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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-1696**

State of Minnesota,  
Respondent,

vs.

Stephanie Colleen Miller,  
Appellant.

**Filed May 27, 2014  
Affirmed  
Bjorkman, Judge**

Scott County District Court  
File No. 70-VB-13-9233

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Patrick J. Ciliberto, Scott County Attorney, Todd P. Zettler, Assistant County Attorney,  
Shakopee, Minnesota (for respondent)

John G. Westrick, Nathan T. Griffin, Westrick & McDowall-Nix, P.L.L.P., St. Paul,  
Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Bjorkman, Judge; and Reyes,  
Judge.

## UNPUBLISHED OPINION

**BJORKMAN**, Judge

Appellant challenges her petty-misdemeanor conviction of driving after revocation of her driver's license, arguing that the district court abused its discretion by not granting her a trial continuance. We affirm.

### FACTS

Appellant Stephanie Miller was charged with misdemeanor driving after revocation and was appointed a public defender. On the scheduled trial date, the state moved to certify the charge as a petty misdemeanor under Minn. R. Crim. P. 23.04. Over Miller's objection, the district court granted the motion. Miller's lawyer acknowledged that Miller was not entitled to a public defender for the petty-misdemeanor charge and withdrew.

Miller, acting pro se, then moved to exclude three items of evidence—a copy of her birth certificate and copies of her driver's licenses from Louisiana and Minnesota—based on the state's late disclosure. The prosecutor responded that the state would agree to continue the trial if Miller wanted “additional time in order to prepare a defense.” The district court denied Miller's motion, determining admission of the documents, which addressed only Miller's name and identity, was not unfair and that the trial would proceed as scheduled. Miller actively represented herself at trial, making objections, cross-examining the state's witness, testifying in her own defense, and making a closing argument. The district court found Miller guilty of driving after revocation and imposed a \$200 fine, plus surcharges. This appeal follows.

## DECISION

A district court has discretion in whether to grant a continuance. *State v. Rainer*, 411 N.W.2d 490, 495 (Minn. 1987). We will not reverse a conviction for denial of a continuance unless the district court clearly abused its discretion. *Id.* A litigant must show that she was prejudiced by the denial of a continuance to justify reversal. *State v. Courtney*, 696 N.W.2d 73, 81 (Minn. 2005).

Miller argues the district court abused its discretion by not continuing her case to afford her an opportunity to retain private counsel. We disagree. Miller never requested a continuance or otherwise indicated to the district court that she wanted and was able to retain private counsel. We therefore conclude that she has waived this issue. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that failure to raise an issue to the district court generally results in waiver of that issue for purposes of appellate review).

Moreover, denying a continuance to retain private counsel would have been well within the district court's discretion. First, there is no right to counsel in non-criminal petty-misdemeanor proceedings. *See State v. Host*, 350 N.W.2d 479, 481-82 (Minn. App. 1984) (recognizing non-criminal nature of petty-misdemeanor proceedings). Second, we discern no prejudice to Miller. Even without counsel, Miller actively defended herself at trial; she has not identified any additional arguments or evidence that private counsel could have presented in her defense. On this record, we conclude Miller received a fair petty-misdemeanor trial and is not entitled to reversal.

**Affirmed.**