No. _____

IN THE

Supreme Court of the United States

ELLIOT MORALES,

Petitioner,

v.

STATE OF NEW YORK,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE NEW YORK APPELLATE DIVISION FIRST JUDICIAL DEPARTMENT

PETITIONER'S APPENDIX

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State of New York
Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ORDER DENYING LEAVE

ELLIOT MORALES,

Appellant.

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is denied.

Dated: June 4, 2024

at Albany, New York

Associate Judge

*Description of Order: Order of the Supreme Court, Appellate Division, First Department, entered March 26, 2024, affirming (1) a judgment of the Supreme Court, New York County, rendered June 14, 2016, and (2) an order, same court, entered on or about March 28, 2023.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Webber, J.P., Kern, Kennedy, Higgitt, Michael, JJ.

1916 THE PEOPLE OF THE STATE OF NEW YORK, Respondent,

-against-

ELLIOT MORALES, Defendant-Appellant.

Ind. No. 2274/13
Case Nos. 2023-02950
2017-2569

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Carola M. Beeney of counsel), for appellant.

Alvin L. Bragg, Jr., District Attorney, New York (Philip Vyse Tisne of counsel), for respondent.

Judgment, Supreme Court, New York County (Charles H. Solomon, J., at suppression hearing; A. Kirke Bartley, J., at trial and sentencing), rendered June 14, 2016, convicting defendant, after a jury trial, of murder in the second degree as a hate crime, criminal possession of a weapon in the second degree (four counts), menacing a police officer or peace officer, and menacing in the second degree, and sentencing him, as a second violent felony offender, to an aggregate term of 40 years to life, and order, same court (Cori Weston, J.), entered on or about March 28, 2023, which denied defendant's CPL 440.10 motion to vacate the judgment, unanimously affirmed.

The verdict was based on legally sufficient evidence and was not against the weight of the evidence (*see People v Danielson*, 9 NY3d 342, 348-349 [2007]). There is no basis to disturb the jury's credibility determinations. The jury could reasonably infer that defendant intended to kill the victim from the evidence that defendant shot the

victim in the face at close range (*see People v Bryant*, 36 AD3d 517, 518 [1st Dept 2007], *lv denied* 8 NY3d 944 [2007]; *see generally People v Bracey*, 41 NY2d 296, 301 [1977]). The credible testimony does not support defendant's claim that he was heavily intoxicated at the time of the incident.

There was ample evidence to support the finding that defendant selected the victim based, at least in substantial part, on the victim's perceived sexual orientation (*see* Penal Law § 485.05[1][a]). Defendant instigated the encounter when, for no apparent reason, he commented to the victim and his companion that they looked like "gay wrestlers" as they walked past him in the street. He used homophobic slurs and epithets during the verbal altercation leading up to the shooting, and made further derogatory remarks about the victim's companion at the time of his arrest (*see People v Wallace*, 113 AD3d 413, 414 [1st Dept 2014]; *People v Marino*, 35 AD3d 292, 293 [1st Dept 2006]; *see also People v Spratley*, 152 AD3d 195, 200 [3d Dept 2017]). The testimony concerning defendant's use of homophobic slurs toward employees at a restaurant earlier in the night provided further evidence of his motive and intent.

Defendant's waiver of his right to counsel was knowing, intelligent, and voluntary. The court conducted an extensive and thorough searching inquiry (*see People v Crampe*, 17 NY3d 469, 481-482 [2011]), which defendant does not substantively challenge except with regard to his sentencing exposure and the nature of the charges against him. The court satisfied its duty of ensuring that defendant was aware of the "range of allowable punishments" (*People v Cole*, 120 AD3d 72, 75 [1st Dept 2014] *lv denied* 24 NY3d 1082 [2014]) when it informed defendant, multiple times, that he could face the maximum term of life imprisonment if convicted of the top count of the indictment (*see People v Coleman*, 213 AD3d 464, 464 [1st Dept 2023], *lv denied* 39

NY3d 1141 [2023]; *cf. People v Rodriguez*, 158 AD3d 143, 152-153 [1st Dept 2018], *lv denied* 31 NY3d 1017 [2018]). That the court did not apprise defendant of the highest aggregate minimum sentence he faced does not warrant a different conclusion. There is no rigid formula for conducting the inquiry, and no requirement that the trial court provide an explicit accounting of the potential sentencing and all hypothetical outcomes (*see People v Arroyo*, 98 NY2d 101, 104 [2002]; *Coleman*, 213 AD3d at 464; *see also United States v Schaefer*, 13 F4th 875, 887-888 [9th Cir 2021]; *United States v Fore*, 169 F3d 104, 108 [2d Cir 1999], *cert denied* 527 US 1028 [1999]). The record establishes the defendant was aware of the nature of the charges against him, as the charges were set out in the indictment, and defendant admitted in a letter to the court that he was "very well familiar" with them.

