In The

Court of Appeals

Ninth District of Texas at Beaumont

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NO. 09-06-325 CR

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TROYDON SHANNARD GLOVER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 94580

MEMORANDUM OPINION

Appellant Troydon Shannard Glover was convicted of criminal conspiracy and sentenced to life imprisonment in the Texas Department of Criminal Justice-Institutional Division. Glover filed this appeal arguing that the judgment should be reversed because he was denied the right to counsel based on the following: (1) he never asserted his right to represent himself; (2) the trial court failed to admonish him sufficiently concerning the dangers of self-representation; and (3) he withdrew his waiver of the right to counsel. We

hold that Glover clearly and unequivocally asserted his right to represent himself; his decision to proceed pro se was made knowingly, intelligently, and voluntarily; and the trial court did not abuse its discretion in denying Glover's requests to have counsel reinstated. We affirm.

FACTUAL BACKGROUND

Glover was indicted as a repeat felony offender for the offense of criminal conspiracy. He pled not guilty, and the case was tried to a jury. The jury found Glover guilty and assessed punishment at confinement in prison for life.

The case was called for trial on July 10, 2006. Prior to the commencement of voir dire, the Court addressed the issue of appointed counsel's representation of Glover in the following exchange:

> THE COURT: Now to the issue of whether or not you are the attorney. Mr. Glover, it's my understanding you don't want [court-appointed counsel] to represent you; is that correct?
>
> THE DEFENDANT: May I go into an explanation, Your Honor?
>
> THE COURT: No, sir. I just need to know if you have fired [court-appointed counsel] or if you want him to –
>
> THE DEFENDANT: I'm firing [court-appointed counsel].
>
> THE COURT: Are you wanting to proceed throughout this trial pro se?
>
> THE DEFENDANT: I will need time to prepare. Yes, sir, I wish to be pro se; but I need time to prepare.

THE COURT: Well, today is the day that you're set for trial. We're going to move forward today. My question is: Do you want to fire [court-appointed counsel], which I have heard now from [counsel], I think; and you've indicated that to the bailiff, correct?

THE DEFENDANT: Yes, sir, I wish to fire [court-appointed counsel].

THE COURT: And you understand the pitfalls with proceeding to trial representing yourself?

THE DEFENDANT: Yes, sir, I understand the pitfalls of representing myself.

THE COURT: And you understand that this case has been set for trial for quite a while now?

THE DEFENDANT: No, sir.

THE COURT: You don't understand that?

THE DEFENDANT: I have not been informed it's been set for trial for quite a while.

THE COURT: Well, you understand that if you give up [court-appointed counsel], that I'm going to hold you to the same standard that I would hold [court-appointed counsel] to and [the prosecutors]? Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And understanding all that, do you want me to cut [court-appointed counsel] loose?

THE DEFENDANT: Yes, sir, I wish you to cut [court-appointed counsel] loose.

THE COURT: [Counsel], you are free to go at this time. You are relieved of your responsibilities. Before he walks out the door, I'm going to offer him to you one more time and just make sure.

> THE DEFENDANT: Your Honor, I would like to present this motion firing [court-appointed counsel], removing him from my case, that I have tried to file in your court on January the 16th –
>
> THE COURT: Before you get into that, is he fired?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: Nothing else to talk about on that issue; is that right?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: [Counsel], you're free to go.

Before court-appointed counsel left the courtroom, the court instructed him to meet with Glover in the back of the courtroom to make sure that Glover had all the discovery that had been produced by the prosecution. Following voir dire and before jury strikes were made, the following exchange took place:

> THE DEFENDANT: I would also like the record to reflect that I have an attorney that's on retainer out of Dallas.
>
> THE COURT: And I want the record to reflect that we're now over an hour and a half into this process and with that, you made the decision to represent yourself after I admonished you not to and you chose to do that. So, we'll move forward. You got 15 minutes.

