

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE

David Ivy v. Warden Kenneth Nelsen

No. 2:13-cv-02374-TLP-cgc, United States District Court for the Western District of Tennessee (January 28, 2026)

SUMMARY

The United States District Court for the Western District of Tennessee grants David Ivy’s motions to remove his appointed counsel and appoint substitute counsel in his federal habeas proceeding. The court finds that the attorney-client relationship has irreparably broken down and that Ivy established good cause for substitution, but rejects his request for out-of-state counsel based solely on alleged professional ties between Tennessee federal defender offices. The court grants the motion to substitute counsel and states that a separate order will appoint qualified replacement counsel.

CASE DETAILS

COURT	United States District Court for the Western District of Tennessee
WRITING FOR THE COURT	Thomas L. Parker
JURISDICTION	United States District Court for the Western District of Tennessee
DECIDED	January 28, 2026
DOCKET	2:13-cv-02374-TLP-cgc
DISPOSITION	other
PROCEDURAL POSTURE	In a federal habeas corpus proceeding, the petitioner moved to remove his appointed counsel and obtain new, conflict-free counsel. His existing counsel separately moved to substitute counsel after the attorney-client relationship deteriorated.
STANDARD OF REVIEW	The district court must inquire into a petitioner's complaints about court-appointed counsel and determine whether good cause exists for substitution of counsel.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	David Ivy v. Warden Kenneth Nelsen

TOPICS

- federal habeas corpus
- post-conviction relief
- civil procedure
- due process

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

QUESTIONS PRESENTED

1. Whether Ivy showed good cause for removal and substitution of his court-appointed habeas counsel.
2. Whether the professional association between the Federal Defender Services of East Tennessee and the Middle District of Tennessee Capital Habeas Unit created an apparent or actual conflict of interest requiring appointment of out-of-state counsel.

HOLDINGS

1. Good cause existed to remove Ivy's appointed counsel and appoint replacement counsel because the attorney-client relationship had deteriorated and was irreparably broken, the appointment of new counsel was in the interests of justice, and the motion was not sought for purposes of delay.
2. The fact that the two federal defender offices were both located in Tennessee and professionally associated did not, by itself, create an apparent or actual conflict of interest requiring appointment of out-of-state counsel.

KEY QUOTATIONS

"Based on a review of the pleadings, the Court finds that the attorney-client relationship between Petitioner and his appointed counsel has deteriorated and is irreparably broken." (Opinion text following PageID 15434)

"Professional association alone does not create a conflict of interest." (Opinion text following PageID 15434)

"The Court will appoint counsel for Petitioner in a separate order after consideration of the qualified federal habeas counsel available to take on the representation." (Opinion text following PageID 15434)

FACTUAL BACKGROUND

Ivy alleged that his appointed counsel had engaged in misrepresentation and neglect, failed to exhaust state remedies and comply with the statute of limitations, and failed to use critical evidence. Counsel likewise reported that the attorney-client relationship had irreparably broken down and that reconciliation efforts had failed. Ivy sought out-of-state counsel without professional or personal ties to Tennessee federal defender offices, asserting that institutional relationships could create an apparent conflict.

PROCEDURAL HISTORY

David Ivy, represented by attorneys from the Capital Habeas Unit of the Federal Public Defender's Office for the Middle District of Tennessee, moved to remove counsel and requested appointment of out-of-state counsel. Existing counsel moved to substitute the Federal Defender Services of East Tennessee as counsel, asserting that the attorney-client relationship was irreparably broken. The court granted removal of the existing counsel and the motion to substitute counsel, but deferred the actual appointment of replacement counsel to a separate order.

DISPOSITION

other

CASES CITED

- Coleman v. Thompson, 501 U.S. 722, 752–53 (1991)
- Smith v. Brunsman, No. 18-3990, 2019 WL 5260161, at *2 (6th Cir. Jan. 25, 2019)
- Benitez v. United States, 521 F.3d 625, 632 (6th Cir. 2008)
- Christeson v. Roper, 574 U.S. 373, 377 (2015)
- Stephenson v. Mays, No. 3:14-CV-00414, 2018 WL 2422742, at *2 (E.D. Tenn. May 29, 2018)
- People v. Hartfield, 596 N.E.2d 703, 711 (Ill. 1992)
- People v. Boswell, 180 N.E.3d 209 (Ill. App. 2020)