

(ORDER LIST: 569 U.S.)

MONDAY, APRIL 1, 2013

**CERTIORARI -- SUMMARY DISPOSITIONS**

12-165 RBS CITIZENS, N.A., ET AL. V. ROSS, SYNTHIA G., ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Seventh Circuit for further consideration in light of *Comcast Corp. v. Behrend*, 569 U.S. \_\_\_\_ (2013).

12-322 WHIRLPOOL CORP. V. GLAZER, GINA, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *Comcast Corp. v. Behrend*, 569 U.S. \_\_\_\_ (2013).

**ORDERS IN PENDING CASES**

12M103 MACHARIA, NYAHUMA K. V. DAMOUR, SUSAN B., ET AL.

12M104 NIXON, KERRY L. V. RECTOR, JAMES, ET AL.

12M105 RAWLINGS, CHARLES V. BALTIMORE, MD, ET AL.

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

11-798 AM. TRUCKING ASSN., INC. V. LOS ANGELES, CA, ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

11-10189 TREVINO, CARLOS V. THALER, DIR., TX DCJ

The motion of petitioner for appointment of counsel is

granted. Warren A. Wolf, Esquire, of San Antonio, Texas, is appointed to serve as counsel for the petitioner in this case.

12-398 ASSN. FOR MOLECULAR PATHOLOGY V. MYRIAD GENETICS, INC., ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted, and the time is to be divided as follows: 25 minutes for petitioners, 10 minutes for the Solicitor General, and 30 minutes for respondents.

12-399 ADOPTIVE COUPLE V. BABY GIRL, ET AL.

The renewed motion of petitioners for leave to file the joint appendix under seal with redacted copies for the public record is granted. Upon consideration of the motions for leave participate in oral argument as *amicus curiae* and the motions for divided argument, the time is to be divided as follows: 20 minutes for petitioners, 10 minutes for respondent Guardian ad Litem, 20 minutes for respondent Birth Father, and 10 minutes for the Solicitor General.

12-536 McCUTCHEON, SHAUN, ET AL. V. FEDERAL ELECTION COMMISSION

The motion of appellants to dispense with printing the joint appendix is granted.

12-7098 ORSELLO, PAUL V. GAFFNEY, STEVEN D., ET AL.

12-7990 WILLIAMS, FRANKLIN L. V. UNITED STATES

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

12-8419 PARK, LORI L. V. TD AMERITRADE TRUST CO., ET AL.

12-8524 RAHMAAN, MASTER W. V. MEDICAL UNIVERSITY OF SC, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until April 22,

2013, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

**CERTIORARI GRANTED**

12-929 ATLANTIC MARINE CONSTRUCTION CO. V. USDC WD TX, ET AL.

The petition for a writ of certiorari is granted.

**CERTIORARI DENIED**

11-10965 KEITH, KEVIN V. OHIO

12-425 BAZUAYE, JEROMI V. UNITED STATES

12-622 CASSENS TRANSPORT CO., ET AL. V. BROWN, PAUL, ET AL.

12-656 SPIRIT AIRLINES, INC., ET AL. V. DEPT. OF TRANSPORTATION

12-673 ) HAILE, RANDY V. V. UNITED STATES

12-7723 ) BECKFORD, MARK A. V. UNITED STATES

12-692 TALAWANDA SCHOOL DISTRICT V. LITTON, CLIFFORD

12-708 PETRELLO, ANTHONY G. V. PRUCKA, MATTHEW W., ET AL.

12-719 CHURCHILL, WARD V. UNIV. OF COLORADO AT BOULDER

12-760 AMERICAN PETROLEUM INSTITUTE V. EPA, ET AL.

12-769 ENG, CHRISTIAN, ET AL. V. PORT AUTHORITY OF NY AND NJ

12-777 LEPAK, KEITH A. V. IRVING, TX, ET AL.

12-910 SOLOMON, PETER P. V. CALIFORNIA

12-912 ALSTON, ESHED V. DELAWARE STATE UNIV., ET AL.