The following day, after voir dire but prior to the State's presentation of witnesses, Glover presented to the court a hand-written motion for continuance, which was denied. Glover asserted eighteen grounds in support of his motion for continuance, including that he

had not been given adequate time to prepare his defense. After Glover requested a continuance, the following exchange took place:

> THE COURT: Anything in addition to this motion here?
>
> THE DEFENDANT: Yes, sir. I would like to also request the appointment of counsel to help me with evidence.
>
> THE COURT: We'll get that taken care of immediately. It's going to be for standby purposes, and it will be for that limited purpose. You understand that?
>
> THE DEFENDANT: Yes, Your Honor. I would also like to request appointment of counsel to represent me.
>
> THE COURT: That's denied. You've already had that opportunity, but I will appoint standby counsel to represent you. [Counsel], could I see you?
>
> THE DEFENDANT: Could I also request co-counsel?
>
> THE COURT: You can request all of it, but I want to make sure you understand--and I'll give you a running request on that through the remaining of the trial. So, you don't need to bring it up again.
>
> I want the record to be very clear that you were admonished yesterday on several opportunities, and this Court is convinced that the sole purpose of you firing [court-appointed counsel] at the time you did was to manipulate the Court's docket so that you could get a continuance on your trial. I explained that to you at the time, that you were making a grave error by terminating the services of your court-appointed attorney . . . who was ready, willing and able to assist you during the trial. You made that decision.
>
> And with that, I am going to get you standby counsel; and that counsel will help you strictly dealing with legal issues during this trial. It's not your investigator. It's not any of those things. But as far as you delaying this trial, I asked you at the time yesterday if you were ready to proceed and told you that the jury was waiting and that we were fixing to start a jury trial; and in the face of that, you fired your attorney. Okay?

> So, with that, you have a running objection to that throughout the remainder of this trial. That objection will be overruled. Your request will be denied. The Court will appoint standby counsel immediately, and we're going to proceed to trial. Hang tight.

The trial court appointed him standby counsel and noted on the record that standby counsel was not familiar with the file, knew none of the facts, and assumed his duties as Glover's standby counsel just prior to the State's presentation of its case.

After the appointment of standby counsel, the exchange continued:

> THE COURT: With that, we'll proceed. Mr. Glover, I also want to tell you and I want the record to indicate you had mentioned yesterday that you had hired an attorney out of Dallas and if you'll supply me with the name and number of that attorney, then we'll be happy to try to contact that attorney and get him down here.
>
> THE DEFENDANT: I need [stand-by counsel] to speak with my grandparents.
>
> THE COURT: That's not [stand-by counsel]'s function. Have you hired an attorney, yes or no?
>
> THE DEFENDANT: No, Your Honor.
>
> THE COURT: So, what you said yesterday in the record about having a retained attorney, that was not true?
>
> THE DEFENDANT: Yes, Your Honor, it was true.
>
> THE COURT: Yes, it was true?
>
> THE DEFENDANT: I cannot answer your question adequately without speaking to --
>
> THE COURT: We're ready to proceed.

The case proceeded with the prosecution's opening statement and examination of witnesses. The following day, before the trial resumed, Glover attempted to waive his right to represent himself and asked that his court-appointed attorney be reinstated as his counsel. Glover stated, "I'm incapable of representing myself." The trial court denied this request.

CLEAR UNEQUIVOCAL WAIVER OF THE RIGHT TO COUNSEL

In issue two, appellant contends he was denied the right to counsel and argues in part that he never requested to represent himself. Glover contends that he "merely asked that his appointed trial counsel be removed and new counsel be appointed." In support of this argument, Glover points to the exchange that took place between the court and himself at the time that he fired his court-appointed counsel, as well as to the January 2006 written motion he submitted to the court seeking to dismiss his court-appointed counsel. The trial court overruled the motion on the day it was filed. Glover's written motion to dismiss counsel technically sought to dismiss his court-appointed counsel and appoint new counsel;[1] nonetheless, at the time of trial Glover clearly asserted his desire to proceed pro se in response to the court's inquiry. Glover clearly and unequivocally asserted, "Yes sir, I wish

[1]While Glover's motion to dismiss his appointed attorney technically sought the appointment of a new attorney, the defendant's right to counsel of one's own choice "must be balanced with the trial court's need for prompt, orderly, effective, and efficient administration of justice." *Emerson v. State*, 756 S.W.2d 364, 369 (Tex. App.--Houston [14th Dist.] 1988, pet. ref'd). An accused may not wait until the day of trial to demand different counsel or to request counsel be dismissed so that he may retain other counsel. *Webb v. State*, 533 S.W.2d 780, 784 (Tex. Crim. App. 1976).

to be pro se." Likewise, Glover stated, "Yes sir, I understand the pitfalls of representing myself."

