

# SQUARE PEGS IN ROUND HOLES

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Self-represented Defendants, Standby Counsel, and Sovereign Citizens

Aaron Gauthier, 53<sup>rd</sup> Circuit Court

## THE BEST LAID PLANS ...

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- [Waiver of Counsel](#)



- ["Two Things"](#)



## "THE NEXT WORDS OUT OF YOUR MOUTH"

(start at 1:25)



## A TALE OF TWO CASES ...

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- Defendant asks to represent himself

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- STRUCTURAL ERROR
- AUTOMATIC REVERSAL
- People v King, 512 Mich 1 (2023)

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## A TALE OF TWO CASES ...

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- |                                       |                                       |
|---------------------------------------|---------------------------------------|
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|                                       |                                       |
| • STRUCTURAL ERROR                    |                                       |
| • AUTOMATIC REVERSAL                  |                                       |
| • People v King, 512 Mich 1 (2023)    |                                       |

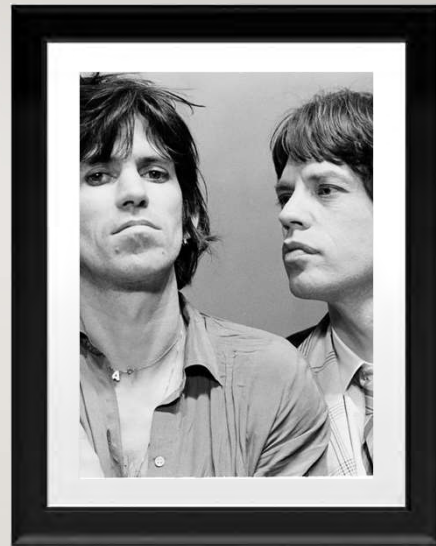
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|                                       |  |
| • STRUCTURAL ERROR                    | • STRUCTURAL ERROR                               |
| • AUTOMATIC REVERSAL                  | • AUTOMATIC REVERSAL                             |
| • People v King, 512 Mich 1 (2023)    | • People v Brooks, 293 Mich App 525 (2011)       |
|                                       | • McKaskle v Wiggins, 465 US 168, 177 n 8 (1984) |

“WELL NOW WHAT CAN A  
POOR [ JUDGE ] DO??”

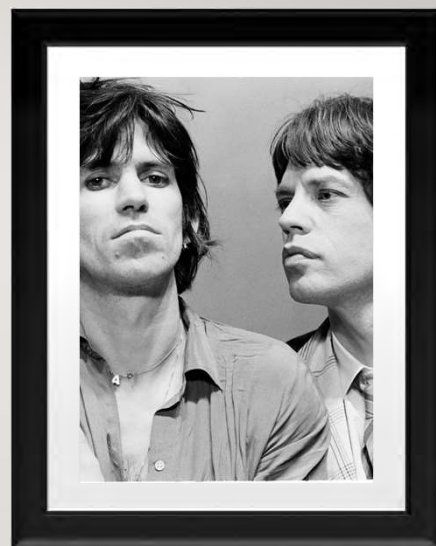
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“WELL NOW WHAT CAN A  
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(A) Sing for a rock and roll band



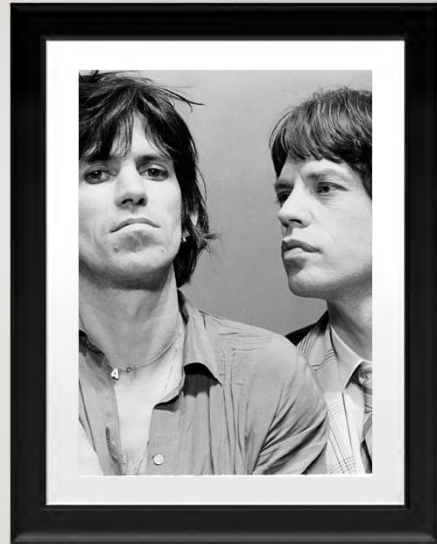
“WELL NOW WHAT CAN A  
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(A) Sing for a rock and roll band

OR

(B) Take an *Anderson* waiver



People v Anderson, 398 Mich 361 (1976)

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- This case “present[s] the issue of when and under what circumstances a defendant may properly dismiss his attorney and assert his right to represent himself.”