12-915 DOUGHERTY, BRUCE, ET AL. V. COVINA, CA

12-917 GLEASON, KEVIN C. V. USBC SD FL

12-921 STANTON, JOHN V. DC COURT OF APPEALS

12-923 SANTALIZ-RIOS, LUIS A. V. METROPOLITAN LIFE INS., ET AL.

12-927 ALEXANDER, PLLC V. HADDAD, CAMILLE

12-934 ANGELLOZ, MARY M. V. IBERVILLE PARISH SCHOOL BOARD

12-939 ARMATAS, PANAGIOTIS V. MAROULLETI, ELENA, ET AL.

12-944 SUBRAMANIAN, MANI V. ST. PAUL FIRE & MARINE, ET AL.  
12-945 ARIZPE, RICHARD V. USDC WD TX  
12-949 WALKER, NORENE V. WALKER, IAIN  
12-977 GREEN, DAVID L. V. FLORIDA  
12-984 ALCON RESEARCH, LTD., ET AL. V. APOTEX, INC., ET AL.  
12-985 BEDARD, JAMES V. NAT'L CASUALTY INSURANCE, ET AL.  
12-1001 ANDERSON, WILLIAM F. V. CALIFORNIA  
12-1005 RABALAIS, CHRISTOPHER P. V. LEON, SETH  
12-1007 ST. MARY'S MEDICAL CENTER, INC. V. R. K.  
12-1013 BROWN, JOYCE V. HALE, MICHAEL, ET AL.  
12-1052 BANUSHI, ROBERT V. PALMER, ALVIN L., ET AL.  
12-1064 MARTORANO, GEORGE V. UNITED STATES  
12-7001 ROBBINS, TERRY V. UNITED STATES  
12-7336 BEN, CECIL R. V. MISSISSIPPI  
12-7390 ROSS, DAVID A. V. ATTORNEY GRIEVANCE COMMISSION  
12-7773 MAZUCA, ALVARO V. TEXAS  
12-7849 FRANKLIN, ANTONIO S. V. ROBINSON, WARDEN  
12-7949 MCKINZIE, KENNETH V. CALIFORNIA  
12-7970 RUIZ, WESLEY L. V. TEXAS  
12-8180 C. B. V. WV DEPT. OF HEALTH, ET AL.  
12-8393 BUTLER, HARRY L. V. FLORIDA  
12-8395 MORTON, ALVIN L. V. CREWS, SEC., FL DOC, ET AL.  
12-8396 WHITLEY, MARSHALL V. CAIN, WARDEN  
12-8405 SNODGRASS, MARWAN V. BRUNSMAN, WARDEN  
12-8412 RUDERMAN, DAVID R. V. RYAN, DIR., AZ DOC, ET AL.  
12-8418 MERRITT, LINDA V. BLUMENTHAL, MICHAEL V., ET AL.  
12-8421 PEREZ, FRANCISCO V. PENNSYLVANIA  
12-8422 STACKER, L. C. V. NORMAN, WARDEN