Glover relies on *Moreno v. Estelle*, 717 F.2d 171 (5th Cir. 1983) in support of his contention that "defendant's request to be relieved of counsel in the form of a general statement of dissatisfaction with his attorney's work does not amount to an invocation of the *Faretta* right to represent oneself, especially when made on the morning of trial." *Id.* at 176. However, the defendant in *Moreno* only expressed dissatisfaction with his attorney. *Id.* at 173. "At no point in the discussion . . . [between the court and the defendant], did the defendant expressly inform the trial judge that he wished to represent himself without the assistance of counsel." *See id.* at 174. Here, Glover expressly and clearly informed the court that he wished to proceed pro se.[2] *Moreno* is distinguishable from the present case. We

[2] The Fifth Circuit in *United States v. Davis* cautioned that "[t]he district court was quick–perhaps too quick–to interpret Davis's expression of dissatisfaction with his lawyer as a request to represent himself." *Id.* 269 F.3d 514, 518 n.5 (5th Cir. 2001). The Court noted it stated in *Moreno* that "'a defendant's request to be relieved of counsel in the form of a general statement of dissatisfaction with his attorney's work does not amount to an invocation of the *Faretta* right to represent oneself, especially when made on the morning of trial.'" *Id.* (quoting *Moreno*, 717 F.2d at 176). However, the *Davis* court stated the following:

> The better course for the district court would have been to respond to Davis's complaints against his lawyer rather than suggesting that Davis could represent himself. After the district court made this suggestion, Davis adopted it. We therefore proceed from the premise that Davis made a *Faretta* request to represent himself.

Id.

conclude that Glover "clearly and unequivocally" waived his right to counsel. We overrule issue two.

SELF-REPRESENTATION ADMONISHMENT

In *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975), the Supreme Court recognized that the Sixth Amendment embodies a right to self-representation. *Id.* 422 U.S. at 819-821. The Court held that a defendant in a state criminal trial has a constitutional right to proceed without counsel when he voluntarily and intelligently elects to do so. *Id*. at 835. The Court recognized that "[w]hen an accused manages his own defense, he relinquishes . . . many of the traditional benefits associated with the right to counsel" and concluded that in order to represent himself, an "accused must 'knowingly and intelligently' forgo those relinquished benefits." *Id*. The Court stated,

> Although a defendant need not himself have the skill and experience of a lawyer in order competently and intelligently to choose self-representation, he should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that 'he knows what he is doing and his choice is made with open eyes.'

Id. (quoting *Adams v. United States ex rel. McCann*, 317 U.S. 269, 279, 63 S.Ct. 236, 242, 87 L.Ed.2d 268 (1942)).

"'In determining whether a defendant has effectively waived the right to counsel, the district court must consider various factors, including the defendant's age, education, background, experience, and conduct.'" *United States v. Jones*, 421 F.3d 359, 363 (5th Cir. 2005) (quoting *United States v. Joseph*, 333 F.3d 587, 590 (5th Cir. 2003)). Moreover,

"'[t]he court must ensure that the waiver is not the result of coercion or mistreatment, and must be satisfied that the accused understands the nature of the charges, the consequences of the proceedings, and the practicality of waiving the right to counsel.'" *Id*. (quoting *Joseph*, 333 F.3d at 590).[3] Courts do not require that specific questions be asked in warning defendants. *See Davis*, 269 F.3d at 519. "[T]he trial judge must inform the defendant 'that there are technical rules of evidence and procedure, and he will not be granted any special consideration solely because he asserted his *pro se* rights.'" *Williams v. State*, 252 S.W.3d 353, 356 (Tex. Crim. App. 2008) (quoting *Johnson v. State*, 760 S.W.2d 277, 279 (Tex. Crim. App. 1988)). The trial judge is not under a duty "to inquire into an accused's 'age, education, background or previous mental history in every instance where an accused expresses a desire to represent himself[.]'" *Id.* (quoting *Goffney v. State*, 843 S.W.2d 583, 584-85 (Tex. Crim. App. 1992)). Rather, it is left up to the discretion of the trial court to determine the precise nature of the required warning, depending on the circumstances of the individual case. *See Davis*, 269 F.3d at 519.

