

SUPREME COURT OF FLORIDA

Pasha v. State

39 So. 3d 1259 (Fla. 2010) · No. SC08-1129 · Decided June 24, 2010

SUMMARY

The Supreme Court of Florida held that Khalid Ali Pasha unequivocally invoked his constitutional right to self-representation after the trial court denied his request for substitute counsel. The court reversed his first-degree murder convictions, vacated his death sentences, and remanded for further proceedings because the denial of self-representation was not subject to harmless-error analysis.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Quince, C.J.; Pariente, J.; Lewis, J.; Canady, J.; Polston, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	June 24, 2010
DOCKET	SC08-1129
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from two first-degree murder convictions and death sentences. The Supreme Court of Florida exercised mandatory jurisdiction over the death sentences and reviewed the denial of Pasha's request to proceed pro se.
STANDARD OF REVIEW	De novo review of whether the defendant's request for self-representation was unequivocal and whether denial of the constitutional right to self-representation constituted reversible error.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; binding precedent in Florida on the stated self-representation rule.
PARTIES	Khalid Ali Pasha v. State of Florida

TOPICS

- right to counsel
- sixth amendment
- criminal procedure
- appellate procedure
- harmless error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Pasha's request to proceed pro se was unequivocal even though he stated a preference for representation by substitute counsel.
2. Whether the trial court violated Pasha's constitutional right to self-representation by denying his request after determining it was equivocal.
3. Whether denial of the right to self-representation was subject to harmless-error analysis.

HOLDINGS

1. When a trial court denies a defendant's request for substitute counsel after a Nelson hearing and the defendant continues to seek discharge of appointed counsel and to represent himself, the request for self-representation is unequivocal even if the defendant continues to express a preference for substitute counsel.
2. The trial court reversibly erred by finding Pasha's request to proceed pro se equivocal and denying the request.
3. Denial of the constitutional right to self-representation is not amenable to harmless-error analysis.

KEY QUOTATIONS

“A defendant who persists in discharging competent counsel after being informed that he is not entitled to substitute counsel is presumed to be unequivocally exercising his right to self-representation.” (1262)

“Where a trial court has denied a defendant's request for substitute counsel after a Nelson hearing and the defendant still maintains that he wants to discharge counsel and represent himself, the defendant's request is unequivocal—even where the defendant states his continuing preference for substitute counsel.” (1263)

“The right is either respected or denied; its deprivation cannot be harmless.” (1262)

FACTUAL BACKGROUND

Pasha was convicted of murdering his wife, Robin Canady, and step-daughter, Reneesha Singleton, in 2002 and received two death sentences. Before trial, he sought to discharge appointed counsel Nick Sinardi because of disagreements over defense strategy. After the trial court found Sinardi effective at a Nelson hearing, Pasha continued to state that he wanted to avoid proceeding with Sinardi and filed a written and oral request to represent himself. During the Faretta inquiry, Pasha said he preferred having a lawyer but would rather proceed pro se than continue with Sinardi.

PROCEDURAL HISTORY

Approximately one week before trial, Pasha moved to discharge appointed counsel and obtain substitute counsel. After a Nelson hearing, the trial court found counsel effective and denied the motion. On the morning jury selection began, Pasha filed a written motion and orally requested self-representation; the trial court found the

request equivocal, denied it, and proceeded with appointed counsel. Pasha appealed his convictions and death sentences.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse Pasha's first-degree murder convictions, vacate the death sentences, and remand for further proceedings consistent with the opinion.

CASES CITED

- Faretta v. California, 422 U.S. 806 (1975)
- Tennis v. State, 997 So. 2d 375, 377-78 (Fla. 2008)
- Indiana v. Edwards, 554 U.S. 164 (2008)
- Nelson v. State, 274 So. 2d 256 (Fla. 4th DCA 1973)
- Weaver v. State, 894 So. 2d 178, 191-93 (Fla. 2004)
- Jones v. State, 449 So. 2d 253, 258 (Fla. 1984)
- McKaskle v. Wiggins, 465 U.S. 168, 177 n. 8 (1984)

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