The People's failure to produce the contact information of a potential defense witness from defendant's cellphone, which had been seized by the police, in advance of the suppression hearing did not violate *Brady v Maryland* (373 US 83 [1963]). Even assuming that the People had suppressed the requested information, defendant has not established that the information was exculpatory in nature or that he was prejudiced by its suppression (*see People v Rong He*, 34 NY3d 956, 958 [2019]). At the suppression hearing, defendant sought to introduce an intoxication defense, through testimony of the potential witness, to challenge the voluntariness of statements he made to the police. The potential witness, however, was not present when defendant made those statements, and the hearing court, which heard relevant testimony from multiple witnesses and viewed video evidence, apparently determined that defendant was not so intoxicated that he was unable to understand the meaning of his statements.

Defendant received effective assistance of counsel at the suppression

hearing, under both the state and federal standards (*see People v Benevento*, 91 NY2d 708, 713-714 [1998]; *Strickland v Washington*, 466 US 668 [1984]). Defendant has not demonstrated an absence of strategic explanations for counsel's alleged shortcomings (*see People v Honghirun*, 29 NY3d 284, 289 [2017]), or that he was otherwise prejudiced by counsel's performance.

Defendant did not preserve his current claim that the court should have submitted to the jury the issue of the voluntariness of his statements, and we decline to consider it in the interest of justice. As an alternative holding, we find that there was insufficient evidence in the record to create a factual dispute on this issue (*see People v Cefaro*, 23 NY2d 283, 285-289 [1968]; *People v Silvagnoli*, 251 AD2d 76, 76-77 [1st Dept 1998], *lv denied* 92 NY2d 882 [1998]). In any event, any error was harmless in light of the overwhelming evidence of defendant's guilt (*see People v Crimmins*, 36 NY2d 230, 237 [1975]).

Defendant's challenges to the prosecutor's comments on summation are unpreserved because defendant failed to object, made only general objections, or failed to request further relief after the court sustained his objections (*see People v Romero*, 7 NY3d 911, 912 [2006]), and we decline to consider them in the interest of justice. As an

alternative holding, we find no basis for reversal (*see People v D'Alessandro*, 184 AD2d 114, 118-120 [1st Dept 1992], *lv denied* 81 NY2d 884 [1993]).

We perceive no basis for reducing the sentence.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 26, 2024

Susanna Molina Rojas
Clerk of the Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CRIMINAL TERM PART 82
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff

-- against --

INDICTMENT NO. 2274/13

ELLIOT MORALES PROCEEDING

Defendant.
----------X

January 16, 2015
100 Centre Street
New York, New York 10013

B E F O R E :

HONORABLE CHARLES SOLOMON
Supreme Court Justice

A P P E A R A N C E S :

CYRUS R. VANCE, ESQ.
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One Hogan Place
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BY: SHANNON LUCEY, ESQ.
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Attorney for the Defendant

TAJUANA WILSON, RPR
SENIOR COURT REPORTER

PROCEEDING

THE CLERK: Calendar 10, 2274, Morales. Counsels, can we get appearances on the record, please?

MR. HARDY: Glenn Hardy, 226 7th Street, Garden City, New York.

MS. LUCEY: Shannon Lucey. Good afternoon, your Honor.

THE COURT: Yes. Counsel, Mr. Morales was in front of me earlier this week and he indicated a desire to have Mr. Hardy as his legal adviser and to represent himself. I adjourned the case to today to talk to him about whether or not he could represent himself and certain inquiries I have to make. I'm not going to make it. I'm going to give him a different lawyer. A fourth lawyer, a lawyer I spoke to today on the homicide panel just to ensure myself. Let me explain the reasons why.