This court recently held that considering the totality of the circumstances in that case, the defendant's decision to waive the right to counsel was knowing, intelligent, and

[3] "The Benchbook for U.S. District Court Judges, published by the Federal Judicial Center, provides a guide for questions the judge can ask to convey the disadvantages the defendant will likely suffer if he proceeds pro se. . . ." *Jones*, 421 F.3d at 363. The Fifth Circuit Court further noted that it "has approved warnings much less thorough than the guidelines presented in the bench book." *Id.* at 364.

voluntary. *See Grant v. State*, 255 S.W.3d 642, 645-48 (Tex. App.--Beaumont 2007, no pet.). In *Grant,* the defendant appealed his conviction and argued in part that the trial court did not properly warn him of the dangers of self-representation under *Faretta*. We recognized in *Grant* that the ultimate issue was whether the defendant made his decision voluntarily, knowingly, and intelligently, i.e. whether the defendant actually understood the significance and consequences of his decision. *Id.* at 646-47.

We employ a totality-of-the-circumstances approach in determining whether a defendant's decision to waive his right to counsel was voluntarily, knowingly, and intelligently made. *Id.* at 647. In *Grant* we noted that such circumstances may include the defendant's education or sophistication, the complex or simple nature of the charge, and the stage of the proceeding, as well as whether the defendant was represented by counsel before trial, whether standby counsel was appointed, and whether the defendant had prior experience with the criminal justice system. *Id*. at 648. In *Grant* we recognized that "'[a]lthough the practice of issuing specific warnings to defendants who wish to proceed pro se is a good way–perhaps the best way–to insure that the requirements of *Faretta* are met, it is not the only way.'" *Id.* (quoting *United States v. Hafen*, 726 F.2d 21, 25-26 (1st Cir. 1984)).

We found that Grant's invocation of his right to self-representation was "clear and unequivocal," that this was not Grant's first experience with the criminal justice system, that Grant's appointed counsel made no objection to the validity of Grant's decision to represent

himself during trial, and that the record reflected that Grant consulted with standby counsel during the trial. *Id*. at 648-49. We noted that Grant made no complaints about his consultations with standby counsel, nor did he file a motion for new trial complaining that the advice of standby counsel was inadequate. *Id*. at 649. Considering the totality of the particular facts and circumstances, we concluded that Grant's clear and unequivocal exercise of his constitutional right was an informed, voluntary decision. *Id*.

We hold under *Grant* that Glover's decision--to fire his court-appointed attorney on the day of trial and proceed pro se--was knowingly, intelligently, and voluntarily made. Court-appointed counsel was appointed to the case over a year prior to the trial date, and appeared ready, willing, and able to proceed to trial when the case was called on July 10, 2006. When the court asked Glover if he wished to fire his court-appointed counsel and proceed pro se, Glover stated that he did wish to proceed pro se, but that he would need time to prepare. At that time, the court made it clear to Glover that there would be no delay in the trial and that the court would move forward with the proceedings even if Glover chose to represent himself. Knowing that he would not be given a continuance to prepare for trial, Glover chose to fire his court-appointed counsel and represent himself. Like the defendant in *Grant*, this was not Glover's first experience with the criminal justice system. Glover was appointed standby counsel who was present during the remainder of the trial. Glover never complained about the assistance provided by standby counsel nor did Glover file a motion for new trial arguing that any advice of standby counsel was inadequate. Significantly, the

trial court here went a step further than the court in *Grant* and expressly admonished Glover that he would be held to the same standard as the attorneys in the case. Under our prior holding in *Grant*, and under the totality of the facts and circumstances of this case, we hold that Glover knowingly, intelligently, and voluntarily waived his right to counsel. We overrule issue one.

WITHDRAWAL OF WAIVER OF THE RIGHT TO COUNSEL

Glover argues, as a subpart to issue two, that he effectively withdrew his waiver of the right to counsel. In 1986, the Court of Criminal Appeals stated in *Funderburg v. State*, that "a defendant may . . . waive his right to represent himself once it has been asserted." *Id.* 717 S.W.2d 637, 642 (Tex. App. Crim. 1986) (citing *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984)). The court in *Funderburg* also clarified that the withdrawal of one's waiver of the right to counsel is "not subject to the same stringent standards as the waiver of the right to counsel." *Id*. The court explained that a waiver of one's right to self-representation may be found "'if it reasonably appears to the court that defendant has abandoned his initial request to represent himself.'" *Id*. (quoting *Brown v. Wainwright*, 665 F.2d 607, 611 (5th Cir. 1982)). The following year the legislature enacted article 1.051 of the Texas Code of Criminal Procedure, which addresses the right to counsel. *See* TEX. CODE CRIM. PROC. ANN. art. 1.051 (Vernon Supp. 2007). Article 1.051(h) provides:

