, that he was denied effective assistance of counsel because he was not informed of his right to waiver. The court affirmed the commitment, holding that *Benson* did not apply.

Hazley did not request waiver during his trial, and *Benson* did not hold that attorneys render ineffective assistance of counsel if they fail to inform clients of this right.

In a similar case, *Matter of Commitment of Allan*, the court held that *Benson* did not apply where the appellant did not request waiver of counsel. However, in *Allan*, the appellant argued that he had been barred from requesting waiver prior to the *Benson* decision. The court rejected this argument, noting that he was not barred simply because the existing case law was unfavorable. The court pointed to *Benson* as evidence that a party may seek to change or establish law, so long as they ask. Instead of arguing ineffective assistance of counsel, Allan instead argued that the court erred in failing to inform him of his right. However, *Benson* did not require any such advisory, nor does the analogous criminal procedure.

In 2024, Allan petitioned for discharge from MSOP, but his petition was dismissed. He then filed a petition with the United States District Court of Minnesota,[1] arguing that his commitment violates the Due Process Clause of the Fourteenth Amendment because there is no evidence he has a sexual disorder. After the *Benson* decision, Allan was granted a "re-hearing" by the state court. He then sought voluntary dismissal of his own federal court petition. He argued that, because he requested that the court "reverse and remand for a new hearing," the re-hearing granted by the state court rendered his federal petition moot. The federal court agreed and granted the dismissal.

Like Benson, the respondent in *Matter of Commitment of Robb* requested that he be allowed to personally cross-examine witnesses at a review hearing for his commitment under § 253D. His request was denied, as was his petition for discharge. On appeal, the court held that *Benson* was not controlling. In addition to his request to cross-examine, Robb also requested the appointment of new counsel–he never requested to appear pro se. Thus, *Benson* did not apply.

The court in *Matter of Commitment of Johson* affirmed appellant's commitment under § 253D despite appellant arguing he was denied his constitutional right to waiver of counsel. The court clarified that *Benson* did not address any constitutional issues, but was instead an interpretation of the statute. Minnesota also does not apply the Sixth Amendment to civil commitment proceedings. Further, the "right to counsel" statute was not yet enacted at the time of the appellant's initial commitment.

In December 2025, the Minnesota Court of Appeals published an opinion further interpreting *Benson*. In *Matter of Commitment of Urbanek*, the petitioner appealed his commitment under § 253D, arguing that his constitutional right to self-representation was violated when he was appointed counsel during the initial commitment proceedings. Again, the court stressed that *Benson* did not establish a constitutional right. The court also emphasized that *Benson* applies only

[1] Allan v. Gandhi, 2025 WL 1745900 (D. Minn. June 24, 2025) (order dismissing case).

to review hearings–nothing in Benson references the possibility of self-representation during the initial commitment proceedings.

The *Urbanek* holding appears to contradict the application of *Benson* by trial courts but may actually serve to clarify. For example, two weeks after the *Urbanek* opinion, the Court of Appeals issued the nonprecedential opinion *Matter of Commitment of Greene*. Like Urbanek, Greene moved to vacate his commitment under § 253D, arguing that his commitment should be reversed because he was not allowed to represent himself during the commitment proceedings. The trial court denied Greene's motion, stating, "[the] motion failed on the merits because Greene never requested to waive his right to counsel during the civil-commitment proceedings, [so] *Benson* was inapplicable." This position is consistent with many earlier rulings under *Benson*. At first glance, it seems to contradict *Urbanek* by indicating that the opportunity for self-representation may be available during initial proceedings so long as it's properly requested. The appellate court in *Greene* seems to clarify that, while timely requests do not always fall under the scope of *Benson*, such requests may still be considered in another hearing (". . . *Benson* does not require the district court to schedule a hearing to address Greene's statutory right to waive counsel in his civil-commitment proceeding when Greene never requested to waive counsel or represent himself.).

Though the past year of appeals answered some of the questions posed by *Benson*, many remain regarding the rights allotted to those subject to civil commitment. Particularly, how far the *Benson* holding will extend, if at all. *Urbanek* indicates that it may be necessary for this issue to reappear before the Minnesota Supreme Court in order to define its exact contours.