In the

United States Court of Appeals

For the Seventh Circuit

No. 22-2312

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

QWANELL S. JONES,

Defendant-Appellant.

Appeal from the United States District Court for the
Central District of Illinois.
No. 3:20-cr-30045 — **Michael M. Mihm**, *Judge*.

ARGUED APRIL 12, 2023 — DECIDED APRIL 24, 2023

Before SCUDDER, KIRSCH, and LEE, *Circuit Judges*.

SCUDDER, *Circuit Judge*. Facing federal charges, Qwanell Jones exercised his Sixth Amendment right to represent himself under *Faretta v. California*, 422 U.S. 806 (1975). Jones now claims that the district court should have prevented him from doing so. But the district court rightly concluded that he had knowingly and voluntarily waived his right to counsel. We affirm.

I

A

Police officers in Raymond, Illinois, discovered a loaded firearm, cocaine, and more than 800 methamphetamine pills on Jones's person and in his car during a traffic stop in March 2020. Federal charges followed for various drug and firearm offenses.

Jones wanted to mount frivolous challenges to the district court's jurisdiction. But counsel, bound by his ethical obligations, declined to make those arguments on Jones's behalf. See *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990). So Jones sought to represent himself.

Magistrate Judge Eric Long conducted a *Faretta* colloquy to verify Jones's decision to waive counsel in April 2021. The colloquy—covering Jones's age, education, mental health, and prior legal experiences—was extensive by any measure. After discussing his background, Jones confirmed his understanding of the charges against him. He claimed to have assisted other defendants in court and agreed that he could follow the Federal Rules of Evidence and Criminal Procedure. He also said that he understood the perils of self-representation, which Magistrate Judge Long explained and stressed in detail. The court therefore allowed Jones to represent himself and appointed his public defender as standby counsel.

Jones spent the months leading up to trial challenging the district court's jurisdiction in multiple, frivolous filings. He filed several motions himself and improperly arranged for a nonlawyer, Sharon Renee Lloyd, to submit many others for him.

Jones and Lloyd used these filings to advance arguments grounded in the sovereign-citizen movement. Like many sovereign citizens, Jones believes he is not subject to the federal government's jurisdiction. See *United States v. Jonassen*, 759 F.3d 653, 657 n.2 (7th Cir. 2014). Indeed, he seems to think the government had sought to hold him pursuant to what he calls its commercial jurisdiction. To secure his own release, Jones filed fraudulent financial documents that purported to settle unpaid debts. See *El v. AmeriCredit Fin. Servs.*, 710 F.3d 748, 750 (7th Cir. 2013). He also held himself out as a "descendant[ ] of the Moors of North Africa," a group he believed was shielded by treaty from the exercise of jurisdiction by the United States. *El v. Sheboygan*, No. 18-cv-293, 2018 LEXIS 88727, at *6 (E.D. Wis. May 29, 2018) (discussing beliefs held by certain sovereign citizens). Needless to say, none of these arguments had any "conceivable validity in American law." *Jonassen*, 759 F.3d at 657 n.2 (quoting *Schneider*, 910 F.2d at 1570).

Concerned with the substance and incoherence of the filings, the government requested a second *Faretta* colloquy. This time around, and on the eve of trial in November 2021, District Judge Michael Mihm conducted the colloquy. Jones proved markedly less cooperative in this second colloquy. He insisted he did not "consent" to jurisdiction and would not participate in his trial. While he acknowledged understanding the "letter" of the charges against him, he also expressed confusion about whether the proceedings were criminal, civil, administrative, or even "statutory maritime." But after reviewing the indictment and Jones's past experiences with criminal law, Judge Mihm concluded that Jones's waiver of counsel remained valid.

B

True to his word, Jones declined to participate meaningfully in his trial. He did not deliver opening or closing statements, cross-examine witnesses, or lodge any evidentiary or other objections. Although he attempted to testify, his testimony had no bearing on the charges against him. The jury convicted Jones of all charges, and the district court sentenced him to 138 months' imprisonment.

Jones appeals, now represented by counsel. The sole issue before us is whether the district court erred in allowing him to represent himself.