> (h) A defendant may withdraw a waiver of the right to counsel at any time but is not entitled to repeat a proceeding previously held or waived solely on the grounds of the subsequent appointment or retention of counsel. If the defendant withdraws a waiver, the trial court, in its discretion, may provide the appointed counsel 10 days to prepare.

Id. art. 1.051(h).

A defendant's right to withdraw his waiver of the right to counsel is not without limits. "Trial courts have the duty, and discretion, to maintain the orderly flow and administration of judicial proceedings, including the exercise of a defendant's right to counsel." *Medley v. State*, 47 S.W.3d 17, 23 (Tex. App.--Amarillo 2000, pet. ref'd)(citing *Faretta*, 422 U.S. at 834 n.46). A defendant's "right to represent himself or choose his own counsel cannot be manipulated so as to obstruct the orderly procedure in the courts or to interfere with the fair administration of justice." *Jordan v. State*, No. 08-05-00286-CR, 2007 WL 1513996, at *5 (Tex. App.--El Paso May 24, 2007, no pet.) (not designated for publication) (citing *Hubbard v. State*, 739 S.W.2d 341, 344 (Tex. Crim. App. 1987)). "A defendant may not use his right to counsel to delay his trial." *Id.* (citing *Culverhouse v. State*, 755 S.W.2d 856, 861 (Tex. Crim. App. 1988)). Likewise, a defendant "does not have the right to repeatedly alternate his position on the right to counsel and thereby delay trial . . . ." *Medley,* 47 S.W.3d at 23 (citing *United States v. Pollani*, 146 F.3d 269, 273 (5th Cir. 1998)). A "decision of the trial court as to the effect the reclamation of the right by the defendant would have on the orderly administration of justice will not be disturbed on appeal absent an abuse of discretion." *Id*. at 24.

> The Court of Criminal Appeals has held that, even for constitutional claims, generally a party seeking to change the status quo bears the burden of showing facts entitling him to relief. And, a criminal defendant who waives an absolute right and seeks to reclaim that right occupies the status of one seeking to change the status quo.

Id. (citations omitted). Therefore, a criminal defendant who has waived the right to counsel but then seeks to reclaim that right bears the burden of showing that his waiver would not (1) interfere with the orderly administration of court business, (2) result in unnecessary delay or inconvenience to witnesses, or (3) prejudice the State. *Id*. If the evidence presented by defendant is rebutted by the State, the trial court, or the record, then the trial court does not abuse its discretion in refusing to allow the right to be reclaimed. *Id*.

Here, Glover did not meet his burden. The record clearly establishes that the court believed Glover fired his court-appointed counsel at trial in an effort to delay the trial and that Glover's additional requests for counsel were related to the same. While Glover requested that he be appointed an attorney to represent him, or to act as co-counsel, on the second day of the proceedings, this request was made only after Glover's lengthy motion for continuance was denied. Glover's request for counsel was viewed by the court as yet another attempt to delay the trial. Finally, on the third day of the proceedings, during the State's presentation of its case, Glover requested that his court-appointed counsel be brought back in to represent him. There is no indication in the record that his court-appointed counsel, who had been relieved of his responsibilities in the case two days earlier, was present or otherwise available to defend Glover during the remainder of the trial. Weighing the effect

of the reclamation of the right by the defendant to be represented by counsel during the trial of his case against the orderly administration of justice, we find the defendant has failed to bring forth a sufficient record to sustain his burden to show an abuse of discretion by the trial court. We overrule this subpart of issue two. Having overruled each of appellant's issues, we affirm the judgment of the trial court.

AFFIRMED.

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CHARLES KREGER
Justice

Submitted on November 8, 2007
Opinion Delivered August 27, 2008
Do not publish

Before McKeithen, C.J., Gaultney and Kreger, JJ.

