No. 24-6007

ORIGINAL

223-1392

D.C 1: 22-cv-02695-DDD

FILED
JUL 18 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

WARREN D WATSON PETITIONER

VS.

FAIRBAIRRN/ BERGMAN— RESPONDENT(S)
The attorney general of the state of Colorado

UNITED STATES DISTRICT COURT FOR THE 10TH CIRCUIT OF COLORADO

PETITION FOR WRIT OF CERTIORARI

WARREN D WATSON
AVCF 12750 HWY 96 LN 13
ORDWAY, COLORADO 81034

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IN THE

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WARREN D WATSON— PETITIONER

vs.

FAIRBAIRN— RESPONDENT(S)
ATTORNEY GENERAL OF COLORADO
ON PETITION FOR A WRIT OF CERTIORARI TO

10th circuit court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) PETITION FOR WRIT OF CERTIORARI

WARREN D WATSON

(Your Name)

12750 HWY 96 LN 13

(Address)

ORDWAY, COLORADO 81034

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Mr. Watson alleges that the District State Court failed to follow the requirements in which Watson made a clear and unequivocal request for self-representation. The district deemed Watson's request was knowing, voluntary, and intelligent, and he had been unwavering in his request, however they still denied it. The trial court has attempted to create a new precedent outside the rule of law already established and codified by the Supreme Court of the United States. Mr. Watson was forced to proceed to trial with counsel he did not have any confidence in, due to the past issues that had mounted over time. " From placing funds on his account if he took a life sentence, to supporting with a television and money while he was locked up". In finding no violation the Tenth Circuit relied upon the state court opinion on direct appeal, also significantly following mental health evaluations used to make determinations by the court that took place a year before Watson was prescribed the medication at issue. This case presents the following question.

   Does a defendant who has previously requested self-representation, and later revoked that right him/herself, after being granted, have the right under the Six Amendment to later go pro-se provided he/she has successfully renewed his/her request and met the guidelines under USSC, and Feretta v. California 422 U.S.806.

   Did the Tenth Circuit err in deferring to the state court finding that Mr. Watson was attempting to manipulate and delay the trial," The trial was still several months off at this time". It was the trial court's opinion that Mr. Watson had satisfied the requirements set forth in the United States Supreme Court and Faretta v. California, 422 U.S. 806, for requesting self-representation, and he had informed the court he was ready to proceed to trial on the trial date set, he was not asking for any continuance, investigators or ADC. Watson made no request for any concessions attached to

his self-representation. The trial court did not find that Watson had made an equivocal request,the trial court on 5/28/15 ten days after Watson had made the unequivocal request, the trial court while acknowledging that Watson's request was clear and unequivocal, they believed they did not have to follow those Supreme Court of the United States guidelines and thus found this Six Amendment right to not be determinative, the court made no mention that Watson's request was not knowing, intelligent or voluntary. The jury had not been impaneled and trial was still several months out. There was sufficient evidence to show that the trial courts opinion was based on misleading and inaccurate information. See: R. Tr. 5/18/15 and 5/28/15 p39 20-23.

The lower courts have completely dismissed Watsons clear and unequivocal request as if it didn't exsist but the facts still remains that Watson had met the qualification needed to go pro-se. The hearings On 5/18/15 and 5/28/15 supports that claim, therefore should be reviewed.

According to the dictates of Faretta v. California, 422 U.S. 806 and the USC the United States Court of Appeals for the 10th Cir. has entered a decision which is in conflict with the Supreme Court of the United States, and Faretta v. California, 422 U.S. 806 along with other Circuit Courts of the United States. Bedrock principles that have been set by the Supreme Court of the United States.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Patrick A. Withers
Senior Assistant Attorney General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 9th Floor
Denver, Colorado 80203

RELATED CASES

A Watson v. Fairbairn, 2024 U.S. App. LEXIS 5604

E People v. Watson, 2018 Colo. App. LEXIS 1497

D Watson v. People, 2019 Colo. LEXIS 645
2019 WL 3413564 (colo. July 29, 2019

C People v. Watson, 2021 Colo. App. LEXIS 1739
(colo. Ct. App. Dec 16, 2021

F Jefferson County District Court No. 13CR796

B Case 1:22-cv-02695-DDD

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES **PAGE NUMBER**

STATUTES/ RULES/ OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix ___ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

* For cases from state courts:

The opinion of thr highest state court to review the merits appears at Appendix D to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Jefferson County District 35(c) court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was 11/16/23.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: April 23-2024, and a copy of the order denying rehearing appears at Appendix P.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including _____(date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was 11/16/23. A copy of that decision appears at Appendix A.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[X] An extension of time to file the petition for a writ of certiorari was granted to and including _____(date) on April 8-24 (date) in Application No. 23 A 132.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following statutory and constitutional provisions are involved in this case.

U.S. Const., Amend. VI

In all criminal prosecutions, the accused the shall enjoy the right to the assistance of counsel and in U.S. Const. Amend. VI implicitly embodies a correlative right to dispense with a lawyer's help. Likewise he/she may competently and intelligeHtly waive his constitutional right to assistance of counsel.

The Sixth Amendment does not provide merely that a defense shall be made for the accused, but rather it grants to the accused personally the right to make his defense.

The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the Amendment, shall be an aide to a willing defendant--not an organ of the state interposed between an unwilling defendant and his right to defend himself personally.

U.S.Const., Amend. XLV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

STATEMENT OF THE CASE

Mr. Watson was indicted for first degree felony murder, first degree murder after deliberation and a host of other felonies in connection with the murder itself. (Supp CF pp 1-8)

Watson moved to suppress the statements he made to authorities.(Supp CF pp 469-70, 512-14), based on the fact that he had requested counsel several times while being interrogated, before finally succumbing to the investigators. All of the interrogation statements that had taken place at the arrest scene had been deleted or the recording device was said to have malfunctioned.

After a hearing that spanned several days the court denied the motion. See generally R.Tr (12/04/14, 02/17/15,02/18/15,02/26/15).

Watson requested to proceed pro-se after counsel had decided to change the defense that had been in place since 10/23/13, See also Defense motion #23 and R.Tr. 10/23/13. Watson was informed by counsel that they could not use this particular defense, "involuntary intoxication".

Citing: Bergerud Hearing, 5/9/14.

(Quoting Defense Counsel) R. Tr. 5/9/2014 See: Ex: App 4

We have investigated the defense of involuntary intoxication, we have been unable to find evidence that would support a defense of involuntary intoxication, R.Tr.5/9/2014 p 4 Sec 11-14.We've also discussed with Mr. Watson and investigated the possible defense of involuntary intoxication. The truth of the matter is, there is not – it does not appear that there is a high likelihood of success with involuntary intoxication, almost none in my professional opinion on any of the counts.

It seems as though there is a higher likelihood of success using the defense of the prosecutions inability to meet their burden and their inability to establish certain elements and that's where the general disagreement is. R. Tr. 10/9/14p 11, Sec 12-20

The reason Mr. Watson's believes the claims made in this hearing are so important, is because based on these statements made by Watson's attorney's and the court, he felt His only option was to go Pro-Se.

Mr. Watson was informed by the court in the hearing on 5/9/14, that counsel had investigated the viability of an involuntary intoxication defense, but there was absolutely no basis to be able to run that defense, this was somewhat confusing to Mr. Watson since in 2013 in a hearing endorsing involuntary intoxication as a defense counsel had said just the opposite. See R. Tr. 5/9/14 p 19 sec 17-24 also R. Tr. 10/23/13 p 3 sec 22-24,R.Tr.10/23/14 p 18 sec 6-9 and 20-25.

After counsel informed Mr. Watson and the court that there was no basis for them to use this defense, however when the court reappointed the same counsel Watson had issues with they used the defense they claimed had no basis. R. Tr. 110/9/14 p 20 sec 8-15. This only further confused Watson and caused him to question counsel's effectiveness, this forced him to go pro-se, because he was under the impression, under no circumstances would his court appointed attorneys use this defense. R. Tr. 10/9/14 p. 23 sec 10-14.

REASON FOR SELF-REVOKE

While Watson was going pro-se the first time he was on a psychotropic medication. "Depakote", the dosage level had been raised to 2000mg from 500mg in a very short period of time. The record shows that Watson was suffering from some adverse side effects of the drug while he was going pro-se. The only reason Watson brings this critical issue up is because the trial court rejected this explanation using inaccurate information from previous evaluations. The record clearly shows that the evaluations the trial court relied on, had taken place well before

Watson had been prescribed the medication that caused him to self-revoke, due to the adverse effects it was causing him during the first pro-se proceeding. At no point did Watson incur that this issue was based on counsels actions See Exhibit: A-1

NO RECORD OF ADMONISHMENTS

While there is nothing in the record that establishes that the court had ever admonished Watson for obstructive behavior or that there was any appearance of manipulation or delay of the court proceedings, which the trial court later used to justify the denial of Watson's Six Amendment Right. "Self-Representation".

The trial court points out what they called, salient points of the case in an attempt justify the denial. Any issue pointed out by the court falls short or is none relevant, since the court had deemed his first request unequivocal, knowing and voluntary, therefore if there had been any issues prior to the first request the court would have most assuredly pointed this out in the colloquy hearing, instead the court had stated that had Watson not self-revoked he would had been able to represent himself at trial.

MULTIPLE ISSUES WITH COUNSEL

The relevancy around Watson's reasoning for going pro-se did not rest on just one issue regarding his counsel's actions but multiple issues combined.