12-8423 RODRIGUEZ, JOHN R. V. SULLIVAN, WARDEN  
12-8425 PIERSON, ARTHUR L. V. THALER, DIR., TX DCJ  
12-8428 ADAMS, JOMAL D. V. THALER, DIR., TX DCJ  
12-8432 PRINCE, EARL K. V. CHICAGO PUBLIC SCHOOLS, ET AL.  
12-8440 NEGRETE, SALVADOR N. V. LEWIS, ACTING WARDEN  
12-8444 CONKLIN, STEPHEN G. V. ANTHOU, KRISTINE M., ET AL.  
12-8451 LAW, STEPHEN V. SIEGEL, ALFRED H.  
12-8455 RAGAB, DOROTHY V. FLYNN, ROSE I.  
12-8457 GUMAN, MARK L. V. PUGH, WARDEN  
12-8459 HARRIMAN, TIMOTHY S. V. THALER, DIR., TX DCJ  
12-8460 FOWLER, LEON C. V. VAN PELT, JUDGE, ETC.  
12-8462 GOMEZ, JOSE C. V. GROUNDS, WARDEN  
12-8463 GOFF, THOMAS L. V. SALINAS, M., ET AL.  
12-8464 HURT, DONNELL V. DC COURT SERVICES, ET AL.  
12-8465 GARRETTE, DENISE A. V. BONDI, ATT'Y GEN. OF FL, ET AL.  
12-8470 CALDERON, MARIA V. EVERGREEN OWNERS, INC., ET AL.  
12-8472 HILL, GREGORY V. GRADY, JUDGE, ETC., ET AL.  
12-8476 HOLMES, MICHAEL L. V. CALIFORNIA  
12-8477 HOLLAND, CLYDE G. V. HEAD AND NECK GROUP, ET AL.  
12-8478 FORNEY, JAMES M. V. BROWARD COUNTY SHERIFF, ET AL.  
12-8479 HOGGE, THOMAS K. V. STEPHENS, HARVARD, ET AL.  
12-8480 FIELDS, CHARLES A. V. MILLER, WARDEN  
12-8483 COOPER, STEVEN W. V. MISSOURI, ET AL.  
12-8487 PARMELEE, ALLAN V. KING COUNTY DEPT. OF ADULT  
12-8488 JACKSON, LAMONT V. CREWS, SEC., FL DOC, ET AL.  
12-8489 BARAJAS, RAUL A. V. LEWIS, WARDEN  
12-8490 MANLEY, MARTIN L. V. UNKNOWN PARTY  
12-8491 ALMOND, PIERRE V. MICHIGAN

12-8492 BELL, JAMES V. RIVARD, WARDEN  
12-8494 STEVENS, ROBERT P. V. VALLEY VIEW MEDICAL, ET AL.  
12-8497 SHERRILL, STEVEN M. V. THALER, DIR., TX DCJ  
12-8499 WARREN, CHARLES V. BROWN, WARDEN  
12-8500 WILSON, ANTHONY B. V. CREWS, SEC., FL DOC  
12-8503 BINGHAM, RANDALL V. MORALES, WARDEN  
12-8504 BROWN, LEVAR V. CALIFORNIA  
12-8511 GARY, CARLTON M. V. HUMPHREY, WARDEN  
12-8514 ROBERTSON, ROBERT V. FLORIDA  
12-8519 MOON, ADRIAN V. BACA, LEROY, ET AL.  
12-8521 SHAVERS, MICHAEL V. BERGH, WARDEN, ET AL.  
12-8527 VANAC, GAYLE A. V. OHIO  
12-8528 SHEHATA, MARK F. V. BEARD, SEC., CA DOC  
12-8534 JENKINS, SYLVIA V. ONONDAGA CTY. SHERIFF'S DEPT.  
12-8542 JOHNSON, BILLY V. URIBE, WARDEN  
12-8565 MATTHEWS, KENRIC V. BUCHANAN, WARDEN  
12-8573 GEORGE, WILLIAM V. NEW YORK  
12-8578 POTTS, FRANK V. FLORIDA  
12-8584 YOUNG, THAD L. V. CALIFORNIA  
12-8588 PLOUFFE, WILLIAM C. V. CEVALLOS, F. J., ET AL.  
12-8609 HATZFELD, JOHN V. FISCHER, COMM'R, NY DOC, ET AL.  
12-8617 JOHNSON, JOSEPH V. UNITED STATES, ET AL.  
12-8695 PORTEE, DAVID B. V. ALVARADO, J., ET AL.  
12-8711 VANDENBURG, JAMES L. V. URIBE, WARDEN  
12-8723 BUSTILLO, FERNANDO V. BEELER, ART, ET AL.  
12-8727 BLUNT, CHARLES V. BERGHUIS, WARDEN  
12-8759 FRAZIER, JASON M. V. WENEROWICZ, SUPT., GRATERFORD  
12-8775 DiBARTOLOMEO, ROBERT V. LAMPERT, DIR., WY DOC