You're charged with a crime that in a minimum sentence, you know, this is 20 years to life. The maximum sentence is 25 years to life. And you, again, could spend the rest of your life in jail. I think it is a very bad idea for you to represent yourself. I'm sure you understand that if I were in your position, I wouldn't represent myself. Every judge who you appear in front of is going to tell you not to do it, so I'm not inclined to have you represent yourself and even with a legal adviser.

So I'm going to give it one more try. I'm going

To be argued by:
CAROLA M. BEENEY
Time Requested: 15 Minutes

New York Supreme Court

Appellate Division -First Department

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT

v.

ELLIOT MORALES,
DEFENDANT-APPELLANT

New York County
Ind. No. 2274/13
Appellate Case Nos. 2023-02950 & 2017-2569

BRIEF FOR DEFENDANT-APPELLANT

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CAROLA M. BEENEY
Of Counsel

October 2023

ARGUMENT

POINT I

THE COURT FAILED TO INFORM MORALES OF THE NATURE OF THE CHARGES IN THE INDICTMENT AND HIS SENTENCING EXPOSURE BEFORE MORALES REPRESENTED HIMSELF AT TRIAL. A NEW TRIAL IS REQUIRED.

Morales's waiver of his right to counsel was invalid because the court failed to apprise him of his sentencing exposure. The court referred to the minimum of 20 years to life but did not mention the maximum of 78 years to life. The court also failed to explain the difference between consecutive and concurrent sentencing, which was crucial considering Morales faced an eight-count indictment. Beyond referring to the matter as a homicide case, the court did not discuss the charges either. As the record fails to show that Morales was aware of the nature of the charges and "sentencing parameters" he faced, his waiver was not voluntary, knowing, or intelligent. *See People v. Rodriguez*, 158 A.D.3d 143, 152 (1st Dep't 2018). A new trial is warranted.

Defendants have a Sixth Amendment right to forego counsel if "that decision is made intelligently and knowingly, with full awareness of" its "consequences." *United States v. Tracy*, 12 F.3d 1186, 1191 (2d Cir. 1993) (citing *Faretta v. California*, 422 U.S. 806, 835-36 (1975)). The record must show the defendant's knowledge of "the nature of the charges, the statutory offenses included within them, *the range of allowable*

punishments thereunder" and "facts essential to a broad understanding of the whole matter." *Matter of Lawrence S.*, 29 N.Y.2d 206, 208 (1971) (quoting *Von Moltke v. Gillies*, 322 U.S. 708, 724 (1948)) (emphasis added); *see also Iowa v. Tovar*, 541 U.S. 77, 81 (2004) (court must inform "the accused of the range of allowable punishments attendant upon" conviction); *Arrendondo v. Neven*, 763 F.3d 1122, 1132 (9th Cir. 2014) ("*Tovar*'s statement concerning the defendant's knowledge of possible punishments is clearly established Supreme Court law.").

Consonant with that rule, this Court's jurisprudence considers a waiver of the right to counsel invalid if the "record 'does not sufficiently demonstrate that defendant was aware of his actual sentencing exposure'[.]" *People v. Jackson*, 194 A.D.3d 622, 622 (1st Dep't 2021) (quoting *Rodriguez*, 158 A.D.3d at 152-53); *compare* Model Waiver of Counsel Colloquy ("Do you understand that you are charged with (specify) and, if convicted, may be sentenced to (specify)?"); *People v. Cole*, 120 A.D.3d 72, 75 (1st Dep't 2014) ("The colloquy should also include the nature of the charges and the range of allowable punishments") (citing *United States v. Fore*, 169 F3d 104, 108 (2d Cir. 1999)). A defendant's "actual sentencing exposure" "includ[es] the potential for" a consecutive sentence. *People v. Perry*, 198 A.D.3d 576, 576 (1st Dep't 2021) (quoting *Jackson*, 194 A.D.3d at 622).

Because there is no evidence that Morales was aware of the maximum sentence he faced when he relinquished counsel, his waiver is invalid. The court below repeated that the minimum was 20 to life. It did not explain why Morales might face more than

the minimum, nor which decision-maker would determine his sentence and whether it would exceed 20 years. The court also failed to explain the potential for a consecutive sentence and whether one was mandatory or optional. In fact, Morales was sentenced to 40 years to life, double the minimum he was warned about, because he received consecutive time at Justice Bartley's discretion. Morales represented himself at trial without awareness that he *could* have been sentenced to as much as 78 years to life.