1. Counsels going back and forth on what was the best defense. From 2013 up until trial counsel had informed Watson this involuntary intoxication was the best defense, then in 2014 they informed Watson and the court they could not use it, it would be illegal. R.Tr. 10/9/14. Then in 2015 while being reappointed they decided to use this defense, even though they had specifically stated in the hearing on p. 23 Ex. 10-14 they had a defense that would win on some or all the charges.
2. Counsel had attempted to bribe Watson into taking a plea deal by offering him a television, and then started placing funds on his jail account, and would do so while he remained in jail and prison.
3. Once the court turned down Watson's plea offer, counsel stopped placing funds on his account.
4. The trial court seemed to suggest that it was Watson who couldn't make up his mind on going pro-se, by pointing to When Watson filed the request to plead guilty to all charges.4, claiming this to be vacillation. This also took place after the denial.

4 When Watson had attempted to pled guilty to the charges, in a hearing, the court had ask him why he was doing this, Watson's reply was to go to prison and start his appeal. The court informed him that he could not do this and when Watson disagreed the court denied his request. See Martin v. U.S; 81 F.sd

INITIAL REASONS FOR REQUESTING SELF-REPRESENTATION

In April of 2013 Watson was assigned counsel in the criminal case he was currently being charged on.

In 2013 after an in depth investigation by Watson's court appointed counsel, they decided that they would use the affirmative defense of involuntary intoxication, they had explained in great detail why this would be the best defense. See: Hearing On October 9.2014 'after counsel had endorsed the defense of involuntary intoxication, and had continually argued to the court that they had met the standards needed to put forth the affirmative defense of involuntary intoxication, Watson had assumed this was the best defense.

REASONS FOR GRANTING THE PETITION

THE TENTH CICUIT'S MISAPPLICATION OF THE SIX AMENDMENT.RIGHT TO SELF-REPRESENTATION WARRANTS THIS COURTS ATTENTION.

The Tenth Circuit's opinion in affirming the State Courts decision to deny Watson's Six Amendment right to self-representation involved an unreasonable application of this courts precedent, because the State Court unreasonably extended the legal principle from United States Supreme precedent to a context where it no longer applied once all the requirements for self-representation have been met.

Raulerson v. Wainwright, 469 U.S. 966

The exercise of the right recognized in Faretta entails a concomitant waiver of the right to counsel expressly guaranteed by the Sixth Amendment. Accordingly, it has been indicated in Faretta that defendants should be permitted to exercise their right of self-representation when they execute a valid waiver of their right to counsel, which is to say, if they "'knowingly and intelligently' forgo [the] relinquished benefits" of counsel. 422 U.S., at 835 (citing Johnson v. Zerbst, 304 U.S. 458, 464-465 (1938)).

II. THE DECISION OF THE TENTH CIRCUIT IS IN CONFLICT WITH THE DECISIONS OF OTHER CIRCUIT COURTS.

In the closely analogues case of Buhl v. Cooksey, 233 F.3d 783 United States COA for the Third Circuit the court confronted a situation where the defendant had requested self-representation, the district court rejected that assertion, Buhl contended that trial court failed to comply with the dictates of Faretta v. California, 422U.S.806, 45 L.ED, 2d 562, 95 S. Ct 2525(1975 and this violated his right of self-representation under the Sixth Amendment.

No evidence has been presented in Watson's case that his request was equivocal, in fact it was established that his request was unequivocal and unwavering. It was the trial court who deemed Watson's request clear and unequivocal. R.Tr.5/28/15 p.39

In Buhl it was undisputed that he had filed a motion to proceed pro-se and it was clear that the trial court understood that Buhl was asserting this right because the court held a hearing on that motion, at that hearing, the court focused on Buhl's motivation for filing the motion **whether than inquiring into whether Buhl's request was knowing, voluntary, and intelligently made.**

In the case of Buhl he did not request substitute counsel, rather from the outset he sought only to proceed to trial with no counsel.

In Watson's case he also did not request substitute counsel or a delay in the proceeding to prepare his case. Watson went as far as informing the court that he was ready to go on the trial date set, and he had met all the requirements in the colloquy hearing as Buhl had.

In the case of Buhl once he realized he was not going to be allowed to conduct his own defense he refused to participate in the trial, and absented himself from the proceedings.

When the trial court referred to Watson vacillating, they pointed to when Watson had filed a motion stating he wanted to absent himself from the trial, since he was going to be forced the proceed with his old counsel. Forcing Petitioner "to accept against his will a state-appointed public defender, the [District Court] deprived him of his constitutional right to conduct his own defense.

Faretta v. Cal., 422 U.S. 806, 836, 95 S. Ct. 2525, 45 L. Ed. 2d 562 [(1975)].

The constitutional right of self-representation in a criminal case is conditioned upon a voluntary, knowing and intelligent waiver of the right to be represented by counsel. See Faretta, 422 U.S. at 835; Edwards v. Arizona, 451 U.S. 477,482, 68 L.Ed. 2d 378,101 S.Ct.1880 (1981).

There is no supporting case law in which once the court has found that a defendant has satisfied the requirement set forth by SCOTUS and Faretta v. California, they can ignore these rights and make the erroneous claim that these rights are not determinative. It was the Third Circuits opinion that even if pro-se defendant had waived his right in pre-trial proceedings by soliciting counsel participation, a defendant could successfully renew his request at the opening of trial proceedings; United States v. Baker, 84 F.3d 1263,1267 (10th Cir 1996) request for counsel did not cause defendant to waive right to self-representation. While a defendant must meet several requirements in order to invoke his right to self-representation, none of those requirements state that a court may find these requirements not determinative, the vast majority if not all the other circuit courts have continually allowed each individual that has satisfied these requirements, to go pro-se. While a court must indulge every reasonable presumption against a waiver of counsel, in order to overcome this presumption, and conduct his/her own defense, a defendant must clearly and unequivocally ask to proceed pro-se. Each Circuit court has agreed that a defendant must be allowed to represent him/herself when a proper request is made and counsel is waived,[3] these courts have all agreed that the issue is whether a defendant knowingly, intelligently, and voluntarily waived the right to be represented by counsel, by clearly asserting his/her right of self-representation.

'3 The district court had acknowledged that it had erred when reappointing counsel" See: R.Tr. 5/18/15

The record shows and the trial court had agreed that Mr. Watson had made an unequivocal request and the request was made knowingly, voluntarily and intelligently. R.Tr.5/28/15 pp.39

If the trial court had actually found evidence that Watson was attempting to manipulate the proceedings in order to delay or gain a tactical advantage then his request would not have been clear and unequivocal nor would it had been knowing, voluntary and intelligent. The court cited People v. Adkins,551 N.SWW.2d 108 (Mich.2004)) as support for not finding his Six Amendment right determinative, however Adkins a Mich state case from 2004 has not been established as settled law by any other Circuit courts or trial courts.

The trial court cited People v. Adkins when it made the claim that it did not find Watson's clear and unequivocal request determinative while at the same time finding his request to be clear and unequivocal. A full review of Adkins shows that even this court cites the requirements to go pro-se is if the defendant has made a clear and unequivocal request and after a colloquy has established that the request was knowing, voluntary, and intelligent.

{Headnote: HN7 – People v. Adkins, 452 Mich. 702}

HN7 - Three main requirements exist that a court must comply with in the waiver of counsel context. First, the defendant's request must be unequivocal. Second, the defendant must assert his right to self-representation knowingly, intelligently, and voluntarily. In assuring a knowing and voluntary waiver, the trial court must make the defendant aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what he is doing and his choice is made with eyes open. Third, the court must establish that the defendant will not unduly disrupt the court while acting as his own counsel. Where a defendant, for whatever reason, has not unequivocally stated a desire for self-representation, the trial court shall inform the defendant that present counsel will continue to represent him.

The sixth and Fourteenth Amendments of the constitution guarantee that a person brought to trial in any state or federal court must be afforded certain rights. The question that has been brought before this court under Feretta v. California 422 U.S.806 and settled, was whether a defendant in a state criminal trial has a constitutional right to proceed without counsel when he or she voluntarily and intelligently elects to do so.

The question then is whether a state may constitutionally hale a person into its criminal courts and there force a lawyer upon him even when he has insisted that he wants to conduct his/her own defense, is not relevant that after going back and forth in deciding what defense to use, they use the exact defense they claimed had no basis and they could not use it.10/9/14 p. 11 sec 7-20 ,R.Tr.10/9/14 p16 sec 22 p.17 sec 1-3.

A review of the available record shows that while Watson made a clear and unequivocal request for self-representation the state court denied him this right and forced him to proceed to trial with the exact same counsel that he had previously had multiple issues with.

In the federal courts the right of self-representation has been protected by statute since the beginning of this Nation and currently codified in 28 U.S.C. §1654, however for some unsupported reason the Colorado State court and its sister courts have opinioned that even though Watson made a clear and unequivocal request it did not meet their standards, even though he had clearly met the standards outlined in Feretta, and the United States Constitution and that of all the other Circuit Courts. Buhl v. Cooksey 233, moreover other courts have expressed the view that the right is also supported by the Constitution of the United States.

In Adams v. United States ex rel. McCann, 317 U.S.269, 279. The court recognized that the Sixth Amendment right to the assistance of counsel implicitly embodies a "correlative right to dispense with a lawyer's help."