II

The Sixth Amendment protects a criminal defendant's right to represent himself, so long as he makes a knowing and voluntary choice to forego counsel. See *Faretta*, 422 U.S. at 831–35. In assessing whether a defendant knowingly and voluntarily waived his right to counsel, we take our own fresh look at the district court's legal determinations and review its factual findings for clear error. See *United States v. Johnson*, 980 F.3d 570, 576 (7th Cir. 2020). Counsel plays a vital role in criminal proceedings, so we "indulge every reasonable presumption against the waiver." *United States v. Belanger*, 936 F.2d 916, 919 (7th Cir. 1991) (quoting *Wilks v. Israel*, 627 F.2d 32, 35 (7th Cir. 1980)).

Four factors guide our analysis. We look first to the extent of the district court's formal inquiry into the defendant's waiver of counsel, if any; next to other evidence in the record showing the defendant understood the dangers and disadvantages of self-representation; then to the defendant's background and experience; and finally to the context of the

choice to proceed pro se. See *United States v. Sandles*, 23 F.3d 1121, 1126 (7th Cir. 1994).

A

Each of these factors shows that Jones chose to represent himself "with eyes open." *Faretta*, 422 U.S. at 835 (quoting *Adams v. United States ex rel. McCann*, 317 U.S. 269, 279 (1942)). His waiver was valid.

Return to the two extensive *Faretta* colloquies. Magistrate Judge Long and Judge Mihm covered the proper topics by asking Jones about his "age and level of education" and by "inform[ing] him of the crimes with which he was charged, the nature of those charges, and the possible sentences they carry." *Belanger*, 936 F.2d at 918.

Most importantly, the two judges took care to explain and emphasize the perils and "pitfalls of self-representation." *Sandles*, 23 F.3d at 1127. Magistrate Judge Long told Jones that "it's just not considered a good idea for a person in your situation to represent yourself," especially when the appointed public defender was "an experienced trial attorney" who does "good work." Going a step further, Magistrate Judge Long identified specific situations where Jones would struggle without a lawyer, including selecting jurors, reviewing proposed jury instructions, preserving issues for appeal, and tailoring arguments for judges and jurors. Jones would need to grapple with his inexperience in each of these areas while managing the understandable emotional consequences for anyone facing a criminal conviction and a potentially lengthy prison sentence.

Judge Mihm, too, underscored that Jones would not only be "on [his] own" if he waived counsel, but he would also be

unable to solicit advice from the district court and would be subject to procedural and evidentiary rules that would "not be relaxed for [his] benefit." For all those reasons, Judge Mihm "strongly urge[d]" Jones to accept counsel and recognize that "a trained lawyer would defend [him] far better than [he] could defend [himself]."

Jones seemed to comprehend the risks, and it was reasonable for the district court to reach the same conclusion. In both colloquies, Jones indicated he understood the elements of the charges, his sentencing exposure, and the various disadvantages of self-representation. Before both colloquies and during a hearing when Jones first asked to represent himself, he told the district court that he understood the penalties he faced and wished to represent himself despite the disadvantages of proceeding pro se. These admissions "weigh heavily on the side of finding a waiver." *United States v. Moya-Gomez*, 860 F.2d 706, 736 (7th Cir. 1988).

The context of the waiver also matters. Jones "fired his trial counsel (at least in part) in order to make his sovereign-citizen defense that the [district] court lacked jurisdiction over him." *United States v. Banks*, 828 F.3d 609, 615 (7th Cir. 2016). No doubt his choice was ill-advised. But it was nevertheless a litigation tactic that further suggests his waiver was knowing and voluntary. See *id.*; *United States v. England*, 507 F.3d 581, 588 (7th Cir. 2007) ("A waiver is likely knowing and voluntary if the defendant gave it for strategic reasons or after repeatedly rejecting the assistance of counsel.").

Jones's background and experience add more support to the district court's determination that his waiver was knowing and voluntary. Nobody has ever questioned whether Jones was competent to stand trial. His criminal record, which

included three felony convictions and an eight-year prison sentence, surely supplied some knowledge of the gravity of the situation he faced with this particular set of charges. See *United States v. Volpentesta*, 727 F.3d 666, 677–78 (7th Cir. 2013). And although Jones had never represented himself before, he was 26 at the time of the proceedings, had a high school education, and claimed to have at least some understanding of evidentiary and procedural rules. See *id.*

Of course, Jones participated only minimally at trial, and his brief effort to testify went poorly. See *Sandles*, 23 F.3d at 1128 (considering the defendant's performance at trial). But his "general inaction" was consistent with the strategic decision to pursue a sovereign-citizen defense. *Banks*, 828 F.3d at 616. "The fact that that strategy was unwise, without more, is irrelevant." *Id.*

B

Jones views the record in a very different light. First and foremost, he tells us that his legal theories were so outlandish and the district court's colloquies so deficient that he could not have knowingly and voluntarily waived his right to counsel. Not so, in our view.