People v Anderson, 398 Mich 361 (1976)

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- “First, the request must be unequivocal.” *Id.* at 367.

People v Anderson, 398 Mich 361 (1976)

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- “Second, . . . the court must determine whether defendant is asserting his right knowingly, intelligently and voluntarily.” *Id.* at 368.



## People v Anderson, 398 Mich 361 (1976)

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- “Second, . . . the court must determine whether defendant is asserting his right knowingly, intelligently and voluntarily.” *Id.* at 368.
- This includes making the defendant “aware of the dangers and disadvantages of self-representation.”

## People v Anderson, 398 Mich 361 (1976)

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- Third, “the trial judge [must] determine that the defendant’s acting as his own counsel will not disrupt, unduly inconvenience and burden the court and the administration of the court’s business.” *Id.* at 368.

## People v King, 512 Mich 1 (2023)

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- “Absent a valid waiver of their right to counsel, deprivation of counsel during critical stages of the criminal proceedings is a structural error subject to automatic reversal, even where a defendant formally requests to represent himself.” *Id.* at 4.

## People v King, 512 Mich 1 (2023)

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- Trial judge must substantially comply with the *Anderson* factors and MCR 6.005(D). *King* at 11-12.

## People v King, 512 Mich 1 (2023)

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- “Under *Anderson*, the trial court must find that the following three factors have been met: (1) the defendant’s request to represent themselves is unequivocal, (2) the defendant is asserting the right knowingly, intelligently, and voluntarily after being informed of the dangers and disadvantages of self-representation, and (3) the defendant’s self-representation will not disrupt, unduly inconvenience and burden the court and the administration of the court’s business.” *Id.* at 11-12 (cleaned up).

## People v King, 512 Mich 1 (2023)

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- “Additionally, MCR 6.005(D) provides that the trial court may not permit the defendant to make an initial waiver of the right to be represented by a lawyer without first: (1) advising the defendant of the charge, the maximum possible prison sentence for the offense, any mandatory minimum sentence required by law, and the risk involved in self-representation, and (2) offering the defendant the opportunity to consult with a retained lawyer or, if the defendant is indigent, the opportunity to consult with an appointed lawyer.” *Id.* at 12.

“I DID IT MY WAY”

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“I DID IT MY WAY”

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Do NOT ignore requests for self-representation.



## “I DID IT MY WAY”

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Do NOT ignore requests for self-representation.

ALWAYS engage in the *Anderson / MCR 6.005(D)* analysis



## DON'T SKIP IT UNLESS YOU WANT TO DO IT AGAIN

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- Constitutional right to self-representation

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- Constitutional right to self-representation
- So, court generally may not force counsel on a defendant against their will.
  - *Faretta v California*, 422 US 806, 807 (1975)
  - *People v Williams*, 470 Mich 634, 641 (2004)

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- Constitutional right to counsel
- So, court may not deprive of counsel absent a constitutionally valid waiver
- In a close call about whether waiver is valid, right to counsel prevails
  - Court should indulge in every reasonable presumption against waiver of right to counsel
  - *People v Williams*, 470 Mich 634, 641 (2004)
  - *People v Ahumada*, 222 Mich App 612, 616 (1997)

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  - *People v King*, 512 Mich 1, 4 (2023)

## DON'T SKIP IT UNLESS YOU WANT TO DO IT AGAIN

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- **Bottom Line** = whether you grant or deny the request, make a good record of your reasons, considering the *Anderson* factors and MCR 6.005(D) advice

## Unequivocal Request for Self-Representation

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- Expressing dissatisfaction with counsel or requesting substitute counsel is not an unequivocal request for self-representation. Ask questions to clarify intent.