The Colorado trial court has not denied that Watson had fully satisfied the requirements that has been codified and used in all the circuit courts throughout the United States.

§ 1654. Appearance personally or by counsel

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

Right of accused to proceed in propria persona is unquestioned, and such right whether it be founded on constitutional or statutory right, must be timely asserted and accompanied by valid waiver of counsel. United States v. Jones, 514 F.2d 1331, 169 U.S. App. D.C. 90, 1975 U.S. App. LEXIS 14080

Mr .Watson had explained to the trial court that his prior attempt to represent himself failed because he had started a new medication (Depakote) and the dosage prescribed affected his ability to represent himself. Because the dosage had since been adjusted, he was capable of acting as his own attorney.

The trial court rejected this explanation relying heavily on a competency evaluation having been performed, and the evaluator's findings that Mr. Watson was a)'coherent, organized, logical and goal-directed...[and] b) did not raise concerns about any medication he had taken ; See medication. Exhibit C and c) the medication he was taking would not cause significant neuropsychological impairment. The Court of Appeals accepted the trial court's conclusion.

The first issue is if all these lower courts had actually addressed this issues based on the Depakote, their analysis of the effects of this particular medication would have been clearly erroneous. "According to the prescribing information." WebMD" under, adverse reactions...Emotional labiality, thinking abnormal, Nervousness, confusion, personality disorder are just a few of the reactions that can be related to the use of this medication. See exhibit C . however this is not the issue here because a review of the record reveals that at the time of the Courts conclusions are premised on factual inaccuracies, Mr Watson has not objected to the evaluators conclusion, however a review of the record reveals that at the time of the evaluation the courts have referred to, Watson had not been prescribed Depakote and thus the evaluator's conclusion had no relevance to the claim Mr. Watson was making.

The COA and the 10th circuit repeats the error by relying on that incorrect information, and we know this because the 10th Circuit specifically argues as it relates to this exact analysis.

The district trial court used this argument to frame Watson as manipulating the proceedings, however if Mr. Watson's initial inability to represent himself and his subsequent request that counsel be reappointed resulted directly from the side effects of the medication that he had just been prescribed. " It should be noted that after this had occurred, Watson had made a clear and unequivocal request to represent himself." A fairminded jurist could find that Watson in his statements invoked his right to self-representation in clear and unequivocal terms, United States v. Frazier-El,204 F.3d 553, 558 (4th Cir. 2000) (A request for self-representation must be clear and unequivocal.)

One might assume that the court had not actually found that Watson had been manipulating the system, for the fact that the court had stated, (quoting) "if not for Watson's decision to request reappointment of counsel he would have continued to proceed pro-se and would have represented himself at trial in 2015, this would seem to indicate that Watson had been respecting the procedures and protocol of the trial court without any form of manipulation, this is obviously why the court found Watson's request clear and unequivocal.

CONSTITUTIONAL PRIMACY

The Court of Appeals has used constitutional primacy as reason it had the authority to force counsel on Watson, however the full scope of this, actually states only absent a defendant's unequivocal request to proceed pro se must a court give a constitutional primacy to the right to counsel. United States v. Frazier-El,204 F.3d 553,559 (4th Cir.2000) On 5/18/15 p39 20-23 "Watson made a clear and unequivocal request for self-representation." Thus his request was not absent an unequivocal request."

REVIEWING OF THIS COURTS ANALYSIS IN SHOOP V. 142 S.CT 2051
AS IT PERTAINS TO WATSON'S ARGUMENT

This court has stated under its precedents, a criminal defendant may waive his right to[***8] counsel and instead represent him/herself. See Faretta, 422 U.S.., at 835, 95 S. Ct. 2525,45 L. Ed. 2d 562, and to exercise that right, a defendant must "knowingly, intelligently, clearly [,] and unequivocally" invoke it before the trial court, Ibid .,

This court has also referred to Raulerson v. Wainwright 469 U.S. 966 105 S.Ct, 366, 83 L.Ed 302 (1984).

Stating that a defendant has a right to proceed without counsel if he or she clearly and unequivocally ask to do so.

Watson petitioned the district trial court on May 18, 2015 several months before his trial was to begin , requesting to represent himself, On 5/28/15 the trial court opinioned that Watson's request for self-representation was not only clear and unequivocal, it found that the request was knowing, voluntary and intelligent. R.Tr 5/28/15 p39 II 20-23, this would suggest that Watson had met the standards set by the Supreme Court of the United States. There has yet to be found a case in which a court does not have to find a clear and unequivocal request determinative See. Faretta, 422 U.S. at 835 95 S.Ct 2525, 45 L.Ed. 2d 562.

UNITED STATES V. BATES, 2006 US DIST LEXIS 81160

In Tovar, the Supreme Court noted that the determination as to whether a defendant has knowingly and voluntarily waived the right to counsel is, "case specific".

In the case of Watson however, this part of the requirements has already been settled when the trial court on 5/28/15 determined that Watson's request was clear and unequivocal, and had been knowing, voluntary and intelligent, the trial court even went a step further when it also stated that Watson had been unwavering in his request. Exhibit: D R.Tr.5/28/15 p39 20-23

Because there was neither subsequent conduct indicating vacillation; nor an abandonment of the right to proceed pro se at any time after the May 18, 2015 request, the trial court erred in denying Mr. Watson's request to proceed pro se, and because an erroneous denial of a request under Faretta to self-representation is a structural error in the trial requiring automatic reversal of the verdict, it fell upon the Colorado Court of Appeals to correct this error and then the 10th Circuit, Mckaskle, 465 U.S. at 177 n.8, Mr. Watson was and still is entitled to a new trial. U.S. Const., amends. VI and XIV.

The trial court even reiterated that Mr. Watson's request to proceed pro se was unequivocal, knowing, voluntary and intelligent (*Id.* P46),

As the Supreme Court of the United States have explained, [t]he right to defend is personal," and a defendant's choice in exercising that right must be honored out of that respect for the individual which is the lifeblood of the law, "*I*bid, (quoting,[**1508] Illinois v. Allen, 397 U.S. 337,350-351,90 S. Ct 1057,25 L.Ed,2d 353 (1970).

If the trial court believed that Watson's request was anything other than unequivocal they could have clearly stated that his request was equivocal, this did not occur, and adding to the context of the precedent already set by this court only will lead to a concomitant of the actual facts as it pertains to ones six amendment right, which would erase the standard already set for all accused right to self-representation.

SUPREME COURT UNREASONABLY DEFERRED TO THE TRIAL COURT

Pough v. Gittere, 2022 Sapp Lexis 11274 9th Circuit

In Pough the argument of competency was the primary issue, this was not the case in Watson's argument, it had already been determined that Watson was competent to stand trial and to represent himself if he so desired. However the base of these two petitioners' rights are the same. Once Pough had been deemed competent, the only question was whether he made a knowing and voluntary waiver of counsel.

The Constitution permits an individual to represent themselves so long as their waiver was knowing and voluntary and he was informed of the dangers of self-representation at trial. Tovar, 541 US at 88-89; Godinez v. Moran, 509 U.S. 389 400-01, 113 S. Ct 2680,125 L. Ed 2d 321 (1993).

As shown in the records Watson had met this standard, 5/28/15 p39 sec 20-23, thus the question remains, did the trial court violate Watson's Sixth Amendment right after he had met the standard set by the Supreme Court of the United States, according to all the other Circuit courts and the more recent opinion in Pough v. Gittere, 2022. "They did".

According to the Supreme Court of the United States precedent, if Watson has met the criteria for going pro se then he should have been entitled to go pro se, regardless of what the trial court thought the outcome might be. A finding by the district trial court that they didn't have to find a six amendment right determinative, that has been laid out and codified by this court and the requirements have been met, is a violation of an individual's constitutional right under the six and fourteenth amendment.

The requirements set in Faretta v. California is clearly straight forward:

The basic teaching of Faretta is "that the state may not constitutionally prevent a defendant charged with commission of a criminal offense from controlling his own fate by forcing on him [**714] counsel who may present a case which is not consistent with the actual wishes of the defendant." (*Windham, supra,* 19 Cal.3d 121, 130.) [****45] As the high court stated: "The language [***685] and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools **[*1221]** guaranteed by the Amendment, shall be an aid to a willing defendant -- not an organ of the State interposed between an unwilling defendant and his right to defend himself personally. To thrust counsel upon the accused, against his considered wish, thus violates the logic of the Amendment." (Faretta, *supra*, 422 U.S. at p. 820 [45 L.Ed.2d at p. 573].)

A defendant's request for self-representation must be a knowing, voluntary, and unequivocal assertion of that right, at no point has this court given a lower court the authority to find this not determinative and to add to what a petitioner must meet as the standard set for requesting self-representation.

As far as vacillation if any being a tactic for delay, the record clearly shows there was neither subsequent conduct indicating vacillation; nor an abandonment of the right to proceed pro se at any time after the May18, 2015 request. Reviewing possible events that hadn't taken place as the reason for denial. A trial court may not find a criminal defendant's request to exercise the constitutional right of self-representation to be equivocal on the basis of future events then unknown to the court. State v. Madsen, Wn. 2d 496, Supreme Court. In this instant case the lower court referred directly to things that took place after Watson's denial, as reasons for the denial. " Watson's request to absent himself from the proceeding was based on the denial and Watson feeling as if the proceedings was no more than a cover to a conviction".

And while the court had the authority to deny Watson's request when he wanted to pled guilty, the reason Watson wanted the request, the court erred when it stated he could not pled then go to prison to file an appeal.

