

# Self-representation

Business



In order to ensure just treatment of people, the judicial system avails all legal options to accused persons. Due to the complexity of the judicial system, it is vital for accused persons to be legally represented by a qualified attorney. Attorneys are conversant with procedural and legal complexities of various cases and, therefore, increase chances of accused persons to win legal battles.

People are free to decide whether to have an attorney or choose self-representation. The Sixth Amendment guarantees all individuals facing criminal charges the right to counsel, whether in federal or state court. In addition to guaranteeing the right to counsel, the Sixth Amendment also guarantees individuals facing criminal charges the right to represent themselves in court. Self-representation is an option that defendants must choose willingly and independently. However, under certain circumstances the trial judge may negate the authority of the defendant to exercise this option.

For instance, the defendant can lack the capability to make an informed independent decision to waive legal representation, or his self-representation is disruptive to the orderly procedures of the court. However, the right to self-representation only applies during trial. The Sixth Amendment does not give constitutional right to self-representation upon direct appeal after conviction of a criminal. Various legal cases have helped to shape American judicial system with regard to self-representation. These cases include *Faretta v.*

California, 422 U. S. 806 (1975), McKaskle v. Wiggins, 465 U. S. 168 (1984), Godinez v.

Moran, 509 U. S. 389 (1993), and Indiana v. Edwards, 554 U. S. 164 (2008).

Right for self-representation has its foundations in the ‘ respect for the individual’. In Faretta v. California, 422 U. S. 806 (1975) case, the court heard that even if the defendant exercises the right to self-representation to his own detriment, the Constitution guarantees the individual the right to do so.

Therefore, a defendant who knowingly opts for self-representation cannot thereafter complain that the quality of self-defense denied the defendant an effective assistance to counsel. In the case, Faretta maintained that unless the defendant has consented to be defended by counsel, the defense presented by the counsel is not the defense that the Constitution guarantees him, and in essence, it not his defense (Dimitrakopoulos, 2007). Therefore, the Faretta court determined that the defendant has a right to self-representation. McKaskle v. Wiggins, 465 U.

S. 168 (1984) case spells out essential elements of self-representation.

McKaskle v. Wiggins was a case involving a standby counsel appointed by the trial court to represent the defendant. According to the Faretta court, the defendant has a right to choose the counsel.

Therefore, standby counsel’s participation should not impede the jury’s perception of defendant’s self-representation. In McKaskle v. Wiggins case, the court determined that the trial court has the right to appoint a standby

counsel without violating defendant's right outlined in the Sixth Amendment if the counsel merely helps to ensure that the defendant complies with the rules of courtroom procedures and protocol (Garcia, 1992). In this situation, the counsel merely assists the trial judge in his task to ensure that the defendant complies with courtroom procedures and protocol. For the trial court to recognize individual's right to self-representation, it is important for the individual to opt for self-representation knowingly and willingly. This means that the defendant must be competent enough to stand trial and use his right of self-representation.

There should also be no coercion to ensure self-representation of the defendant. *Godinez v. Moran*, 509 U. S. 389 (1993) case shows that an individual who is competent to stand trial is also competent to plead guilty in case of self-representation.

Therefore, if the trial court determines that an individual is competent for either standing trial or pleading guilty, the individual is automatically recognized as competent for the other. A competent individual has a right to reject counsel. Therefore, it is irrelevant whether self-representation caused inadequate representation of the defendant. In *Godinez v. Moran* case the court sentenced the defendant to life imprisonment after pleading guilty to first degree murder. Moran had initially entered a plea of not guilty, but after discharging his attorney, he pleaded guilty to all counts of first degree murder.

This enabled the court to sentence him to life imprisonment. In recognizing Moran as competent to stand trial and, therefore, as competent to plead

guilty, the court seemed to be moving towards a single competency standard that can be applied in all criminal proceedings (Van Dorsten, 2002). Therefore, the Moran court held that the competency standard for waiving the right to counsel or pleading guilty is much higher than the competency of the defendant to stand trial. In *Indiana v. Edwards*, 554 U.

S. 164 (2008) case the USSupremecourt had to determine whether the state can deny a mentally ill individual the right of self-representation despite recognizing this individual as competent to stand trial (Wilson, 2010). The court held that states do not violate individual's right to self-representation outlined in Sixth Amendment by insisting on counsel representation for individuals who are competent enough to stand trial but suffer from severe mental illness, which renders them incompetent to conduct trial proceedings on their own. However, if the defendant trial court determines that the defendant is competent enough to waive counsel's assistance, the trial court is under no obligation to inform the defendant about repercussions of the action in deciding whether to plead guilty or not (Ferdico, Fradella, & Totten, 2012).

Therefore, defendants who decide to act on their own counsel do so at their own peril and should, therefore, be willing to face consequences of their actions. In conclusion, the Sixth Amendment gives all Americans the right to a fair trial. This means that individuals facing criminal charges have a right of self-representation. However, in order for the right of self-representation to be valid, the individual must possess certain level of competency to guarantee a fair trial. Therefore, level of competency of the defendant is the main factor that determines whether the trial court or appellate court should

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grant this individual the right to self-representation in accordance with the Sixth Amendment.