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- But don't ignore even superficial requests for self-representation. Address them on the record.

## Unequivocal Request for Self-Representation

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## Unequivocal Request for Self-Representation

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- Defendant sent letters to the court complaining about his lawyer and asking the court to fire the lawyer and let him represent himself.

## Unequivocal Request for Self-Representation

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- On the record, judge addressed competency of defense counsel, telling defendant, “You wrote me letters about that. This is your attorney. This is going to be your attorney at trial. There has been so far as I can see effective representation. I’m not going to take any further action on that.”

## Unequivocal Request for Self-Representation

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- COA held that trial court’s failure to conduct an inquiry into defendant’s assertion of his right to represent himself was a structural error requiring reversal.

Knowing, intelligent, and voluntary waiver of counsel  
(with awareness of dangers of self-representation)

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- Good idea to mention that lawyers have legal training and experience, and that self-represented litigant will be held to the same rules of evidence and procedure

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- Good idea to mention that lawyers have legal training and experience, and that self-represented litigant will be held to the same rules of evidence and procedure
- Record should “establish that [the defendant] knows what he is doing and his choice is made with eyes open.” *Anderson*, 398 Mich at 368.

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- “Defendant’s competence is a pertinent consideration in making this determination.” *Anderson*, 398 Mich at 368.



Knowing, intelligent, and voluntary waiver of counsel  
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- “Defendant’s competence is a pertinent consideration in making this determination.” *Anderson*, 398 Mich at 368.
- But this does NOT refer to the defendant’s legal skills, knowledge, or aptitude. *Id.*

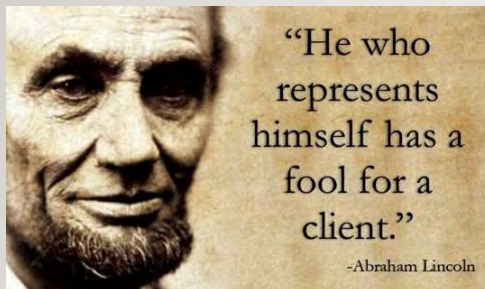
Knowing, intelligent, and voluntary waiver of counsel  
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- Even if it’s an unwise choice, it is still the defendant’s constitutional right to represent themselves, as recognized in *Faretta v California*, 422 US 806 (1975).

## Knowing, intelligent, and voluntary waiver of counsel (with awareness of dangers of self-representation)

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"The Court by its opinion today now bestows a constitutional right on one to make a fool of himself."  
*Faretta*, 422 US at 852  
(Blackmun dissent).

## Competence to Represent Self $\neq$ Legal Skill or Knowledge

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- *People v Brooks*, 293 Mich App 525 (2011), vacated in part on other grounds 490 Mich 993 (2012).

## Competence to Represent Self ≠ Legal Skill or Knowledge

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- Defendant repeatedly expressed unequivocal desire to represent himself. Two judges refused, because defendant had failed to show sufficient legal knowledge. The COA rebuked this approach as inconsistent with clear case law and court rules.

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- Defendant repeatedly expressed unequivocal desire to represent himself. Two judges refused, because defendant had failed to show sufficient legal knowledge. The COA rebuked this approach as inconsistent with clear case law and court rules.
- “Instead of following the brightly illuminated path paved by the court rules, [both judges] invoked [defendant’s] lack of legal ability as a ground for denying his requests for self-representation. Technical knowledge of legal matters simply has no relevance to an assessment of a knowing exercise of the right to self-representation.” *Id.* at 539.

## Competence to Represent Self $\neq$ Legal Skill or Knowledge

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- *People v Brooks*, 293 Mich App 525 (2011), vacated in part on other grounds 490 Mich 993 (2012).
- “Compelling a criminal defendant to demonstrate some level of mastery of court procedures and expert legal erudition effectively eviscerates the constitutional right of self-representation.” *Id.* at 540

## Competence to Represent Self $\neq$ Competence to Stand Trial

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## Competence to Represent Self ≠ Competence to Stand Trial

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- A person can be competent to stand trial but still suffer from a severe enough mental illness so as not to be competent to represent themselves. *Indiana v Edwards*, 554 US 164, 177-178 (2008).