Ferguson was decided in 1983, prior to the Sentencing Guidelines. Under the Guidelines, Martin has the right to directly appeal the sentence even though he plead guilty. *See Montemoino v. United States,* 68 F.3d 416, 417 (11th Cir. 1995). Because a defendant has the right to directly appeal a sentence pursuant to the Sentencing Guidelines.

A claim is not ripe if it rests upon 'contingent future events that may not occur as anticipated, or indeed

may not occur at all.'" (citing *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 580-581, 105 S. Ct. 3325, 87 L. Ed. 2d 409 (1985)))

The district trial court it seems made its opinion based on a Mich case.2004, citing People v. Adkins, 551 N.W.2d 108, even in this particular case the three main requirements quoted only Serves to strengthenWatson's claim that he was entitled to self-representation:

(*Citing People v. Adkins, 551 N.W.2d 108* (Mich.2004)). Three main requirements exist that a court must comply with in the waiver of counsel context. First, the defendant's request must be unequivocal. Second, the defendant must assert his right to self-representation knowingly, intelligently, and voluntarily. In assuring a knowing and voluntary waiver, the trial court must make the defendant aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what he is doing and his choice is made with eyes open. Third, the court must establish that the defendant will not unduly disrupt the court while acting as his own counsel. Where a defendant, for whatever reason, has not unequivocally stated a desire for self-representation, the trial court shall inform the defendant that present counsel will continue to represent him.

Accordingly this court has indicated in Faretta that defendants should be permitted to exercise their right of self-representation if they execute a valid waiver of their right to counsel, which is to say only if they "knowingly and intelligently forgo[the] relinquished benefits of counsel. 422 U.S. at 835. (Citing Johnson v. Zerbst, 304 U.S. 458 464-465 (1938)

It is clear Watson's request was not deemed equivocal by the district trial court, and Watson had made an unwavering, knowing, intelligent, and voluntary request. The record is clear that Watson's request had met the Supreme Court of the United States precedent. The district trial court has opinioned that Watson's request was clear and unequivocal. R.Tr.5/28/15 p39 20-23.

All have agreed the requirement that a request for self-representation be clear and unequivocal, prevents a defendant from taking advantage of and manipulating the mutual exclusivity of the two rights. United States v. Frazier- El,204 F.3d 553,559(4th Cir 2000).

In following this analogy that the previous courts have written, it does not make since to claim that Watson was attempting to manipulate and delay the proceedings when the trial court has opinioned that Watson had made a clear and unequivocal request for self-representation and that request was knowing voluntary and intelligent. See R.Tr. 5/28/15 p39. 20-23. It is obvious that these requirements have been set in place in order to avoid any manipulation for the purpose of delay by the accused, therefore if a court finds that a defendant is attempting to manipulate the trial process then their request cannot be

unequivocal.

Here we have a court specifically making an opinion and reiterating that opinion, that Watson's request was clear and unequivocal and that his request was knowing, voluntary and intelligent. R.Tr. 5/28/15 p39. 20-23, *I*bid 49, thus to also finds that Watson was manipulating the process directly contradicts this requirement set by the Supreme Court of the United States and Faretta v. California.

These actions by the trial court clearly violates Watsons Six and Fourteenth Amendment Rights and could eventually cause harm to all those who in the future make a similar request See Faretta. 422 U.S. at 820

COLORADO COURT OF APPEALS OPINION
People v Watson, 2021 Colo. App. Lexis 1739

In the Colorado Court of Appeals opinion on pg 6 sec III, it clearly shows there had only been one other previous request, not four as another court has alluded to.

III. This court specifically reference the denial of Watson's second request to proceed pro-se. The Colorado Supreme Court makes the argument giving the appearance that Watson had attempted to go pro-se four times, this is clearly erroneous, while Watson did continually keep requesting to go pro-se after the court denied the request this was in order to make sure the court would not later come back and attempt to say Watson had abandoned the issue, by not continually bringing forth this request, which other courts have attempted to do in the past.

The trial court erred in denying Watson's request for self-representation because Watson flatly requested self-representation; defense counsel, the prosecutor, and the trial court all understood that Watson had asserted the right to self-representation; Watson both wished to make and was mentally competent to make a knowing and intelligent waiver of the right to counsel; and, after Watson unequivocally asserted the right to self-representation and the court opinioned he was unwavering in his request, it was clear and unequivocal it denied his request, claiming it did not have to find the Supreme Court's precedent determinative. See: R.Tr. 5/18/15also Exhibit : D

While the lower courts have failed to fully address the issue in which Watson had made an unwavering and unequivocal request, that was deemed knowing, voluntary and intelligent, they seem to only want to point at when Watson requested to absent himself from the trial proceeding, which was based on the denial of his request itself.

Multiple cases have shown that once defendant had been denied a request for self-representation they no longer wanted to be present at the trial, this was based on their lack of any confidence in the proceedings and believing the process was only to satisfy the record not his constitutional rights.

While the Colorado Court of Appeals have agreed that the right to self-representation is a corollary of the right to counsel and that a defendant seeking to represent himself must unequivocally waive counsel and declare his intention to proceed pro-se, it would seem when a defendant has followed the guidelines established, the court now reserves the right to not follow them, which in doing so violates the defendant's 14th Amendment right.

People v. Woods, 931 P.2d 530

The corollary right of self-representation is recognized in Colo. Const. art. II, § 16 and in state and federal case law. A defendant's right of self-representation is conditioned only upon the valid waiver of the right to counsel. A trial court has a duty to conduct a specific inquiry on the record to ensure that the defendant is knowingly, intelligently, and voluntarily waiving the right to counsel. The trial court must, in addition, provide defendant with sufficient information about the dangers and disadvantages of self-representation that the record will establish that he knows what he is doing and his choice is made with eyes wide open. The right to self-representation is guaranteed by the Sixth Amendment to the United States Constitution.

The right is personal to the defendant regardless of the seriousness of the crime or who the crime may have been perpetrated against, and may not be resolved by requiring the defendant to accept a court appointed lawyer when he/she desires to waive their Six Amendment right to counsel. A trial courts ability to force counsel upon an unwilling defendant is limited, however in this instant case the Colorado District Trial Court has attempted to extend these limits beyond the guidelines already established by the Supreme Court of the United States. By overriding Watson's Sixth Amendment right the District Trial court has attempted to create a new standard by which other courts will eventually attempt to lean toward when other defendant's make an unequivocal request for self-representation, "especially since the majority of courts already frown on this position". .Sixth Amendment, 422 U.S. at 819-21.

While a court may conclude that a defendant who intends nothing more than disruption and delay is not actually tendering a knowing, voluntary and intelligent waiver of counsel, and has not unequivocally asserted the constitutional right to conduct his/her own defense, while this determination may well present

difficulties, it is the kind of inquiry district courts routinely make. See Welty, 674 F.2d at 191

The court however cannot use this analysis due to the fact they opinioned that Watson had made a knowing, voluntary and intelligent request and that request was unequivocally made. Watson's clear and unequivocal request automatically renders an attempt to manipulate for the purpose of delay contradicting to their own opinion and thus not factual.

The trial court's determination that the waiver is knowing, voluntary and intelligent must be based upon "a penetrating and comprehensive examination of all the circumstances." Welty, 674 F.2d at 189. A purported waiver of counsel "can be deemed effective only where the [trial judge] has made a searching inquiry sufficient to satisfy him that the defendant's waiver was understanding and voluntary." Id. "The entire procedure requires not only an intricate assessment of the defendant's intent, knowledge, and capacity, but a strong measure of patience as well." Williams, 44 F.3d at 100

One can only assume that based on the trial courts opinion that Watson had made a clear and unequivocal request, that the court had made a searching inquiry and found Watson's Waiver Knowing, voluntary, and intelligent, thus he should have been granted his Six Amendment right. The trial judge voiced no concerns of manipulation, nor did he attribute any such motivation in any earlier proceedings. The court did inquire about the length of the trial in addressing Watson's original pro se request, but the court never suggested that Watson was attempting to delay or disrupt the proceedings, nor did it ever suggest that the timing of the request somehow negated its obligations under Faretta. In fact, the prosecution did not even object, or claim that any delay would prejudice its case. "Quoting The District trial court". Watson had been respectful throughout the entire proceedings.

Other courts have even went on record as claiming the there was no record of Watson making a clear and unequivocal request, one can only assume that that court had not been privy to this information or this claim was erroneous . See: R.Tr. 5/18/15. 5/28/15. p39 20-23

As for the "unreasonable application" prong, it applies when " the state court identifies the correct governing legal rule from [the Supreme] Court cases but unreasonably applies it to the facts of the particular state prisoner's case," or," the state court either unreasonably extends a legal principle from [the Supreme Court's] precedent to a new context where it should apply." *Id.* At 407.

A state court's decision is "unreasonable" in this sense" when most reasonable jurists exercising their independent judgment would conclude the state court misapplied Supreme Court law." Maynard v. Boone, 468 F.3d 665, 671 (10th Cir 2006.

When viewing Watson's case and his request for self-representation, it is clear that he had met the

standards governing his six amendment right, and it is also clear the Colorado District court extended the legal principle from the Supreme Courts precedent.