Remember that Jones's contentions—and all of his purported confusion about the nature of the proceedings—were part and parcel of a broader defense that appealed to sovereign-citizen beliefs. Pursuing that defense put the district court in a delicate spot. On the one hand, sovereign-citizen theories are not just "bizarre," *Jonassen*, 759 F.3d at 660, they also reflect misunderstandings about criminal jurisdiction. But there is no bright line rule barring sovereign citizens from representing themselves. To the contrary, a

defendant like Jones can make a clear-eyed, tactical decision to mount a sovereign-citizen defense. See *Banks*, 828 F.3d at 615; see also *Jonassen*, 759 F.3d at 660–61 & n.4 (concluding that a sovereign citizen was competent to stand trial and, by extension, able to represent himself). Although the defense is almost certain to fail, the Sixth Amendment protects the right of defendants to "go down in flames if they wish[ ]." *United States v. Reed*, 668 F.3d 978, 986 (8th Cir. 2012) (quoting *United States v. Johnson*, 610 F.3d 1138, 1140 (9th Cir. 2010)); see also *Jonassen*, 759 F.3d at 660 ("Criminal defendants often insist on asserting defenses with little basis in the law, particularly where, as here, there is substantial evidence of their guilt.").

In the sovereign-citizen context, the district court's front-row perspective is all the more valuable. And in this case two different judges, drawing from extensive colloquies, concluded that Jones had knowingly and voluntarily waived his right to counsel despite his adherence to the sovereign-citizen movement. We agree.

Jones also identifies what he believes are two major deficiencies in the *Faretta* colloquies. When Judge Mihm and Magistrate Judge Long asked Jones if he understood their questions and admonitions, he frequently responded either by saying "yes" or that he "overstood." When pressed by Judge Mihm, Jones indicated that "overstood" meant "being aware." Judge Mihm therefore concluded that the word meant "yes." Jones now tells us that the use of the word "overstood" should have sounded alarm bells for both judges about whether he truly comprehended what was happening. But the district court's determination that overstood means "yes" is a factual finding which we review for clear error. See *United States v. Balsiger*, 910 F.3d 942, 952 (7th Cir. 2018). And we

cannot say we have a "definite and firm conviction that a mistake has been made." *Id.* at 956 (quoting *United States v. Radziszewski*, 474 F.3d 480, 486 (7th Cir. 2007)).

Jones further believes that Judge Mihm should have warned him that he could not rely on the filings of a nonlawyer like Sharon Renee Lloyd. Without that warning, he claims he could not have appreciated the disadvantages of pro se representation. But we do not mandate any magic words for a *Faretta* colloquy. See *United States v. Vizcarra-Millan*, 15 F.4th 473, 486 (7th Cir. 2021). Indeed, we do not require a formal *Faretta* colloquy at all if the record adequately establishes that the defendant knowingly and voluntarily waived his right to counsel. See *id.* at 486 n.1. In this case, Magistrate Judge Long and Judge Mihm explained the dangers of self-representation at length and in detail. That was enough to help Jones make his choice knowingly and voluntarily. Neither can Jones claim to have been caught off guard by the fact that he could not use a nonlawyer to file his papers: the district court told Jones repeatedly in docket entries and in other hearings that Lloyd had no authority to submit filings for him.

Putting aside the sufficiency of the colloquies, Jones contends that the district court should have rescinded his waiver of counsel when he refused to participate in trial. Here, too, we disagree. We have only allowed district courts to rescind a defendant's waiver of counsel when he obstructs the proceedings, making it "practically impossible to proceed." *United States v. Brock*, 159 F.3d 1077, 1080–81 (7th Cir. 1998); see also *United States v. Brown*, 791 F.2d 577, 578 (7th Cir. 1986). Nothing about Jones's behavior at trial rose to that level. In fact, the Sixth Amendment protected his right to "stand[ ] mute and forc[e] the state to its proofs," as he elected to do. *United States*

v. Clark, 943 F.2d 775, 782 (7th Cir. 1991) (quoting *United States v. McDowell*, 814 F.2d 245, 250 (6th Cir. 1987)). "More importantly, even if [Jones's] actions did warrant recission—and they did not—the district judge was not *obligated* to rescind." *Banks*, 828 F.3d at 617.

For these reasons, we AFFIRM.