## Competence to Represent Self ≠ Competence to Stand Trial

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- What is the standard? Who knows.

## Competence to Represent Self ≠ Competence to Stand Trial

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- What is the standard? Who knows.
- In *Edwards*, the defendant had been found incompetent to stand trial, then restored, then again found incompetent, then again restored. He wanted to represent himself at trial.

## Competence to Represent Self ≠ Competence to Stand Trial

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- Trial court denied self-representation request, noting that although he was competent to stand trial (understand the proceeding and rationally assist his counsel), he still suffered from schizophrenia.

## Competence to Represent Self ≠ Competence to Stand Trial

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- Supreme Court noted that a defendant may “be able to work with counsel at trial, yet at the same time he may be unable to carry out the basic tasks needed to present his own defense without the help of counsel.” *Edwards*, 554 US at 175-176 (emphasis added).

## Competence to Represent Self ≠ Competence to Stand Trial

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- Court held that “the Constitution permits judges to take realistic account of the particular defendant’s mental capacities.” *Id.* at 177.



## Competence to Represent Self ≠ Competence to Stand Trial

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- But in *People v Brooks, supra*, 293 Mich App at 531-532, the defendant was bipolar and took psychotropic drugs, and the trial court even noted that his lack of medication in the jail impacted his ability to decide whether to represent himself. COA nonetheless held that denial of self-representation was error.

## Competence to Represent Self ≠ Competence to Stand Trial

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- Bottom line as to mental competence to represent self?
  - As always, make a good record
  - Consider forensic referral for competence to stand trial, to provide documentation of possible mental illness and effects on the defendant

## Whether self-representation will disrupt the court

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- “The right of self-representation is not a license to abuse the dignity of the courtroom. Neither is it a license not to comply with relevant rules of procedural and substantive law.” *Faretta v California*, 422 US 806, 835 n 46 (1975).

Whether self-representation will disrupt the court

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- What constitutes disruption or burden on the court sufficient to deny a defendant's otherwise valid waiver of counsel and request for self-representation?

WHO ARE YOU?

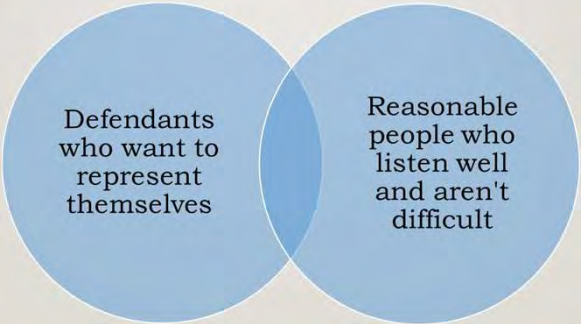
WHO,WHO,WHO,WHO?

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WHO ARE YOU?

WHO,WHO,WHO,WHO?

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Defendants  
who want to  
represent  
themselves

Reasonable  
people who  
listen well  
and aren't  
difficult

Whether self-representation will disrupt the court

---

- What constitutes disruption or burden on the court sufficient to deny a defendant's otherwise valid waiver of counsel and request for self-representation?
- Don't be too strict or inflexible. Just because they are troublesome or occasionally disruptive is not enough.

## Whether self-representation will disrupt the court

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- In *People v Brooks, supra*, 293 Mich App at 533, the defendant:
  - “interrupted to ask nonsensical questions concerning whether Michigan is a state or a republic”
  - asked whether the court was an “Article I court”
  - questioned the court’s jurisdiction

## Whether self-representation will disrupt the court

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- Sounds like “sovereign citizen” arguments. Remember, COA in *Brooks* reversed due to trial court’s denial of defendant’s right of self-representation . . .