REPEATED REQUEST FOR SELF-REPRESENTATION

Despite repeated request so clear that the trial court deemed them unequivocal, the court steadfastly refused to follow the guidelines outlined in Faretta and honor Mr. Watson's constitutional right to represent himself, the argument made by the District trial court, that it did not have to find Watson's clear and unequivocal request determinative only exist in this district trial courts opinion and contradicts all other courts findings based on Faretta and the Supreme Court of the United States.

Faretta v. Cal., 422 U.S. 806
A defendant in a state criminal trial has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so, and such right of self-representation is supported by the structure of the Sixth Amendment, which necessarily implies a right of self-representation, and by the English and colonial jurisprudence from which the Sixth Amendment emerged.

This claim made by the Trial court was clearly erroneous because the court had already found that Mr. Watson's request to go pro-se at trial was unequivocal, Watson's request had not been conditioned upon a continuance or any other accommodations The record clearly shows that Watson along with his then attorney had informed the court that he was ready to proceed to trial on the current date set. "[T]he trial court seem to have ignored these remarks", even while they had no evidence that contradicted what was being presented by counsel and Mr. Watson. See Exhibit: D

SALIENT POINTS THAT MERIT OBSERVATION

- Mr. Watson's right to self-representation is grounded in the fundamental legal principle that a defendant must be allowed to make his/her own choices about the proper way to protect his/her own liberty, every defendant must be free to personally decide whether having counsel is advantageous. State v. Dunbar,2024 Ariz Lexis 146 Supreme Court. (HN-10
- Watson's right to self-representation was not contingent upon a showing that he would have achieved a better result or more favorable out than counsel (HN-11).
- The right to self-representation is balanced against the right to a fair trial conducted in a judicious, orderly fashion, thus the request must be timely and subject to a finding that the waiver of counsel is made voluntarily and knowingly.
- A defendant's request to represent himself must be honored unless the decision was not made knowingly, intelligently, and voluntarily.

- When a defendant appreciates the risks of forgoing counsel and chooses to do so voluntarily, the Constitution protects his ability to present his own defense even when that harms his case. In fact waiving counsel "usually" does so. *McKaskle* v. *Wiggins*, 465 U.S. 168, 177, n. 8, 104 S. Ct. 944, 79 L. Ed. 2d 122 (1984); see also *Faretta*, 422 U.S., at 834, 95 S. Ct. 2525, 45 L. Ed. 2d 562. We have nonetheless said that the defendant's "choice must be honored out of 'that respect for the individual which is the lifeblood of the law.'" *Ibid.*
- What the Constitution requires is not that a State's case be subject to the most rigorous adversarial testing possible--after all, it permits a defendant to eliminate *all* adversarial testing by pleading guilty. What the Constitution requires is that a defendant be given the right to challenge the State's case against him using the arguments *he* sees fit.
- A defendant in a state criminal trial has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so, and such right of self-representation is supported by the structure of the Sixth Amendment, which necessarily implies a right of self-representation, and by the English and colonial jurisprudence from which the Sixth Amendment emerged.
- recognizes a right to self-representation once a determination is made that the defendant's waiver of counsel is knowing and intelligent: Regardless of the defendant's legal skills or the complexity of the case, the court shall not deny a defendant's unequivocal request to represent himself or herself, if the court makes a determination of record that the defendant has made a knowing and intelligent waiver of the right to counsel. **Fla. R. Crim. P. 3.111(d)(3)**.
- No part of the Supreme Court opinion does it permit a lower court to find a defendant's clear and unequivocal request not determinative. The Colorado district trial court has erroneously applied a standard that does not adhere to the already established law. See Edwards, 128 S.Ct. at 2385-86.
- It has been established by the Colo Dist trial court that it believed Watson had in fact made a clear and unequivocal request for self-representation and that the request was knowing, intelligent and voluntary, along with Watson being unwavering in his request. See R.Tr. 5/18/15-5/28/15 p.39. See also Attached Exhibit: D pp 39 .

It should hold that under the Supreme Court of the United States that an individual is entitled to his own self-representation if he/she has met the standard created by the Supreme Court of the United States and Faretta v. California 466.

A brief review of the opinion of the USDC, Colorado shows that while the court found in their opinion that the defendant was manipulating the trial process by vacillating about whether he wanted to represent himself, is clearly erroneous based on their own findings, and the Exhibit attached to this pleading. See Exhibit: **D**-R. Tr. 5/28/15 p. 39, 20-23

In the courts own salient points, Document 28 case No. 1:22-CV- 02695. p15

The court found defendant's renewed motion to proceed pro-se at trial was unequivocal, and was knowingly, voluntarily, and intelligently made. R.Tr.5/28/15- *I*d 49. In support of this claim made

see attached Exhibit :**D pp. 39**

The court used a doctor's earlier evaluation that had to do with the charges and had been done several months before Mr. Watson had been prescribed the medication that he claimed caused him to have an adverse reaction, thus their rejection of Watson's reason as to not be able to move forward as a pro-se litigate at that time was based on inaccurate information. See. Document 28 p 15 USDC Colorado 1:22-cv- 02695. See also Dr. Dequardo, evaluation # 101547 Exhibit : **E**. The report the trial court relied on came from the evaluation performed by Dr. DeQuardo, this evaluation was in no way related to Mr. Watson's claim. In the evaluation the Doctor stated what medication he was referring to, none of which was "Depakote," the medication, Watson had been referring to in his claim, medication that was prescribed by the doctor from the county jail well after Dr. DeQuardo had performed his evaluation. See CMHIP case No. 101547 pg 15 Ex-E"*Types of medication reviewed in evaluation".*

It has also been established and upheld by the circuit courts that a defendant must make a clear and unequivocal request for self-representation, to avoid any manipulation. The requirement to make a clear waiver is said to prevent a defendant from weaponizing his/her Sixth Amendment rights on appeal.

People v. Mayo, 198 Ill. 2d 539,538,764 N.e.2d 525,261 Ill Dec 9,(2002)

The requirement that a request be clear and unequivocal" prevent[s] the defendant from manipulating or abusing the system. This also would seem to contradict the court's ruling that Watson was manipulating the system and vacillating. See R.Tr. 5/28/15 p39 20-23.

A division of this court has held that "[a] defendant's right of self-representation is conditioned only on a clear and unequivocal request that is knowing, intelligent and voluntary.

The court found that Mr. Watson was unwavering on 5/18/15- 5/28/15 and had been unwavering "over a period of two weeks"."5/18/15-5/28/15"See R.Tr.5/18/15 5/28/15 p 39 2023

The district trial court pointed out all the steps that took place in the pre-trial proceedins,as if it was Watson who had been in control of the evidence that was not properly placed on DVD's , among other issues that caused delays that was obviously out of control of Mr. Watson, this would also seem to contradict the court's opinion that Mr. Watson had carried himself throughout the trial in a respectful and

courteous manner." While Watson may have made unintentional errors, none of these errors could be considered as misconduct or an attempt to manipulate the process.

The trial court leaned heavily on the fact that it had been 18 months before Watson had made his request, this was because the first Bergerud hearing and what it entailed hadn't taken place until approximately, 10/9/14 which this court should review in order to fully understand why Watson initiated his request. See Exhibit: Bergerud Hearing R.Tr. 5/18/15 .

> When a State Court has previously denied relief a federal court may grant relief under section §2254 (d) only where the state court decision was either (1) Contrary to... clearly establish Federal law, as determined by the Supreme Court of the United States.(2) Involved in an unreasonable application of...clearly established Federal law as determined by the Supreme Court of the United States.
> Williams v. Taylor, 529 U.S. 362, 404-05 120 S.Ct. 1495, L.Ed 2d.389 (2000)

This case is a perfect example of a state court making a ruling that is contrary to all the standards set by the Supreme Court of the United States and a defendant's Sixth and Fourteenth Amendment right. Watson would ask this court to identify, when or if a state court can ignore a defendant's clear and unequivocal request under the Sixth Amendment, finding it not determinative.

CONTRARY & UNREASONABLE STANDARD,
CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW

The decision of a state court is contrary to federal law if it contradicts the United States Supreme Court on a settled question of law or holds differently than did that court on a set of materially indistinguishable facts, therefore if a precedent of the United States Court has direct application in a case,

As relevant here, a decision is "contrary to" clearly established federal law if it "applies a rule different from the governing law set forth in our cases." *Bell* v. *Cone*, 535 U. S. 685, 694, 122 S. Ct. 1843, 152 L. Ed. 2d 914 (2002). A decision "involve[s] an unreasonable application of . . . clearly established law" only if "there is no possibility fairminded jurists could disagree that the state court's decision conflicts with this Court's precedents." *Harrington* v. *Richter*, 562 U. S. 86, 102, 131 S. Ct. 770, 178 L. Ed. 2d 624 (2011).

Under this Court's precedents, a criminal defendant may waive his right to counsel and instead represent himself. See *Faretta*, 422 U. S., at 835, 95 S. Ct. 2525, 45 L. Ed. 2d 562. To exercise that right, a defendant must "'knowingly,'" "intelligently," "clearly[,] and unequivocally" invoke it before the trial

court. *Ibid.*; see also *Raulerson* v. *Wainwright*, 469 U. S. 966, 105 S. Ct. 366, 83 L. Ed. 2d 302 (1984) (Marshall, J., dissenting from denial of certiorari) (a defendant has a right "to proceed without counsel if he clearly and unequivocally asks to do so").

