

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

United States v. Couch

No. 18-3032, United States Court of Appeals for the Tenth Circuit (December 20, 2018)

SUMMARY

Hybrid representation is not a constitutional right but may be allowed in a district court's discretion. The Tenth Circuit affirmed the denial of hybrid representation, holding that when the record is ambiguous as to whether the district court recognized its discretion, the appellate court presumes the court understood the law and exercised its discretion. The district court's statements that hybrid representation is "typically" not done and "creates more problems" indicated it understood its discretion, not that it mistakenly believed hybrid representation was never permitted.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Robert E. Bacharach; Bobby R. Baldock; Gregory A. Phillips
JURISDICTION	Federal
DECIDED	December 20, 2018
DOCKET	18-3032
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from revocation of supervised release
STANDARD OF REVIEW	abuse of discretion
PRECEDENTIAL VALUE	Unpublished
PARTIES	Steven E. Couch, Jr. v. United States of America

TOPICS

criminal procedure

sixth amendment

right to counsel

appellate procedure

standard of review

PRACTICE AREAS

Criminal Law

Appellate Procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion in denying hybrid representation by relying on a mistaken belief that it lacked discretion.

HOLDINGS

1. The district court did not abuse its discretion because the ambiguous record supports an inference that the court recognized its discretion to allow hybrid representation and exercised it to deny the request.

KEY QUOTATIONS

“THE COURT: Well, here’s-- the thing. You’re right, that under the Constitution, you have a right to represent yourself in this hearing. Here’s-- there are a couple of impediments. One is that, typically, in this setting we don’t do sort of halfway. You either represent yourself or you’re represented by counsel. We don’t do kind of hybrid arrangements like that, because it creates more problems than I can solve.” (R., vol. I at 116)

“So, Mr. Couch, I’m back to you because this is an either/or circumstance.” (R., vol. I at 119)

“[Y]ou either represent yourself in this proceeding or you’re represented by counsel. Those really are the choices. And it’s one of them or the other of them. It’s not a mixture.” (R., vol. I at 119-20)

“Mr. Couch, with all respect for you, I-- we cannot proceed, I cannot allow this to go forward this morning, with a mixture of the two.” (R., vol. I at 123)

FACTUAL BACKGROUND

The underlying dispute arose in Mr. Steven E. Couch Jr.’s hearing on the government’s petition to revoke supervised release. Mr. Couch was represented by counsel, but he asked the court to allow pro se briefing and oral argument. The district court pointed out that Mr. Couch had no constitutional right to hybrid representation, rejected his request, and required him to choose between representing himself and acting through counsel. Mr. Couch refused to choose between the two, so the court directed Mr. Couch to proceed through his counsel. The court later revoked Mr. Couch’s supervised release, leading to this appeal.

PROCEDURAL HISTORY

The district court revoked Mr. Couch’s supervised release after he requested hybrid representation and refused to choose between self-representation and counsel. Mr. Couch appealed, arguing the district court abused its discretion by denying hybrid representation based on a mistaken belief that it lacked discretion.

DISPOSITION

affirmed

CASES CITED

- *McKaskle v. Wiggins*, 465 U.S. 168 (1984)
- *Faretta v. California*, 422 U.S. 806 (1975)
- *United States v. Treff*, 924 F.2d 975 (10th Cir. 1991)

- United States v. Hale, 762 F.3d 1214 (10th Cir. 2014)
- Walton v. Arizona, 497 U.S. 639 (1990)
- Ring v. Arizona, 536 U.S. 584 (2002)
- Kansas v. United States, 249 F.3d 1213 (10th Cir. 2001)
- United States v. Franke, 1995 WL 298137 (10th Cir. May 16, 1995) (unpublished)
- United States v. Sierra-Castillo, 405 F.3d 932 (10th Cir. 2005)
- United States v. Fortier, 180 F.3d 1217 (10th Cir. 1999)
- Langnes v. Green, 282 U.S. 531 (1931)
- SR Int'l Business Ins. Co. v. World Trade Center Props., LLC, 467 F.3d 107 (2d Cir. 2006)
- Konkright v. Frommert, 559 U.S. 506 (2010) (Breyer, J., dissenting)
- Fisher v. State, 367 Md. 218, 786 A.2d 706 (Md. 2001)
- United States v. Barrera-Barron, 996 F.2d 244 (10th Cir. 1993)