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  - Does defendant actually interfere with the Court conducting its business?
  - Does defendant try to intimidate witnesses?
  - Does defendant's refusal to follow decorum make a mockery of the court process?

## Whether self-representation will disrupt the court

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- [What about for non-appearance?](#)
- (time index 23:00-25:45)



## Whether self-representation will disrupt the court

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- One good practice might be to deny self-representation for disruptiveness only where the standard to remove a defendant from the courtroom would be met.

## When can you remove a defendant from the courtroom?

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- Constitutional right to be present can be forfeited by disruptive conduct.

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- But minor or infrequent disruptions are not enough.

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- But minor or infrequent disruptions are not enough.
- *Illinois v Allen*, 397 US 337 (1970), provides the framework.

## When can you remove a defendant from the courtroom?

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- “A defendant can lose his right to be present at trial if, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom.” *Allen*, 397 US at 343.

## When can you remove a defendant from the courtroom?

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- “Once lost, the right to be present can, of course, be reclaimed as soon as the defendant is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.” *Allen*, 397 US at 343.

When can you remove a defendant from the courtroom?

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  - Warn defendant that he will be removed if disruptive conduct continues
  - If removed, give defendant an opportunity to reform his conduct and return



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  - If removed, give defendant an opportunity to reform his conduct and return
  - Do all this outside the presence of the jury as much as possible
  - Make a good record!

When can you remove a defendant from the courtroom?

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  - Allow defendant to see and hear (video feed), but don't allow jury to see him in a jail cell

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  - Break after direct exam to allow counsel to consult with defendant before cross exam

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  - Break after direct exam to allow counsel to consult with defendant before cross exam
  - Have counsel ask defendant at each break whether he wants to return to courtroom
  - Offer a cautionary instruction to the jury

## When can you remove a defendant from the courtroom?

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- Alternatives to removal:
  - Binding or gagging—not recommended in age of Zoom
  - Citing for contempt with fine—shaky deterrent effect
  - Consider giving more than one warning, or tolerating some amount of misbehavior as long as trial can continue to proceed

## “AND IT’S TOO LATE BABY, NOW IT’S TOO LATE”

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- What about last-minute requests for self-representation?



## “AND IT’S TOO LATE BABY, NOW IT’S TOO LATE”

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- What about last-minute requests for self-representation?
  - There is no bright-line rule preventing waiver of counsel once trial has already begun. *Anderson*, 398 Mich at 368.
  - Should still engage in the same *Anderson* waiver analysis and MCR 6.005(D) advice.
  - Untimely or belated request can be a factor, but explain why.

## DÉJÀ VU ALL OVER AGAIN

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- What about subsequent hearings after initial waiver of counsel?

## DÉJÀ VU ALL OVER AGAIN

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- What about subsequent hearings after initial waiver of counsel?
  - Follow MCR 6.005(E)
  - Advise defendant of the continuing right to a lawyer's assistance (at public expense if indigent)
  - Before beginning hearing, defendant must reaffirm that a lawyer's assistance is not wanted
  - Or, if they request lawyer, refer for appointment if indigent, or allow reasonable opportunity to retain counsel

## DÉJÀ VU ALL OVER AGAIN

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- What about subsequent hearings after initial waiver of counsel?
- WARNING—if initial waiver happened in District Court before bindover, it could be tempting to follow 6.005(E) and not the initial *Anderson* / 6.005(D) waiver process.
- Resist this temptation—are you sure the District Court record is sufficiently clear on the initial waiver to avoid automatic reversal?

## WHAT ABOUT “STANDBY” OR “ADVISORY” COUNSEL?

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## STAND BY ME ...

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- Wikipedia knows all about it:
  - “Standby counsel or advisory counsel refers to a lawyer who assists a client who has invoked their right to self-representation. If the client becomes disruptive or otherwise unable to conduct his own defense, the judge may order the standby counsel to take over the defense. Standby counsel also remains available during the trial for consultation. The appointment of standby counsel over a pro se defendant's objection was ruled not to be a violation of the defendant's Sixth Amendment right to self-representation as long as the defendant has a fair opportunity to present his case in his own way and standby counsel's unsolicited involvement is kept within reasonable limits in *McKaskle v. Wiggins*, 465 U.S. 168 (1984).”