CONCURRING OPINION

Once a defendant asserts the right of self-representation, the record must clearly reflect that the defendant knows the dangers and disadvantages of self-representation and unequivocally, intelligently and voluntarily chooses to represent himself. *See Williams v. State,* 252 S.W.3d 353, 356 (Tex. Crim. App. 2008). In *Williams,* the Court of Criminal Appeals explained:

> Once asserted, under *Faretta,* the trial judge must inform the defendant about "the dangers and disadvantages of self-representation, so that the record will establish that 'he knows what he is doing and his choice is made with eyes open.'" When advising a defendant about the dangers and disadvantages of self-representation, the trial judge must inform the defendant "that there are technical rules of evidence and procedure, and he will not be granted any special consideration solely because he asserted his *pro se* rights."

Id. (footnotes omitted). As an example, the Benchbook for U.S. District Court Judges suggests, among other things, that the defendant could be asked on the record whether he has ever represented himself in a criminal action, understands the charge and possible punishment, has studied law, knows the laws of evidence and criminal procedure, understands he will be on his own and given no guidance or help by the court, knows he must abide by the rules of evidence and procedure, and knows that it is generally unwise to represent himself. *See United States v. Jones,* 421 F.3d 359, 363-64 & n.3 (5th Cir. 2005). The Benchbook suggests the trial judge should then ask the defendant whether, in light of the possible penalty and the difficulties of representing himself, he still desires to represent

himself and give up his right to be represented by a lawyer. *Id.* The defendant should be asked if the decision is entirely voluntary. *Id.* The trial court should make a finding that the defendant has knowingly and voluntarily waived the right to counsel. *Id.* A written waiver signed by the defendant should be filed. *See* TEX. CODE CRIM. PROC. ANN. art. 1.051(g) (Vernon Supp. 2008).

This Court held in *Grant v. State* that the totality of the circumstances established that Grant's exercise of his constitutional right to represent himself was an informed and voluntary decision. *See Grant v. State,* 255 S.W.3d 642, 648 (Tex. App.--Beaumont 2007, no pet.). One of the several circumstances this Court considered was advice of counsel:

> Grant was fully represented by appointed counsel at the time he made the decision to represent himself. Counsel's job, while he remained appointed counsel, included consulting with Grant on important decisions. *See Strickland v. Washington,* 466 U.S. 668, 688, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Presumably, the consultation would include warning Grant of the dangers inherent in invoking his right of self-representation.

Id. at 648. We noted Grant made "no claim the advice or representation counsel gave his client at any time before or after trial was somehow inadequate." *Id.* at 649. After referring to the presumption of appointed counsel's adequate representation, we noted there was no indication of a conflict between Grant and his appointed counsel: "He did not request a change in counsel." *Id.*

The relationship between appointed counsel and Glover was, apparently, different. Glover filed a motion claiming his appointed counsel was ineffective, and he requested new

counsel. And, unlike Grant, Glover asked the trial court to appoint counsel after he chose to represent himself.

Although this case has factors distinguishing it from *Grant,* the totality of the circumstances reflect Glover knew what he was doing and chose voluntarily to represent himself. The trial court was not required to let Glover go back and forth between self-representation and representation by counsel. In effect, that would have permitted hybrid representation, something a defendant is not entitled to as a matter of right. *See Phillips v. State,* 604 S.W.2d 904, 907 (Tex. Crim. App. 1979) ("This Court has held that there is no constitutional right to hybrid representation of partially pro se and partially by counsel."); *see also United States v. Oreye,* 263 F.3d 669, 672 (7th Cir. 2001).

The trial judge expressed his conclusion that Glover attempted to manipulate the court and force a continuance. The record supports that conclusion. Glover had prior experience in the criminal justice system. He was represented by appointed counsel at the time he chose to represent himself. A defendant is not entitled to knowingly, intelligently, and voluntarily waive the right to counsel, and then attempt to reassert the right to counsel in order to interfere with the orderly administration of court proceedings, cause unnecessary delay or inconvenience to witnesses, or cause prejudice to the State. The totality of the circumstances establishes Glover knew what he was doing when he chose to represent himself, and his choice was made with eyes open. *See Williams,* 252 S.W.3d at 356 ("To assess whether a

waiver is effective, courts consider the totality of the circumstances."). I concur in the affirmance of the judgment.

_____
DAVID GAULTNEY
Justice

Concurrence Delivered
August 27, 2008