12-8796 GARCIA, BRUCE V. SAUERS, SUPT., FOREST  
12-8848 LEWIS, RICKEY L. V. THALER, DIR., TX DCJ  
12-8854 SAFFOLD, TONY E. V. NEWLAND, WARDEN  
12-8898 JANG, BYUNG V. UNITED STATES  
12-8942 SHEA, TREVOR J. V. UNITED STATES  
12-8964 ROZIER, HERBERT V. UNITED STATES  
12-8966 RAMIREZ-PEINADO, ELIAS V. UNITED STATES  
12-8967 SCHARDIEN, GEOFFREY P. V. UNITED STATES  
12-8971 BELL, MICHAEL D. V. UNITED STATES  
12-8973 BIVINS, QUENTIN V. UNITED STATES  
12-8979 GREEN, FRANKIE V. UNITED STATES  
12-8980 HOKANSON, TYLAR J. V. MINNESOTA  
12-8987 DANIEL, RICKY R. V. DREW, WARDEN, ET AL.  
12-8988 CAMP, JOSEPH A. V. USDC WD MO  
12-8993 HOOVER, MICHAEL D. V. ILLINOIS  
12-8995 HILL, DAVID B. V. UNITED STATES  
12-9001 GAULDEN, DERRELL V. UNITED STATES  
12-9003 HUANG, BIAO V. UNITED STATES  
12-9004 HARNED, KEITH V. V. UNITED STATES  
12-9006 ORTIZ-MIRANDA, RAUL V. UNITED STATES  
12-9013 WHITE, DWAYNE V. UNITED STATES  
12-9021 ROYSTON, MARCUS J. V. UNITED STATES  
12-9022 SIMON, WAYNE V. UNITED STATES  
12-9027 DROTLEFF, CHRISTOPHER A., ET AL. V. UNITED STATES  
12-9029 CHAPMAN, WOODROW V. UNITED STATES  
12-9031 CAMPIE, TERRY M. V. UNITED STATES  
12-9032 MCGUIRE, JASON D. V. UNITED STATES  
12-9034 LUKASHOV, ALEXANDER V. UNITED STATES

12-9036 JENKINS, LAWRENCE V. UNITED STATES  
12-9037 JACKSON-FORSYTHE, HOPE V. UNITED STATES  
12-9041 COLLIER, MARIO V. UNITED STATES  
12-9044 THOMAS, COREY V. UNITED STATES  
12-9046 RICHARDSON, MARCUS V. UNITED STATES  
12-9053 WASHINGTON, TRACY J. V. UNITED STATES  
12-9057 DOUGLAS, VERNON V. UNITED STATES  
12-9075 CARNEY, PARIS L. V. UNITED STATES  
12-9077 McKISSIC, BILLY D. V. UNITED STATES  
12-9086 THOMAS, ASIEBA I. V. UNITED STATES  
12-9093 RAMIREZ, EDGARDO V. UNITED STATES

The petitions for writs of certiorari are denied.

12-924 ARNONE, COMM'R, CT DOC V. EBRON, AHMED K.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

12-1062 WHITE, WILLIAM V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

12-8458 GOWAN, MICHAEL J. V. KELLER, JUDGE, ETC., ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

12-8530 JOHNSON, MERDELIN V. V. TARGET CORP.

The petition for a writ of certiorari is denied. Justice Alito took no part in the consideration or decision of this petition.



12-8955 EDWARDS, REGINALD L. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

**HABEAS CORPUS DENIED**

12-9081 IN RE TAURUS ZAMBRELLA

12-9148 IN RE MARCUS REECE

The petitions for writs of habeas corpus are denied.

**REHEARINGS DENIED**

12-42 GERMALIC, JAMES R. V. NY BD. OF ELECTIONS COMM'RS

12-637 WEATHERBY, LISA V. FEDERAL EXPRESS

12-672 HILL, CHARLES E. V. SUPERIOR COURT OF CA

12-890 FERMIN, FREDERICK C. V. UNITED STATES

12-6959 MIXON, MARY R. V. CHARLOTTE MECKLENBURG SCHOOLS

12-7031 MOYA-FELICIANO, JORGE V. TUCKER, SEC., FL DOC, ET AL.

12-7062 FREDERICK, EDWARD V. TUCKER, SEC., FL DOC, ET AL.

12-7076 HADDIX, JEREMY R. V. TEXAS, ET AL.

12-7255 SMITH, CHANDLER P. V. PENNSYLVANIA, ET AL.