## BUT NOT ALL LAWYERS DO...

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[Standing by ...](#)



## STANDBY COUNSEL LEGAL RULES

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- “Of course, a State may—even over objection by the accused—appoint a ‘standby counsel’ to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant’s self-representation is necessary.” *Faretta v California*, 422 US 806, 835 n 46 (1975)

## STANDBY COUNSEL LEGAL RULES

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- “A defendant’s Sixth Amendment rights are not violated when a trial judge appoints standby counsel—even over the defendant’s objection—to relieve the judge of the need to explain and enforce basic rules of courtroom protocol or to assist the defendant in overcoming routine obstacles that stand in the way of the defendant’s achievement of his own clearly indicated goals.” *McKaskle v Wiggins*, 465 US 168, 176 (1984).

## STANDBY COUNSEL LEGAL RULES

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- So standby or advisory counsel can participate in the hearing, even over defendant’s objection, so long as:
  - (1) the defendant preserves actual control over significant tactical decisions and questioning of witnesses, and
  - (2) the jury’s perception that the defendant is representing himself is not destroyed. *McKaskle* at 178.

## STANDBY COUNSEL LEGAL RULES

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- What does this look like?
  - Helping defendant overcome procedural or evidentiary obstacles
  - Helping defendant comply with basic rules of courtroom protocol
- Judge shouldn't get too involved unless defendant objects to standby counsel's actions

## STANDBY COUNSEL LEGAL RULES

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- There is no “right” to advisory counsel when a defendant wants to represent themselves. *People v Dennany*, 445 Mich 412, 439-440 (1994).
- Standby counsel is permitted “as a matter of grace.” *Id.*
- (But it often helps the court as much or more as it helps the defendant)

## STANDBY COUNSEL LEGAL RULES

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- The presence of standby or advisory counsel does NOT excuse a deficient waiver of the right to counsel, which will still be automatic reversal as a structural error.
  - *People v Lane*, 453 Mich 132, 138 (1996)
  - *People v Dennany*, 445 Mich 412, 446 (1994)

## STANDBY COUNSEL PRACTICAL CONSIDERATIONS

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- Court decorum / jury trial issues
  - If defendant has to be removed (or fails to appear), having advisory counsel present to step in can prevent a mistrial or a *Cronic* complete denial of counsel.
  - See, e.g., *People v Hardrick*, unpublished per curiam opinion of the Court of Appeals, issued May 27, 2021 (Docket No. 348347)

## STANDBY COUNSEL PRACTICAL CONSIDERATIONS

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- Logistics Issues
  - Consult with your local MIDC authority about whether they will serve as standby, or whether you need to appoint and pay directly
  - If MIDC will provide standby, any issue with indigency / contribution?
  - Make sure that standby counsel understands the role
  - Make sure that notice and service will be given to both defendant and standby counsel

“I DO NOT CONSENT!”



## SOVEREIGN CITIZENS

### WHO ARE THEY?

- Loose association of individuals & ideas
- From white supremacists to Moorish sovereigns
- Historical roots in tax protest and militia movements
- Recent overlap with Qanon conspiracy theorists

### WHAT DO THEY BELIEVE?

- Government is illegitimate
- Belief in “hidden history”
- Defiance of legal authority
- Ability of each person to withdraw their consent to be governed
- If you file the right paperwork, you can opt out of all the corrupt systems and avoid any consequence



## TIPS FOR ENGAGING WITH SOVEREIGN CITIZENS

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- Don't let them make us look bad
  - Maintain judicial temperament
  - Remain calm & measured
  - Avoid mocking or belittling them

## TIPS FOR ENGAGING WITH SOVEREIGN CITIZENS

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- Follow precedent & court rules
  - E.g., there's no “sovereign citizen” exception for engaging in the *Anderson* / MCR 6.005(D) waiver analysis when they express a desire for self-representation
  - Sovereign citizen tactics do not *per se* indicate mental illness or incompetence.

