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PALMER, J., concurring. I join the majority opinion but write separately to express my view that this case presents a close question as to whether the defendant, Victor L. Jordan, expressed his preference for self-representation with sufficient clarity that the trial court was required to honor his request and to canvass him pursuant to Practice Book § 44-3. Although I agree with the dissenting justices that the factual and procedural scenario that the trial court confronted on the issue of self-representation was somewhat confusing, I nevertheless am persuaded that, under governing legal principles, the defendant's sixth amendment rights¹ were violated when the trial court declined to proceed on the defendant's request for self-representation.

The record suggests that the trial court overlooked the defendant's request to represent himself because of the manner in which the request was made. To briefly recapitulate, in a handwritten "motion to dismiss counsel," the defendant indicated that he was dissatisfied with his appointed counsel, William Schipul. According to the defendant's motion, Schipul had a conflict of interest, he had failed to retain a forensics expert, and he had prior commitments that made him unavailable to begin trial in accordance with the defendant's desire for a speedy trial. In light of these concerns, the defendant requested "that the court . . . either dismiss . . . Schipul as [defense] counsel and allow [the] defendant to file pro se [pursuant to Practice Book §] 44-3 or appoint a special public defender as counsel or standby counsel [pursuant to Practice Book §] 44-4"

At a hearing on the defendant's motion, Schipul stated that his communications with the defendant had broken down and that he should be dismissed from the case for that reason. The defendant orally reasserted his willingness to "handle [his] case pro se" for the reasons set forth in his written motion. Schipul explained his disagreement with the defendant's first two reasons for seeking his dismissal and further indicated that he likely would be available to commence jury selection in a few weeks, a time frame consistent with the defendant's request for a trial within thirty days. With respect to the defendant's motion, the trial court denied it "on the [ground] that [it] has heard no substantive reason therefor based [on] the dialogue [that the court] had with the defendant, with [Schipul], and with the [senior assistant] state's attorney in this matter here today." Thereafter, Schipul stated: "I don't know what the next step is going to be in this case. Is the [defendant] going to represent himself? I've indicated that there is a reason [not contained in the defendant's motion] why I feel that the motion . . . should be granted So it would be a benefit, I think, to all parties if something

were simply laid out for the defense, as well as the state, to advance the proceedings.” The trial court did not respond either to Schipul’s request to be relieved of his representation of the defendant or to Schipul’s reference to the defendant’s request to represent himself. The trial court’s failure to take any action on those requests was the functional equivalent of denying them.

As a general matter, a criminal defendant has a right to represent himself for any reason, and he may do so even if the attorney representing him at the time has performed diligently and effectively. See, e.g., *State v. Flanagan*, 293 Conn. 406, 431, 978 A.2d 64 (2009) (“[t]he right of a defendant in a criminal case to act as his own lawyer is *unqualified* if invoked prior to the start of the trial” [emphasis in original; internal quotation marks omitted]). By contrast, an indigent defendant for whom counsel has been appointed is not entitled to the appointment of new counsel unless he can demonstrate good cause why the attorney originally appointed to represent him should be dismissed. Cf. *State v. Drakeford*, 202 Conn. 75, 83–84, 519 A.2d 1194 (1987). Thus, in the present case, the defendant was not required to give any reason or reasons why he wished to represent himself; by contrast, a request for the appointment of substitute counsel must be accompanied by a showing of good cause.

This distinction is relevant in the present case because the defendant’s written motion sets forth three reasons to support his conclusion that the court should dismiss Schipul and either appoint new counsel or permit him to represent himself with the benefit of standby counsel. The motion, however, contains no indication that those reasons, although important with respect to the issue of the appointment of new counsel, are legally irrelevant with respect to the defendant’s decision to represent himself, an election that requires no justification.

Insofar as the reasons set forth in the defendant’s motion were intended to support his request for the appointment of new counsel, the trial court expressly rejected those reasons. That is, the court determined that the defendant was not entitled to the appointment of new counsel because he had failed to meet his burden of demonstrating a legitimate basis for such relief. Even though those reasons had no bearing on the defendant’s right to represent himself—as I noted previously, he possessed that right regardless of whether those reasons were found to be meritorious—the fact that the trial court took no action on the defendant’s request for self-representation suggests that the court may have rejected that request, like the request for the appointment of new counsel, because it had rejected as meritless the reasons that the defendant identified in his motion. In other words, the court may have construed the defendant’s request for self-representation as having

been based on groundless concerns that did not support the request, thereby leading the court to conclude that the defendant had not articulated a sufficient basis for his request. Because, however, the defendant needed no such justification, the trial court was required to act on his request for self-representation even though the court had determined that none of the concerns set forth in the defendant's motion was legally supportable.

Presumably, if the defendant had stated that he wished to represent himself solely because Schipul would not be available for trial within thirty days, and if, as in the present case, Schipul stated that he would be available within that time frame, the trial court reasonably could have concluded that the defendant's request to represent himself had been rendered moot because the only concern underlying that request inarguably had been eliminated. The defendant, however, cited two additional reasons why he wanted to represent himself, and, although the court addressed and rejected both of them, it cannot be said that the court's ruling eliminated the defendant's concerns about those two issues. Because there is nothing in the record to indicate that the defendant agreed with the trial court that those two issues lacked merit, the trial court was not entitled to presume that the defendant effectively had withdrawn his request for self-representation.

As the majority has explained, “[t]he possibility of [alternative] rulings does not . . . preclude a finding of a clear and unequivocal request for self-representation. . . . [T]o the extent that one may view [a request] as conditional . . . a defendant is not deemed to have equivocated in his desire for self-representation merely because he expresses that view in the alternative, simultaneously requests the appointment of new counsel, or uses it as a threat to obtain private counsel.” (Internal quotation marks omitted.) Part I of the majority opinion, quoting *State v. Flanagan*, supra, 293 Conn. 427. Although the defendant in the present case sought alternative rulings, that fact alone does not render his request for self-representation equivocal. Consequently, even though the trial court confronted difficulties in considering the defendant's request for self-representation, I agree with the majority that the court was required to address the defendant's request to represent himself by proceeding to canvass him in accordance with Practice Book § 44-3.

Accordingly, I concur.

¹ The sixth amendment right to self-representation is made applicable to the states through the due process clause of the fourteenth amendment. See, e.g., *Faretta v. California*, 422 U.S. 806, 818, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975).