The Arguello court has established a procedure for determining whether a defendant has made a voluntary, knowing and intelligent waiver of the right to counsel. It has continually been opinioned that a defendant exercising his/her informed free will may knowingly and intelligently decide to self-represent under the Sixth Amendment even with a serious offense. ' what is critical in this opinion, is there has been nothing to indicate that a court may find this passage, not determinative," or that a court may create its own stipulations in determining whether a defendant may proceed pro-se. Thus a defendant's request must be honored unless the decision was not made knowingly, voluntarily and intelligently.

The record clearly shows that on 5/18/15 Watson did make a clear and unequivocal request, and on 5/28/15 the court believe this request was knowing, voluntary, and intelligent. See: R.Tr. 5/28/15 p 39 20-23. See also Exhibit: D . The State Trial courts claim that while Watson had satisfied the requirements set by the Supreme Court of the United States and Faretta v. California 466, that it did not have to find this determinative. It is not that the lower courts have believed that Watson did not make a clear and unequivocal request, the question then is does this lower court have the authority to override

. Federal precedent. State courts are not free to override Supreme Court precedent, and since it has been established that Watson had met the standards set by this court for self-representation, the District trial had a duty to honor his request.

In a hierarchical system, decisions of a superior court are authoritative on inferior courts, just as a federal court of appeals must follow decisions of the United States Supreme Court whether or not it agrees with them, so district judges must follow the decisions of a federal court of appeals whether or not they agree. This Court has set the precedent in which an individual must meet a particular set of requirements in order for them to go pro-se, those requirements are clear and settled, what these requirements do not state is a court does not have to find them determinative. These actions of the Colorado District Trial court if left

unchecked will lead to other trial courts finding a clear and unequivocal waiver not determinative, therefore doing away with an individual's right to his/her six amendment right to self-representation, which in turn will give the accused the impression that they no longer have any control over their own destiny once they enter the judicial process, if a court is allowed to add to what is already established law and a constitutional right.

ADHERING TO PRECEDENT

1. In constitutional as in statutory cases, adherence to precedent is the norm.

While the Colorado District court laid out the requirements needed in order for Watson to be granted his Six Amendment right for self-representation, "Quoting Supreme Court of the United States and Feratta v. California," lower court failed to honor those requirements, once Watson had clearly and unequivocally met them." This gives the appearance of a trial court having the authority to ignore an accused rights."

As this court has explained "if a precedent of this court has direct application in a case a lower court should follow the case which directly controls, in this instance it would be Feratta v. California. In the instant case of Feratta v. California a defendant in a state criminal trial has a Constitutional right to proceed without counsel when he voluntary and intelligently elects to do so, and such right is supported by the structure of the Sixth Amendment.

As clarified by this court, the Sixth Amendment which is made applicable to the states by the fourteenth guarantees that a defendant in a state criminal trial has an independent constitutional right to self-representation and that he/she may proceed to defend themselves without counsel when he/she voluntary and intelligently elects to do so, such as in Watson's case.

COURTS JUDICIAL PRECEDENT

If a precedent of the United States Supreme Court has direct application in a case, a lower court should follow the case which directly controls, leaving the Supreme Court the prerogative of overruling its own decisions. This is true even if the lower court thinks the precedent is in tension with some other line of decision.

VIRTUAL STARE DECISIS

Virtual Stare decisis is absolute, as it must be in a hierarchical system with "one Supreme Court", U.S.

Const., Art III§ 1, in other words, the state courts and the other Federal courts have a constitutional obligation to follow a precedent of this court. Ramas v. Louisiana 590 U.S. 83 S.Ct 4/20/20

A. The policy of court's is to stand by precedent and not to disturb settled point, Neff v. George, 364 ILL 306-4 N.E,2d 388,390, 391.

While the Colorado district trial court and the proceeding courts laid out the requirements needed in order for Watson to be granted his Six Amendment right for self-representation (citing) Supreme Court of the United States and Ferratta v. California, they failed to honor those requirements once Watson had clearly and unequivocally met them.

In the precedent case of Feratta v. California a defendant in a state criminal trial has a Constitutional right to proceed without counsel when he/she voluntary and intelligently elects to do so, and such right is supported by the structure of the Sixth Amendment.

Mr. Watson's request to represent himself was "(1) clear and unequivocal,(2) knowing, intelligent, and (3) timely." United States v. Frazier-El, 204 F.3d 553,558 (4th Cir.2000).The renewed request had been made months "before meaningful trial proceedings [had] begun." United States v. Hilton, 701 F.3d 959,965 (2012). That Mr. Watson requested permission to absent himself from trial after his request to represent himself was denied does did not call into question the legitimacy of his request to represent himself, it only demonstrated his frustration at being denied the right to represent himself and being forced to proceed with counsel, this is also shown in his request to plead guilty of all charges, but was denied that request also.

The people pointed to events that occurred after the court's denial of his request to proceed pro se as "evidence of manipulation". They wanted this to be considered as justification for denying Mr. Watson's request to proceed pro se. It was also argued that after the trial court denied his request, he immediately moved for new counsel to be appointed. In support, the people pointed to the trial court's recitation of what it perceived to have occurred prior to trial. See.pp31-36 of AB quoting oral findings made by the court on 8/18/15 (TR 8/18/15 pp 245-51. Also: Exhibit, G and H .

The record clearly reveals that contrary to the trial court's recollection and the following courts

interpretation, Mr. Watson filed no pleading requesting that new counsel be appointed.

Through counsel, Mr. Watson informed the court that "he wanted the record to be clear , he was ready to go to trial at the current trial date. The same factors in Johnson, supra that resulted in the division of another court concluding that the trial court had erroneously denied the defendant's constitutional right to proceed pro se, are present in Watson's request. The facts in which the trial court later relied on to claim manipulation, and delay would contradict the requirements that Watson had actually met, and they agreed he had met. R.Tr. 5/28/15.p 39 20-23. The federal constitution does not permit a court to strip a defendant of the right to self-representation merely because he accepted counsel at an earlier point in the proceedings, or a finding of not determinative after he has made a clear and unequivocal request.

The trial court believed that Watson had knowingly, voluntarily, and intelligently waived his right to counsel, while later after the denial expressed concern that his request was possibly for the purpose of delay, there was nothing in the record to support that concern.

The court had stated that Mr. Watson was unwavering in his request, it had also acknowledged that it had erred when it reappointed the public defenders, and while there are instances in which a court may find a defendant is attempting to manipulate and delay the proceedings that would come before a ruling of an unequivocal request. "One does not support the other." An unequivocal request is meant to stop the manipulation of the process.

While the Supreme Court has not clearly addressed what an "unequivocal" request means in this context, district courts may consider "three factors to determine whether a request for self-representation is unequivocal: the timing of a request, the manner in which the request was made, and whether the defendant repeatedly made the request." *Stenson v. Lambert*, 504 F.3d 873, 882 (9th Cir. 2007). A defendant invokes the right to self-representation if he makes an unequivocal request to represent himself and then knowingly, voluntarily, and intelligently waives the right to counsel. *Id.* at 835; *Iowa v. Tovar*, 541 U.S. 77, 88, 124 S. Ct. 1379, 158 L. Ed. 2d 209 (2004); *Godinez v. Moran*, 509 U.S. 389, 400, 113 S. Ct. 2680, 125 L. Ed. 2d 321 (1993).

The requirement that a request be unequivocal serves two purposes. First, it ensures a defendant does not inadvertently waive the right to counsel "through occasional musings on the benefit of self-representation." *Adams v. Carroll*, 875 F.2d 1441, 1444 (9th Cir. 1989). Second, it prevents manipulation by the defendant of the mutually exclusive rights to counsel and self-representation. *Id.* While there is no prescribed "formula or script" for trial judges to follow when dealing

with a defendant who wishes to proceed pro se, at a minimum the defendant should be advised about the hazards of self-representation at trial. *Tovar*, 541 U.S. at 88-89.

a) DID WATSON ADEQUATELY ASSERT HIS RIGHT TO SELF-REPRESENTATION?

As noted above a defendant's request for self-representation in a criminal trial, must be clear and unequivocal, this requirement prevents defendant's from making casual and ineffective request to proceed pro se, and then attempting to upset "adverse verdicts after trial at which they had been represented by counsel." Maldonado, 348 F.2d at 16. It also keeps defendants from proceeding pro se, then challenging any subsequent conviction by alleging a denial of the right to counsel. Requiring a clear and unequivocal assertion of the right also protects defendant from inadvertently waving counsel based upon occasional musing on the benefits of self-representation. United States v. Frazier-el, 204 F.3d 553,558 (4th Cir . 2000)(quoting United States v.Arlt, 41 F.3d 516,519) (9th Cir, 1994)).

Through the entire prior proceedings the judge never suggested that Mr. Watson had been manipulating or attempting to delay the proceedings. No part of the record indicates that Mr. Watson had been obtrusive in any way, nor is there any instances in which the trial judge admonished Watson for any reason, in fact the judge praised Watson's behavior as being one of the best in his courtroom. There has been no argument that Watson's request was not timely, Watson's request had been made several months before jury selection had begun which was much farther out from trial than when the above defendant's had made their request, ***"and eventually granted their sixth amendment right"*** A through search of cases located in multiple other jurisdictions show that once and individual had made a clear unequivocal request then moved forward with a colloquy hearing to determine whether the request was voluntary, knowing and intelligent, once this was satisfied the court granted the request. At no point has any other court found a knowing and intelligent request to not be determinative. While 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.