## TIPS FOR ENGAGING WITH SOVEREIGN CITIZENS

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- Allow them to make a record
  - E.g., don't shut them down as soon as they utter something that identifies them as a sovereign citizen
  - Your transcript is only for the case before you—it doesn't include your entire history with these folks

## TIPS FOR ENGAGING WITH SOVEREIGN CITIZENS

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- Maintain control of the courtroom
  - Note their objection or argument, rule on it, and move on
  - Don't get sucked into a debate or argument with them
    - (you won't persuade them that they're wrong, and all their arguments are shifting sands)

## TIPS FOR ENGAGING WITH SOVEREIGN CITIZENS

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- Be polite but don't give in to unreasonable demands
  - Could try to accommodate minor requests if possible
- Use contempt power if necessary
  - But be measured and proportionate

## COURTROOM SOVEREIGN CITIZEN BEHAVIOR

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## REFUSING TO CROSS THE BAR

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## REFUSING TO CROSS THE BAR

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- They may believe that, by crossing the bar, they are submitting to or accepting the court's jurisdiction

## REFUSING TO CROSS THE BAR

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- Options:
  - Demand that they do so, subject to contempt
  - Let them proceed from behind the bar (but be aware of your courtroom's needs in terms of making a record)
  - Take judicial notice on the record that by crossing the bar they are not accepting any jurisdiction or waiving rights

## REFUSING TO IDENTIFY THEMSELVES

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- They may remain silent, or declare that they are not the corporate entity of the ALLCAPS name, or claim that they are the agent/settlor of the person, etc. etc.

## REFUSING TO IDENTIFY THEMSELVES

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- Options:
  - If you know or can determine who they are, go ahead with the proceeding (but make a good record)
  - Announce that if the person isn't present, you will issue a warrant for their arrest (but be prepared to follow through)

## MAKING A “SPECIAL APPEARANCE”

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- “I am here by special appearance”
- “I am making a special visitation on behalf of the accused”
- They are trying to preserve a challenge to jurisdiction

## MAKING A “SPECIAL APPEARANCE”

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- “I am here by special appearance”
- “I am making a special visitation on behalf of the accused”
- They are trying to preserve a challenge to jurisdiction
- RESPONSE = note it / ignore it and go forward



## CHALLENGING THE COURT'S JURISDICTION

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- They often try to engage you in a debate about jurisdiction
- This can take the form of an interrogation if you aren't careful
- "Common law" vs. "statutory" jurisdiction
- Claims that you are an admiralty or military tribunal
- Asking whether you are an Article III court

## CHALLENGING THE COURT'S JURISDICTION

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- Response:
  - Let them state their challenge
  - Rule on their challenge (inform them that you have subject-matter and personal jurisdiction)
  - Do not get dragged into an interrogation about it
  - Move on with the hearing after you've made a ruling

## REFUSING COUNSEL

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- They will often refuse the assistance of counsel, or attempt to “fire” counsel that has been already appointed
- Some believe that all attorneys are “foreign agents”

## REFUSING COUNSEL

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- They will often refuse the assistance of counsel, or attempt to “fire” counsel that has been already appointed
- Some believe that all attorneys are “foreign agents”
- RESPONSE = No different than any request for self-representation. Go through *Anderson* / MCR 6.005(D).

## REFUSING TO ENTER A PLEA

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- At Circuit Court arraignment, will sometimes object to any plea being entered for them, believing that entering any plea is an acknowledgement that the proceedings are valid

## REFUSING TO ENTER A PLEA

---

- At Circuit Court arraignment, will sometimes object to any plea being entered for them, believing that entering any plea is an acknowledgement that the proceedings are valid
- RESPONSE = treat like standing mute and enter a plea of not guilty of their behalf. Note their objection & move on.