Furthermore, the court never explained the "nature" of all eight charges Morales faced. The case was repeatedly referred to as a "homicide" case, but reference to the hate crime enhancement, criminal possession of a weapon offenses, and harassment allegations were all omitted. The weapons possession offenses in particular risked confusion regarding their nature as well as their effect on sentencing exposure, as the indictment charged possession with intent to use (Penal Law § 265.03(1)(b)) on May 17, 2013; May 17, 2013 to May 18, 2013; and May 18, 2013; possession outside one's home or place of business (Penal Law § 265.03(3)) on May 17, 2013 to May 18, 2013; and possession of a revolver on May 17, 2013 to May 18, 2013. Stating that Morales's was a "serious" "homicide case" was inadequate to appropriately advise him of the nature of the charges against him. *Cf. Perry*, 198 A.D.3d at 576.

The court likewise failed to explain its "rules regarding the role of a legal adviser or standby counsel and how that role differs from representation by an attorney." *See People v. Baines*, 39 N.Y.3d 1, 8 (2022).

Because these deficiencies show Morales's waiver was not knowing, a new trial is warranted. *See id.*; *Jackson*, 194 A.D.3d at 622; *Perry*, 198 A.D.3d at 576; *Rodriguez*, 158 A.D.3d at 152-53.

POINT II

MORALES WAS "OBLIVIOUS" TO MARK CARSON, A COMPLETE STRANGER WHO BEGAN AN ARGUMENT WITH MORALES ON THE STREET. THE PROSECUTION FAILED TO PROVE THAT MORALES "INTENTIONALLY SELECT[ED]" CARSON BECAUSE HE WAS GAY, AS REQUIRED BY THE HATE-CRIME STATUTE. FURTHER, THE PROSECUTION'S PROOF OF INTENT TO KILL WAS INSUFFICIENT, AND THE JURY'S FINDINGS OF INTENT AND MOTIVE WERE AGAINST THE WEIGHT OF THE EVIDENCE.

The evidence was insufficient and the verdict against the weight of the evidence. If the Court finds a new trial is not warranted, it should reverse and remand for a new trial without the unduly prejudicial hate-crime charge or modify the top count to second-degree manslaughter. U.S. Const. amends. V, XIV; N.Y. Const. art. I, § 6; *Jackson v. Virginia*, 443 U.S. 307 (1979); *People v. Delamota*, 18 N.Y.3d 107 (2011).

To be argued by
PHILIP V. TISNE
(15 MINUTES REQUESTED)

New York Supreme Court

Appellate Division - First Department

Ind. No. 2274/2013
Appellate Case No. 2023-02950

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

- against -

ELLIOT MORALES,

Defendant-Appellant.

On Appeal from the Supreme Court of the State of New York, New York County

B R I E F F O R R E S P O N D E N T

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Of Counsel

The court noted a lawyer would "play[ ] a very important role" in representing defendant (RA308). The court stated that defendant would be "held to the same standard as an attorney" and would not "receive any special advantage"; defendant stated that he understood (RA309). The court advised defendant that most pro se defendants are convicted; again, defendant understood (RA309). The court elicited information about defendant's age, educational level, work experience, and exposure to the legal system (RA309-311). The court confirmed that defendant did not have a mental health diagnosis and was not using any medication that would impair his ability to understand the proceedings (RA311). Defendant agreed that he was "familiar with the charges contained in the indictment" and "kn[ew] how serious they [were]" and still wanted to represent himself (RA311-312). The court permitted defendant to represent himself with Freedman acting as his legal adviser (RA312).

