

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

DAVID N. BRIGGS.

Appellant

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DOCKET NUMBER WD70538

DATE: June 15, 2010

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Appeal From:

Circuit Court of Jackson County, MO  
The Honorable John R. O'Malley, Judge

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Appellate Judges:

Division Four: Thomas H. Newton, C.J., James Edward Welsh and Alok Ahuja, JJ.

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Attorneys:

Laura G. Martin, Kansas City, MO

Counsel for Appellant,

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Attorneys:

James B. Farnsworth, Jefferson City, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v.  
DAVID N. BRIGGS, Appellant**

WD70538

Jackson County

Before Division Four Judges: Thomas H. Newton, C.J., James Edward Welsh and Alok Ahuja, JJ.

David W. Briggs appeals the circuit court's judgment convicting him of one count of murder in the first degree, one count of robbery in the first degree, and two counts of armed criminal action. In his sole point on appeal, Briggs claims that the circuit court plainly erred in denying his request to be represented by private counsel instead of his public defender.

**AFFIRMED.**

**Division Four holds:**

(1) The circuit court did not plainly err in permitting the public defender to represent Briggs or in refusing Briggs's mid-trial request to bring in new counsel. The failure of appointed counsel to relinquish or tell Briggs about information that might be helpful to Briggs in his case does not show that "a total breakdown in communication" existed between them.

(2) The circuit court's informal inquiry concerning Briggs's desire to substitute attorneys in this case was sufficient, given the plain error standard of review in this case.

(3) Briggs's claim that the circuit court erred in allowing a public defender to represent him because he was not really indigent and did not qualify for the services of the public defender is without merit. The record establishes that the public defender's office determined, at the beginning of the case, that Briggs qualified for its services. Briggs had to file an affidavit with the court containing factual information supporting his claim of indigency. Thus, it is disingenuous for Briggs to argue that the public defender should not have been representing him because he was not indigent. Moreover, if Briggs managed to gather enough resources to disqualify himself from the public defender's services, it was incumbent upon the public defender to make that determination and for either the public defender or Briggs to file a motion with the circuit court to determine whether the services of the public defender were needed. Neither Briggs nor the public defender filed such a motion.

**Opinion by: James Edward Welsh, Judge**

June 15, 2010

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