## BIZARRE FILINGS & MOTIONS

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- Sovereigns will often file written pleadings or make oral motions making nonsensical pseudo-legal arguments

## BIZARRE FILINGS & MOTIONS

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- Sovereigns will often file written pleadings or make oral motions making nonsensical pseudo-legal arguments
- RESPONSE:
  - Don't completely ignore—determine the “gist” of their claim and rule on it, then move on (noting their objection)
  - Consider enforcing a motion cut-off (but apply to pros also)

## ATTEMPTING TO RECORD THE PROCEEDING

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- They may try to video record the hearing, or have one of their friends do so on their behalf
- They may assert that this is their First Amendment right and they are simply trying to protect themselves

## ATTEMPTING TO RECORD THE PROCEEDING

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- Options:
  - Enforce your courtroom's policy against recording, subject to contempt
  - Could consider allowing them to record if the only person being harassed by it is you (no witness/victim/juror issues)
  - Consider livestreaming to ameliorate their concerns

## FRINGE ON THE FLAG

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- May object to a gold-fringed flag as denoting admiralty jurisdiction

## FRINGE ON THE FLAG

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- May object to a gold-fringed flag as denoting admiralty jurisdiction
- RESPONSE = the fringe is decorative only and has no legal effect. Note objection and move on
  - See *McCann v Greenway*, 952 F Supp 647 (WD Mo, 1997)

## DEMANDING YOUR OATH OF OFFICE

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- Sometimes sovereigns will demand to see the oaths of office of the judge, prosecutor, police officers, etc.

## DEMANDING YOUR OATH OF OFFICE

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- Sometimes sovereigns will demand to see the oaths of office of the judge, prosecutor, police officers, etc.
- RESPONSE = See that they can obtain a copy—it's a public record
  - NOTE—be prepared for them to find fault with your oath



## TRAVELING VS. DRIVING

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- They will claim they weren't driving because that term only applies to commercial transportation of goods for hire, and that they were only exercising their constitutional right to travel
- They believe that no driver's license is required if they aren't transporting goods for hire

## TRAVELING VS. DRIVING

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- Historically, driving could indeed refer to the commercial activity of moving freight for hire
- Legally, we do have the right to travel freely
- This refers to the fact that there are no state checkpoints, like between US and Canada
- States do indeed have the authority to regulate motor vehicles
- Consider using the word "operate" & move on after stating ruling

## REFUSING TO SPEAK / PARTICIPATE / APPEAR

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- Options:
  - Refusal to speak = make sure they have counsel assigned to speak on their behalf
  - Refusal to sign necessary documents (e.g., advice of rights form, etc.) = note their objection on the record and give verbal advice
  - Failure to appear = show cause or bench warrant as appropriate

## OTHER DISRUPTIVE BEHAVIOR

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- Sovereigns may make wild accusations against the bench and bar
- Or they may “withdraw their consent” to be governed
- Or they may engage in outbursts, filibusters, or disruptive behavior

## OTHER DISRUPTIVE BEHAVIOR

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- OPTIONS:
  - Roll with it and keep the hearing moving to conclusion
  - Warn and remove defendant
    - see *Illinois v Allen*, 397 US 337 (1970) framework
  - Use summary contempt power (direct contempt)
- Check out *People v Kammeraad*, 307 Mich App 98 (2014) for an extreme example of sovereign citizen disruption

## SECURITY ISSUES WITH SOVEREIGN CITIZENS

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## SECURITY ISSUES WITH SOVEREIGN CITIZENS

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- Communicate with your bailiffs about courtroom security issues and contingency plans
- Personal security awareness
- “Common-law courts” and fake “indictments”
- Keep all documentation they send you (including the envelope)
- Contact SCAO Regional / MSC Security / MSP for actual threats to judges, courts, and court staff
- MCL 600.2907a(2)—a false property lien to harass or intimidate is a 3-year felony

QUESTIONS?

OTHER TIPS TO SHARE?

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