B. Defendant Was Fully Aware of the Charges and Sentencing Exposure He Faced, and Validly Decided to Waive Counsel.

1. The Whole Record Makes Clear That Defendant Validly Waived His Right to Counsel.

On appeal, defendant claims that a new trial is required because his counsel waiver was invalid (DB: 21-24). This claim fails. The whole record in this case demonstrates a concerted and conscientious effort by the judges assigned defendant's case to fully inform him of the dangers of proceeding pro se. And the record reveals an equally determined effort by defendant to waive counsel and represent himself. Although a defendant "may conduct his own defense ultimately to his own detriment,

his choice must be honored out of that respect for the individual which is the lifeblood of the law." *Faretta v. California*, 422 U.S. 806, 834 (1975) (quotation marks omitted). Here, defendant was repeatedly warned about the "risks inherent in proceeding pro se" and was exhaustively apprised of the "importance of the lawyer in the adversarial system." *People v. Arroyo*, 98 N.Y.2d 101, 104 (2002). He elected the risks of self-representation with his "eyes opened" (RA125), and his counsel waiver was thus valid.

The governing standards are settled. A court presented with a defendant's request to proceed pro se must conduct a "searching inquiry" to ensure that the defendant has made a knowing, voluntary and intelligent waiver of the right to counsel. *E.g.*, *Providence*, 2 N.Y.3d at 580. There is no "rigid formula" or mandatory catechism for such an inquiry to pass constitutional muster. *Id.* at 583. Instead, the Court of Appeals has long endorsed a "nonformalistic, flexible" approach to reviewing counsel waivers, under which a waiver will be valid so long as the court's inquiry is sufficient to "accomplish the goals of adequately warning a defendant of the risks inherent in proceeding pro se, and apprising a defendant of the singular importance of the lawyer in the adversarial system of adjudication." *Arroyo*, 98 N.Y.2d at 104; *see also People v. Crampe*, 17 N.Y.3d 469, 483 (2011). A counsel waiver is judged by "the whole record, not simply to the waiver colloquy" and will be valid if the entire record demonstrates that the defendant "understood exactly what he was doing when he waived his right to counsel." *Providence*, 2 N.Y.3d at 583.

Under these standards, defendant's counsel waiver was valid. From the start, defendant had to have been aware of the seriousness of the charges against him: he shot a man in the face at close range and then drew his gun on a police officer; he had been arraigned on charges of murder as a hate crime; the case had garnered press attention, and vigils were held for the victim. Defendant's trial judge granted defendant's request to dismiss two seasoned trial attorneys with decades of murder-trial experience between them. The record does not contain the minutes for the proceedings when those two attorneys were dismissed and, thus, does not reveal the warnings that the court gave defendant at that point about the importance of legal counsel in defending the charges against him. But defendant's subsequent motion to dismiss his third attorney cited "the nature and seriousness of what [he was] being charged with as well as the regard of the life imprisonment" as the basis for his request (RA80). This was an indication that defendant was aware of the seriousness of the charges and sentence he faced, and the risks of defending those charges without a lawyer.

When defendant sought to dismiss his third attorney, the trial court went to lengths to try to impress upon him the singular importance of counsel. The court told defendant that it would be required to "go through a lot of stuff" about his "background, schooling, education, ability to [self-]represent" at the next appearance (RA95). Two days later, the court warned that it was a "very bad idea" for defendant to represent himself because he "could spend the rest of [his] life in jail" and he was "not a lawyer" (RA102, RA106). The court pressed, "How are you going to defend yourself?

How are going to cross-examine witnesses? How are you going to make an opening statement? How are you going to sum up with the jury? There are legal issues. There are complicated legal issues. How are you going to do it all?" (RA106). The court explained that there was "too much of a risk" with defendant "not knowing the law" and "not being a lawyer" (RA108). The court explained that "[t]hese people are trained to go in front of the jury to make arguments, to research things." (RA108). It added that defendant did not "have that training and, you know, I would have this argument in any case, but especially in a case where you're going to spend the rest of your life in jail. That's a big, big risk" (RA108).

These repeated warnings were met with a written response from defendant, sent to the court after defendant's "further contemplation" of his self-representation request (RA125). That considered, written response stated that defendant was "unequivocally asserting" his right to represent himself (RA125). The letter left no doubt that defendant was "very well familiar with the charges" against him and that he "completely underst[oo]d the type of prison time" facing him if convicted (RA125). But defendant stated that he had "decided to bear the risk of choosing [his] own destiny with eyes opened" (RA125). *See, e.g.*, *People v. Smith*, 92 N.Y.2d 516, 520 (1998) ("To pass muster, a searching inquiry must reflect record evidence that defendants know what they are doing and that choices are exercised *with eyes open*." (cleaned up; emphasis added)).

