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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0829**

State of Minnesota,
Respondent,

vs.

Elliot Lamar-Seccer Pierson,
Appellant.

**Filed April 1, 2008
Reversed and remanded
Lansing, Judge**

Hennepin County District Court
File No. 06025878, 06068208

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, C-2000 Government Center, 300 South Sixth Street, Minneapolis, MN 55487 (for respondent)

John Stuart, State Public Defender, Susan Andrews, Assistant Public Defender, Suite 300, 540 Fairview Avenue North, St. Paul, MN 55104 (for appellant)

Considered and decided by Johnson, Presiding Judge; Lansing, Judge; and Ross, Judge.

UNPUBLISHED OPINION

LANSING, Judge

In this appeal from a conviction of two counts of first-degree aggravated robbery, Elliot Pierson challenges the adequacy of his waiver of trial rights. Because Pierson did not waive the rights described in Minn. R. Crim. P. 26.01, subd. 3, before the case was submitted to the court for a trial on stipulated facts, his waiver was insufficient. We therefore reverse and remand.

F A C T S

The state filed a complaint in May 2006, charging Elliot Pierson with one count of first-degree aggravated robbery. The complaint alleged that Pierson robbed a store in August 2005 while armed with a dangerous weapon. The state filed a second complaint against Pierson in October 2006. This second complaint charged Pierson with three additional acts of first-degree aggravated robbery, one in September 2005 and two in November 2005.

Pierson and the state agreed to submit all four counts for a trial on stipulated facts. The state also agreed that, if the district court determined that Pierson was guilty of more than two counts of first-degree aggravated robbery, it would dismiss all but two counts.

At a November 2006 hearing the district court conducted an inquiry into Pierson's waiver of his trial rights. Pierson personally acknowledged his waiver of the right to a jury trial, but he was not asked and made no statements about whether he was waiving his specific rights to testify at trial, to cross-examine witnesses, or to subpoena witnesses to testify on his behalf.

The district court found Pierson guilty of four counts of first-degree aggravated robbery, and, under its agreement, the state dismissed two of the four counts before sentencing. Pierson now appeals from his conviction of two counts of first-degree aggravated robbery on the basis that his waiver was insufficient. In a pro se supplemental brief, Pierson raises three additional issues challenging the district court's findings.

DECISION

The state and federal constitutions provide criminal defendants with the rights to a jury trial, to testify at trial, to cross-examine witnesses, and to subpoena favorable witnesses. U.S. Const. amend. VI; Minn. Const. art. I, § 6. When a defendant agrees to a trial on stipulated facts, the Minnesota Rules of Criminal Procedure require that the defendant expressly waive these rights. Minn. R. Crim. P. 26.01, subd. 3. If the district court does not strictly comply with this requirement, the subsequent conviction must be reversed. *State v. Halseth*, 653 N.W.2d 782, 785-87 (Minn. App. 2002) (granting new trial when defendant failed to provide valid waiver of rights before trial on stipulated facts).

The state acknowledges that Pierson's waiver did not conform to the procedures in Minn. R. Crim. P. 26.01, subd. 3. Because the record confirms that Pierson did not provide a valid waiver of rights before his trial on stipulated facts and the state concedes that *Halseth* governs this case, we reverse and remand Pierson's conviction.

Pierson's pro se supplemental brief raises three additional issues. Pierson argues that his convictions must be reversed because the evidence is insufficient to support the district court's legal conclusions, that the court improperly admitted evidence of a

previous conviction, and that the district court's findings are inconsistent with the evidence. Because we conclude that Pierson's insufficient waiver of his trial rights requires that we reverse his first-degree aggravated robbery convictions, we do not address Pierson's alternative arguments for reversal. *See Halseth*, 653 N.W.2d at 786-87 (declining to reach collateral issues raised in pro se supplemental brief).

Finally, we note that the district court did not formally consolidate the file for the first complaint, File No. 06025878, with the file for the second complaint, File No. 06068208. Although Pierson's notice of appeal refers only to the file for the first complaint, the record reflects that Pierson intended to appeal from both files, that the state interpreted the appeal as relating to both files, that the district court handled the two files together, and that Pierson's and the state's arguments apply equally to both files. We have therefore construed Pierson's appeal as an appeal from judgment in both files, and, correspondingly, this opinion constitutes an adjudication on both files.

Reversed and remanded.