United States v. Longsworth, 2024 U.S. App. LEXIS 22146

To represent him/herself, a defendant must "knowingly and intelligently waive their right to counsel." *Hakim*, 30 F.4th at 1322 (quotation marks omitted). To make that determination, the court generally should conduct a hearing, known as a *Faretta* inquiry, "to determine whether the defendant understands the risks of self-representation." *United States v. Owen*, 963 F.3d 1040, 1049 (11th Cir. 2020) (quotation marks omitted). A valid waiver can occur "not only when a cooperative defendant affirmatively invokes his right to self-representation, but also when an uncooperative defendant rejects the only counsel to which he is constitutionally entitled, understanding his only alternative is self-representation with its many attendant dangers." *United States v. Garey*, 540 F.3d 1253, 1265 (11th Cir. 2008). " This may have been why the district trial judge admitted to his error when reappointing counsel."

It is clear that Watson made an unequivocal request for self-representation, and that it was knowing voluntary and intelligent. R. Tr. 5/28/15 p39 20-23. The Court conducted a Faretta inquiry and determined Watson understood the risk of self-representation. A defendant who seeks to invoke his right to represent himself must do so by a clear and unequivocal request. Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1974). The Supreme Court held in Faretta that the Sixth Amendment guarantees a state criminal defendant the right of self-representation when he voluntarily and intelligently elects to do so.

" Once again we find nothing in the Sixth Amendment or other rulings by this court that indicates that a trial court may find a clear and unequivocal request not determinative."

In the United States v. Baker, 84 f.3d 1263 the court reversed his conviction, holding that defendant's constitutional right to represent himself had been denied. The defendant clearly and unequivocally repeated his desire to represent himself. There was no indication that he was incompetent to do so. The record showed that he knowingly and intelligently relinquished the right to counsel, and he made his request in a timely manner. "This individual even had requested an advisory counsel", something that

Watson did not do. Mr. Watson brought the matter up every time he appeared before the court, even in the sentencing phase, which could be considered as another violation of his constitutional right.

This is not a question of whether Mr. Watson had actually made a clear and unequivocal request, that issue has already been settled based on the trial courts own determination. R. Tr. 5/28/15. P39. 20-23.

Mr. Watson showed the court every courtesy possible never speaking out of turn or being obtrusive in any way. The court acknowledged Watson was respectful of the proceedings, " even when a ruling did not go in his favor.

It is in that sense, then, that no matter how "clear" a defendant's request for self-representation may be, the requirement that it also be *unequivocal* "prevent[s] the defendant from manipulating or abusing the system by going back and forth between his request for counsel and his wish to proceed *pro se*." Mayo, 198 Ill. 2d at 538 (citing *Williams*, 44 F.3d at 100-01); see also *Williams*, 44 F.3d at 101 (requirement "inhibits any 'deliberate [***21] plot to manipulate the court by alternatively requesting, then waiving counsel' " (quoting *Tompkins*, 623 F.2d at 828)).

A defendant has the right to choose between counsel and self-representation, and he has the right (at least generally speaking) to change his mind more than once.

MISCONDUCT THE FORFIETS ONE RIGHT TO SELF REPRESENTATION

The kind of misconduct that would justify imposing counsel on an unwilling defendant is, in essentials, the same kind of misconduct that would justify excluding him from his trial. See *Faretta*, 422 U.S. at 834 n.46 (citing *Illinois v. Allen*, 397 U.S. 337, 90 S. Ct. 1057, 25 L. Ed. 2d 353 (1970)); *United States v. Brock*, 159 F.3d 1077, 1079 (7th Cir. 1998). A defendant forfeits his right to be present at trial "if, after he has been warned by the judge *** he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom." *Allen*, 397 U.S. at 343. Just as the judge may exclude a " 'disruptive, contumacious, stubbornly defiant defendant[ ]' " from his trial, so too may the judge deny such a defendant the right to continue representing himself. *Brock*, 159 F.3d at 1079 (quoting *Allen*, 397 U.S. at 343).

There was no sign in the record or by the court that Mr. Watson had conducted himself in such a manner, for the court to admonish him or force counsel upon him when he requested self-representation, the record clearly shows that Watson had respected the proceedings through civility and decorum. See, e.g., Smith,830 F.3d at 810.

The right to self-representation is guaranteed by the Sixth Amendment to the United States Constitution. The right is personal to the defendant regardless of the seriousness of the crime or who the crime may have been against, and may not be abridged by requiring the defendant to accept a lawyer when he or she desires to proceed pro-se. A trial courts ability to force counsel upon an unwilling defendant is limited, however in this instant case the Colorado District Trial Court has attempted to extend these limits beyond the guidelines already established by the Supreme Court of the United States, overriding the defendant's Six Amendment right and in doing so setting a new standard by which other courts will eventually attempt to lean toward in future request. See Sixth Amendment, 422 U.S.at 819-21.

These actions by the Colorado District Trial Court is another attempt at subverting the rule of law, while acknowledging a defendant has met the requirements needed to adjudicate his or her case as a pro-se litigate. See R.Tr.5/28/15 p 39.

At some point in the pre-trial proceedings the trial court had determined that Watson was unwavering in his request for self-representation, while at the same time claiming Watson was vacillating. United States v. Barnes, 407 S.C 27,35, 753 S.E.2d 545 550 2014.

If Watson was truly unwavering which is normally characterized by the absence of any fluctuation , then it would be completely contradicting to think he was vacillating since an individual who vacillates in affect does fluctuate in their decisions and or their actions. Thus minus a wavering request there cannot be any vacillation as it pertains to an individuals clear and unequivocal request to go pro-se.

United States v. Burton 698. Fed. App 959
Headnote: HN8 - Courts require requests for self-representation to be clear and unequivocal to protect defendants as well as trial courts. Defendants are protected against inadvertently waiving counsel through their occasional musings on the benefits of self-representation.

Trial courts are protected against defendants' attempts to manipulate the rights to counsel and self-representation. Without a clear and unequivocal request, the court would face a dilemma, for an equivocal demand creates a potential ground for reversal however the trial court rules.

Malone v. Williams 2024 U.S. App- Lexis 461 9th Cir
Headnote: HN2 - Forcing a lawyer upon an unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so. 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. A defendant's request to proceed without counsel must be unequivocal. Periodic vacillations, however, will not taint later unequivocal waivers of counsel. Moreover, even a conditional waiver of counsel can be unequivocal.

The plain language of the law is relatively straight forward and thus the overwhelming majority, if not all of the Circuit Courts have interpreted what the requirements are for an individual to proceed as a pro-se litigate which is outlined in Faretta v. California , 422 U.S. 806 LAW §46.

Setting a new precedent in which a court may override the Sixth Amendment, when it has been properly adhered to, will open a door to continued violations on one's sixth amendment right.

The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the Amendment, shall be an aid to a willing defendant –not an organ of the state interposed between an unwilling defendant and his or her right to defend themselves personally. LAW§ 46.3

CRIMINAL LAW §46 > RIGHT OF SELF-REPRESENTATION

The Sixth and Fourteenth Amendments include a constitutional right to proceed without counsel when a criminal defendant voluntarily and intelligently elects to do so. That right has been implied from: (1) a "nearly universal conviction," made manifest in state law, that forcing a lawyer upon an unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so; (2) Sixth Amendment language granting rights to the "accused"; (3) Sixth Amendment structure indicating that the rights it sets forth, related to the "fair administration of American justice," are "personal" to the accused; (4) the absence of historical examples of forced representation; and (5) respect for the individual. A knowing and intelligent waiver of counsel must be honored out of that respect for the individual which is the lifeblood of the law. **(Breyer, J., joined by Roberts, Ch. J., and Stevens, Kennedy, Souter, Ginsburg, and Alito, JJ.)**

While a defendant must meet several requirements in order to invoke his right to self-representation these precautions, which are so necessary to protect the right to counsel, may not be permitted to eviscerate the right of self-representation.

As described in the majority of circuit courts a defendant must first, "clearly and unequivocally assert his intention to represent himself.

Second this assertion must be timely, finally there must be a showing that he "knowingly and intelligently" relinquishes the benefits of representation by counsel.

Watson made his request May 18, 2015, several months before trial, the jury was not yet empaneled nor had any selection begun until August of 2015. R. Tr. 5/28/15.pp 56-57.

From the time Mr. Watson made his request and on every day of trial he never vacillated. The record clearly shows that Watson's request was clear and unequivocal. R.Tr.5/28/15 p 39 sec20-23.

The trial courts opinion was that Watson's request was not only clear and unequivocal, it found that the request was knowing, voluntary and intelligent. R.Tr. 5/28/15 p 39 sec 20-23. This is contrary to their finding since Watson had met the requirements set forth in The Supreme Court of the United States and Faretta v. California, and all the Circuit Courts that have made similar rulings;

A decision is "contrary to...clearly established federal law, as determined by the Supreme Court of the United States" if "the state applies a rule that contradicts the governing law set forth in [the Supreme Court's case." Williams v. Taylor. 529 U.S. 362, 405, 120 S.Ct 1495,146 L.Ed.2d 389 (2000)." A state court decision will also be contrary to [the Supreme] Court's clearly established precedent if state court confronts a set of facts that are materially indistinguishable from a decision of [the Supreme] Court and nevertheless arrives at a result different from that precedent. "Id. at 406.

