

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Harun

United States v. Harun, 922 F.3d 129 (2d Cir. 2019) · Decided April 24, 2019

SUMMARY

The Second Circuit affirmed the denial of a Faretta waiver where the defendant, a member of al-Qaeda, obstructed the district court's attempts to conduct a colloquy by refusing to answer questions, cursing at the judge, and threatening violence, thereby preventing the court from ensuring the waiver was knowing and intelligent. The court also held that a defendant's deliberate and serious obstructionist misconduct independent supports denying self-representation. On statutory grounds, the circuit ruled that 18 U.S.C. § 2332(b)(2) criminalizes conspiracy to murder U.S. nationals "outside the United States" and does not require the offense to occur within the special maritime and territorial jurisdiction, as the statute's plain language applies extraterritorially.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Per Curiam; Hall, Jacobs, Kearse
JURISDICTION	Federal
DECIDED	April 24, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from conviction after jury trial
STANDARD OF REVIEW	We review 'conclusions regarding the constitutionality of a defendant's waiver [of counsel]' de novo, and 'supporting factual findings' for clear error. We review de novo questions of statutory interpretation.
PRECEDENTIAL VALUE	Published
PARTIES	Adnan Ibrahim Harun Adam Hausa v. United States of America

TOPICS

criminal procedure

sixth amendment

right to counsel

statutory interpretation

conspiracy

PRACTICE AREAS

Criminal Law

Constitutional Law

QUESTIONS PRESENTED

1. Whether Hausa was denied his Sixth Amendment right to self-representation when the district court denied his request to waive counsel.
2. Whether the government failed to prove that Count One, conspiracy to murder U.S. nationals, occurred within the special maritime and territorial jurisdiction of the United States.

HOLDINGS

1. The district court did not err in denying the waiver because the defendant prevented the court from assessing a knowing and intelligent waiver of the right to counsel, and alternatively, the defendant's obstructionist misconduct independently supported denial of self-representation.
2. The argument is meritless because the plain language of 18 U.S.C. § 2332(b) criminalizes conspiracies to kill U.S. nationals committed 'outside the United States,' and therefore section 1111(b) is not a jurisdictional requirement for subsection (2).

KEY QUOTATIONS

“Because a defendant who decides to act pro se relinquishes traditional benefits associated with formal legal representation, the district court must ensure that the accused made [that] decision 'knowingly and intelligently.’” (at 131)

“I have no basis to find that he is validly waiving his right to counsel if he refuses to let me ask him questions about it.” (at 134)

“Subsection (2)'s plain language criminalizes conspiracies to kill U.S. nationals committed 'outside the United States.’” (at 136)

FACTUAL BACKGROUND

Hausa, a member of al-Qaeda, attacked U.S. and coalition forces in Afghanistan, resulting in the death of two U.S. soldiers. He was arrested in Italy, extradited to the United States, and in pretrial proceedings repeatedly expressed a desire to represent himself. However, he disrupted proceedings, refused to answer questions, and demanded transfer to an international court. The district court found him competent to stand trial but unable to validly waive counsel. He was convicted of multiple terrorism-related charges.

PROCEDURAL HISTORY

Hausa was indicted in the Eastern District of New York, extradited to the United States, and after pretrial proceedings where he sought to represent himself, the district court denied his request. He was convicted by a jury on five counts and sentenced to life imprisonment. He appealed.

DISPOSITION

affirmed

CASES CITED

- *Torres v. United States*, 140 F.3d 392 (2d Cir. 1998)
- *Faretta v. California*, 422 U.S. 806 (1975)
- *United States v. Spencer*, 995 F.2d 10 (2d Cir. 1993)
- *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006)
- *McKaskle v. Wiggins*, 465 U.S. 168 (1984)
- *United States v. Al Kassar*, 660 F.3d 108 (2d Cir. 2011)
- *United States v. Fore*, 169 F.3d 104 (2d Cir. 1999)
- *United States v. Schmidt*, 105 F.3d 82 (2d Cir. 1997)
- *United States v. Garey*, 540 F.3d 1253 (11th Cir. 2008)
- *Clark v. Perez*, 510 F.3d 382 (2d Cir. 2008)
- *Davis v. Grant*, 532 F.3d 132 (2d Cir. 2008)