

knew the consequences of what he was doing and still did it anyway. In that circumstance, the court can accept the defendant's voluntary choice as a waiver of counsel. A trial court may decide to appoint counsel, but it is not required to do so.

Discussion

This case addresses the Sixth Amendment, specifically the right to self-representation and the right to be present during criminal proceedings, as well as the limits of these rights. Per *Faretta v. California*, 422 U.S. 806 (1975), defendants have a constitutional right to self-representation. If the *pro se* defendant engages in misconduct, however, the trial court can terminate the defendant's self-representation and appoint counsel, even over the defendant's objection. Courts may even appoint a stand-by counsel who can represent the accused if the defendant's self-representation is terminated.

In addition to *Menefee*, there are several court decisions, specifically *People v. Carroll*, 189 Cal. Rptr. 327 (Cal. Ct. App. 1983) and *United States v. Mack*, 362 F.3d 597 (9th Cir. 2004), that support appointment of counsel after a *pro se* defendant is removed from the courtroom for misconduct. In these cases, however, the defendants were not warned of the consequences for their misconduct. Thus, the

defendants' waivers of counsel in these cases were made without knowledge of the consequence. It is interesting to note in this case that Mr. Lacey was deemed able to proceed *pro se* without any psychiatric or psychological evaluation, which could have explored whether a mental illness or condition was rendering him incompetent to proceed *pro se*.

*Lacey* illustrates the fact that the right to self-representation is not limitless. Defendants can lose their right to self-representation by affirmatively waiving it or by engaging in misconduct. Under *Lacey*, a trial judge is not constitutionally required to appoint counsel for a *pro se* defendant who is voluntarily absent or chooses to engage in misconduct despite knowing that it will result in removal from the courtroom and the absence of any representation.

It is commonly thought that defendants who decide to proceed *pro se* place themselves at a disadvantage in our adversarial court system. Nevertheless, defendants are constitutionally allowed autonomy to direct their own defense. Compelling a defendant to accept an unwanted lawyer violates that autonomy. Keeping this in mind, courts have a difficult job of balancing a defendant's autonomy while ensuring fairness of the legal proceedings.

Disclosures of financial or other potential conflicts of interest: None.

E R R A T U M

In the editorial "Media and Mental Illness in a Post-Truth Era" (J Am Acad Psychiatry Law 47:144–149, 2019), Dr. Kolla's title was listed incorrectly. He is Assistant Professor, University of Toronto, Department of Psychiatry, Toronto, Ontario, Canada.

DOI:10.29158/JAAPL.003892-19