A comparison of several circuit courts findings illustrates the guidelines they follow in determining whether a defendant has met the requirements for self-representation, all of which

follow the Supreme Court of the United States and Faratta in determining whether a petitioner has satisfied the established requirements for self-representation, at no point in these circuit courts opinion did they believe that a proper request could also be considered not determinative. Thus the trial court opinion along with COA and the 10th circuit is in direct contradiction of all the circuit courts and the Supreme Court of the United States.

1. In **Faretta v. California , 422U.S. 806 (1975)** this Court held that a defendant in a state criminal trial has a right under the Sixth and Fourteenth Amendment to proceed without counsel if he/she clearly and unequivocally ask to do so.

2. **United States v. Hameen, 2023 U.S. App 11th Circuit COA 9/18**
A defendant's right to self-representation is implicit in the Sixth Amendment. To do so defendant must knowingly and intelligently waive his right to counsel and must be made aware of the dangers and disadvantages of self-representation.

3. **United States v. Sanchez, 2017 U.S. Dist Rhode Island District Court, 1/24/17**
Espejo Sanchez bases his argument on Faretta v. California 422 U.S. 806, 95 S.Ct.2525,45 L.Ed 2d 562 (1975 In order to represent him/herself , the accused must ,knowingly and intelligently' forgo those relinquished benefits[associated with the right to counsel.

4. **United States v. Torres, 2023 U.S. Dist Lexis 80815 New Jersey District Court 5/19/23 Third Circuit.**
In Buhl, a criminal defendant filed a written motion to proceed pro-se, reasserted his intent to proceed as such at a hearing on the motion, and repeatedly expressed frustration with the representation of his counsel. Id.at 793. The Third Circuit held, "no reasonable person can say that the request [for self-representation] was not made ."Id. Once the defendant made the clear and unequivocal request, the third Circuit held the district court was obligated to conduct a Faretta hearing, Id, Here like in Buhl Mr. Watson made a request to proceed pro-se in a written motion (ECF No.174). And further expressed a desire to engage in self-representation during oral argument on January 6, 2023(ECF No.217). Defendant's persistent and affirmative request to proceed pro-se was sufficient to establish defendant's clear and unequivocal intent to continue this litigation self-representation. See Peppers, 302 F.3d at 132 at 132; Buhl, 233 F.3d at 791.

5. **United States v. Cano, 519 F.3d 512 U.S.C. of Appeals for the Fifth Circuit**
Fundamental Rights, Criminal Process
To exercise the right of self-representation, a defendant must knowingly and intelligently forgo counsel, and the request to proceed pro-se must be clear and unequivocal.

A brief review of the opinion of the USDC Colorado shows that while the court found in their opinion that the defendant was manipulating the trial process by vacillating about whether he wanted to represent himself, is clearly erroneous based on their own findings.

In the courts own salient points, **Document 28case no: 1:22-cv-02695. P 15**

- The court found that defendant's renewed motion to proceed pro-se at trial was unequivocal, and was knowingly, voluntarily, and intelligently made.
- The court used a doctor's earlier evaluation that had to do with the charges, and had been done several months before Mr. Watson had been prescribed the medication that he claimed caused him to have an adverse reaction, thus their rejection of Watson's reason to not be able to move forward as a pro-se litigate was based on inaccurate information. See Document 28 p 15 USDC Colorado1:22-cv-02695. The report the district trial court relied on came from the evaluation performed by Doctor De Quardo, this evaluation was in no way related to Mr. Watson's claim. See Evaluation: 3/26/14 (101547). CMHiP In this evaluation the doctor stated what medication he was referring to, none of which was "Depakote, "the medication Watson had been referring to in his claim. Medication that was prescribed by the doctor from the county jail, well after Doctor De Quardo's examination.

It has also been established that the reason a defendant must make a clear and unequivocal request for self-representation, is to avoid any manipulation. The requirement to make a clear waiver is said to prevent a defendant from weaponizing his sixth amendment rights on appeal.

People v. Mayo, 198 ILL. 2d 530, 538, 764 N. E. 2d 525, 261 ILL Dec 910(2002)

~~The requirement that a request be clear and unequivocal "prevent[s] the defendant from~~

The USDC of the district of Colorado quoting from Harrington, 562 U.S. at 88, is in direct conflict to the standards set by this court. Harrington's issues did not specifically represent a constitutional violation, as it did in Watson's case.

Under Rule 12 of the Supreme Court Rules in Sec. (a), a United States Court of Appeals that has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a State court of last resort, or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court as to call for an exercise of this court's supervisory power.

A review of multiple other six amendment cases shows that the six amendment grants to the accused personally the right to his own defense: Buhl v. Cooksey 233 F.3d 783 COA Third Cir HN-26.

The primary critical question that is before this court for any defendant making a clear and unequivocal request under the six amendment is whether a defendant in a state criminal trial has a constitutional right to proceed without counsel when he/she voluntarily and intelligently elects to do so.

This court has previously given their opinion on a case similar to Watson's " Faretta v. California "., LED HN [1] [2a]. 422 U.S. 806,835 95 S.Ct. 2525 (1975). " Otherwise noting ", can a trial court extend the text of the requirements as the Colorado trial court has done in this instant case?...

This court has went so far as to put it clearly stating that the question is whether a state has the contitutional right to hale an individual into the criminal court and there force a lawyer upon him. In reviewing the case of Watson being saddled with attorney's that he already had multiple issues with, that has been throughly documented, and viewed through the lens of Wiggins 465. U.S. at 177.

In deciding whether a court has unreasonably applied or added to the context of already established law, this court only need compare the requirement set for an individual requesting Self-Representation. See: Burton, 184 Ill. 2d at 22, See also United States v. Tompking, 623 F.2d 824,824-828 (2d Cir. 1980) Maynard, 468 F.3d at 671

Whether the seriousness of this misapplication warrants reversal, hinges on what has already been considered as precedent.

The state courts contrary conclusion should be considered unreasonable, based on their own determination, that Mr. Watson's request for Self-Representation was deemed by the state trial court as clear and unequivocal,knowing,voluntary and intelligent, and he had been unwaivering in his request, on May 18, 2015 from day one. 2d. P.58 115-P59 12. 2d. D. 47. 12-7 R.Tr. 5/28/15. p39 11 20-23.

The Sixth Amendment as made applicable to the states by the Fourteenth guarantee that a defendant in a state criminal trial has an independant constitutional right of self-representation and that he or she may proceed to defend him/herself without counsel when they voluntarily and intelligenty elects to do so, The seriousness of this particular request warrants the most exterme remedy, outside of dismissal, " a new trial". see: Mckaskle 465 U.S. at 177 n. 8.

A violation of ones right to Due Process, under the due process clause a defendant's sixth amendment has always been considered serious, while the U.S.D.C. of Colorado has deemed this type of application as not serious, this is clearly erroneous and any misapplication that violates an individuals sixth and The 14th amendment right is considered extremely serious according to Supreme Court precedent, thus provides a basis for relief under §2254 " Maynard, 468 F.3d at671.

In Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975), the United States Supreme Court held that a defendant in a state criminal proceeding has the right represent him/herself without the assistance of counsel provided that the defendant's request for self-representation in unequivocal.

There is no statute or case law that supports the trial courts erroneous decision claiming that it had the authority to no|| find the requirements that Watson had met to be determative, it would seem that all of the circuits have made their determination as to whether a petitioner has satisfied the requirements to go pro-se is based in Faretta v. California and the Supreme Court of the United States. Which clearly states Judicial precedent identified a narrow exception to the right of self-representation. In the exceptional situation where a criminal defendant is competent enough to stand trial but still suffers from severe mental illness to the point where he is not competent to conduct trial proceedings by himself, the Constitution permits district courts to deny the right of self-representation and insist upon the appointment of counsel. United States v. Garrett, 42 F.4th 114.

At this time the Supreme Court of the United States has not carved out a special section indicating that courts did not have to find the sixth amendment requirements determative.

A defendant's choice to represent himself must be honored, although he may conduct his own defense ultimately to his own detriment. :Provided he or she has met the standards set forth under the Supreme Court of the United States". A review of the record shows that Mr. Watson had met those requirements. 5/28/15 p 39: 20-23, He never wavered or vacillated once he made his request on 5||18/15, the trial court also agreed that Mr. Watson was unwavering, and he made this request everyday thus even after the verdict he was still denied this right.

CONCLUSION

A District court denial of a defendant's knowing and voluntary request to proceed pro-se is a structural error requiring automatic reversal, allowing a district court's ruling to stand on the grounds of them finding a clear and unequivocal request not determinative will create such a precedent that will effect all those who make a clear and unequivocal request to self-representation, thus nullifying their Sixth Amendment right, which would bring into question the Sixth Amendment right to counsel. The right is as constitutionally protected as is the right to counsel and should be honored when properly brought forth and thus this petition should be granted based on the above facts, pointing out that Watson requested self-representation four times, only shows that he was unwavering in his request because Watson was never permitted to go pro-se four times, nor did he change his mind on the request that he made on 5/18/15 through out the trial and sentencing. This is what this court will find absent from these request, "any Vacillations". If Watson hadn't continually made request to go pro-se, the court would have claimed he had abandon his request, thus he was placed in an untenable situation. See: Exhibit D-1, pg. 6-A, of 2024 WL 1005070. The key element here is continually asking to go pro-se after denial does not in anyway show vacillation or manipulation, as the lower court has attempted to ascribe to.

For the foregoing reason and authorities in the interest of justice The Supreme Court of the United States should appoint counsel and grant a hearing on this matter, or reverse the opinion of the lower courts.

Respectfully Submitted

Warren D Watson