There could hardly have been clearer proof than defendant's letter that he "understood exactly what he was doing when he waived his right to counsel." *Providence*,

2 N.Y.3d at 583. Nevertheless, the trial court denied defendant's request to waive counsel at that time and appointed a fourth lawyer. When defendant again renewed his pro se request, the court reiterated its prior repeated warnings that waiving counsel was a "big decision" because this was a "murder case" (RA128). It gave defendant an additional day to reconsider and, when defendant pressed the request again the next day, the court conducted a searching inquiry into defendant's knowledge and appreciation of the consequences of waiving counsel. The court reiterated the severity of the request, given that this was "a homicide case" in which "[a]t minimum, sentence is 20 years to life" (RA131). Nevertheless, defendant confirmed that he would want to represent himself even if his attorney was "the best lawyer in the world" (RA136).

The court then stated that it was required to apprise defendant of "the dangers and disadvantages of proceeding without counsel" and impress upon him "the singular importance of the lawyer in the adversarial system" (RA137). It elicited information about defendant's educational background and work history: he completed a GED and was then incarcerated for six years; he worked at a fitness club after being released, and attempted unsuccessfully to become an emergency medical technician; he enrolled in a college program but could not afford the tuition; and he cut hair and painted tattoos (RA137-143). The court stated that defendant was "obviously well spoken, articulate, seem[ed] to be very smart, but not trained as a lawyer," so it inquired about defendant's knowledge of the law and legal system, telling defendant that he would not "get any advantage" as a result of proceeding pro se and would be "held to the same standard

[as] a lawyer" (RA143-145). Defendant had been taking paralegal correspondence classes during the 20 months of his pretrial incarceration, and visited the law library five days per week (RA146-148). He had also started a prison legal course during his prior incarceration, but completed only about one month of the program that covered "things on Article 78 and habeas corpus" (RA149).

The court stated that defendant "seem[ed] to be intelligent" and "seem[ed] to have some training in the law" (RA148). After confirming that defendant was not on any mind-altering medication and was in good health, the court explained that courts were "very protective of people before they let someone go pro se especially in a case like this" because courts "want to make sure the person is educated and intelligent enough to speak well enough and can handle this" (RA153). The court stated that defendant was "well spoken, smart, background in studying the law" and that, in the court's view, there "seem[ed]" to be "no problem" with defendant representing himself (RA153). It allowed him to proceed pro se with his fourth appointed attorney serving as his legal adviser (RA154-157).

This colloquy, viewed together with the repeated warnings about self-representation from the court in earlier proceedings, ensured that defendant knowingly, intelligently, and voluntarily waived his right to counsel. The additional pro se colloquy conducted just before defendant represented himself at trial further confirmed that his counsel waiver was valid. Judge Bartley conducted that colloquy in an "abundance of caution" to ensure that defendant understood "the implications of representing

[himself], particularly in a case where the charges are as serious as they are in this case" (RA307). The court stated that a lawyer would "play[ ] a very important role" in representing defendant at trial because the lawyer is "trained in the Criminal Law and knowledgeable with respect to the substantive law and the procedural law for practicing in a Criminal Court" (RA308). The court warned defendant that, regardless of his experience, he would be "held to the same standard as an attorney" if he proceeded pro se and would not "receive any special advantage" (RA309). Again, the court elicited information about defendant's age, educational level, work experience, and exposure to the legal system (RA309-311). And the court confirmed that defendant was "familiar with the charges contained in the indictment" and "kn[ew] how serious they [were]" and still wanted to represent himself (RA311-312).

In short, defendant was afforded four attorneys, two legal advisers, two pro se colloquies, and countless warnings about the gravity of the charges and sentence he was facing. He unequivocally invoked his right to represent himself, and did so fully informed of the value of an attorney and the pitfalls of self-representation.

2. Defendant's Challenges Are Meritless.

On appeal, defendant claims that "the record fails to show that [he] was aware of the nature of the charges and 'sentencing parameters' he faced" (DB: 21). This claim is demonstrably false. After the court advised defendant at length about the pitfalls of self-representation, defendant told the court in writing that he understood the risk he was taking in seeking to waive counsel, and that he was "very well familiar with the