12-7259 MUHAMMAD, MALCOLM V. CLARKE, DIR., VA DOC

12-7263 MOORE, KEVIN D. V. FEDERAL BUREAU OF PRISONS

12-7420 MOON, YOUNG V. LEWIS, HOWARD

12-7434 RANDOLPH, CATHERINE D. V. GANSLER, ATT'Y GEN. OF MD

12-7538 MAKDESSI, ADIB E. V. VIRGINIA

12-7695 LEWIS, RADCLIFFE B. V. DISTRICT OF COLUMBIA, ET AL.

12-7944 PUGH, LEON E. V. HUMPHREY, WARDEN, ET AL.

The petitions for rehearing are denied.

12-625 MACENTEE, SUSAN M. V. IBM

The petition for rehearing is denied. Justice Breyer and

Justice Alito took no part in the consideration or decision of this petition.

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**SUPREME COURT OF THE UNITED STATES**

**JOHN MARSHALL, WARDEN v. OTIS LEE RODGERS**

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 12–382. Decided April 1, 2013

PER CURIAM.

Respondent Otis Lee Rodgers, challenging his state conviction, sought a writ of habeas corpus from the United States District Court for the Central District of California. He claimed the state courts violated his Sixth Amendment right to effective assistance of counsel by declining to appoint an attorney to assist in filing a motion for a new trial notwithstanding his three prior waivers of the right to counseled representation. The District Court denied respondent’s petition, and he appealed to the Court of Appeals for the Ninth Circuit, which granted habeas relief. 678 F. 3d 1149, 1163 (2012). Because the Court of Appeals erred in concluding that respondent’s claim is supported by “clearly established Federal law, as determined by the Supreme Court of the United States,” 28 U. S. C. §2254(d)(1), its judgment must be reversed.

I

In 2001, the State of California charged respondent with making criminal threats, assault with a firearm, and being a felon in possession of a firearm and ammunition. Before his arraignment, respondent executed a valid waiver of his Sixth Amendment right to counsel, electing to represent himself. See *Faretta v. California*, 422 U. S. 806, 807 (1975). By the time of his preliminary hearing, however, respondent changed his mind and retained counsel. Then, two months later, he fired his lawyer and again waived his right to counsel. Two months after that, respondent again changed his mind and asked the court to

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appoint an attorney. The court did so. Shortly before trial, however, respondent for the third time surrendered his right to counsel. He proceeded to trial *pro se*. On June 27, 2003, the jury returned a verdict of guilty.

After the verdict was read, respondent asked the state trial court to provide an attorney to help him file a motion for a new trial. The trial judge deferred ruling on the motion to appoint counsel, and respondent later renewed the request in writing. Neither the oral nor the written motion included reasons in support of his request; and when offered a chance to supplement or explain his motion at a later hearing, respondent declined to do so. The trial court denied the request for counsel. Respondent's *pro se* motion for a new trial was likewise denied.

On direct review the California Court of Appeal affirmed respondent's convictions and sentence. As relevant here, it concluded that his history of vacillating between counseled and self-representation, the lack of support for his motion, his demonstrated competence in defending his case, and his insistence that he "c[ould] do the motion [him]self" but "just need[ed] time to perfect it," App. to Pet. for Cert. 129–130, justified the trial court's denial of his post-trial request for counsel. The state appellate court also distinguished its decision from that of the Court of Appeals for the Ninth Circuit in *Menefield v. Borg*, 881 F.2d 696 (1989), reasoning that the habeas petitioner in *Menefield* had stated reasons justifying his request for counsel, whereas respondent's request was unreasoned and unexplained. The state appellate court concluded that "[b]ecause the [trial] court was not given any reason to grant [respondent's] motion, we cannot find that the court abused its discretion in declining to do so." App. to Pet. for Cert. 130.

Having failed to obtain relief in state court, respondent filed a federal habeas petition, arguing that the California courts had violated his Sixth Amendment right to counsel

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by not providing an attorney to help with his new-trial motion. The District Court denied the petition but granted a certificate of appealability. The Court of Appeals reversed, holding that respondent’s “Sixth Amendment right to counsel was violated when the trial court denied his timely request for representation for a new trial motion.” 678 F. 3d, at 1163.

To reach the conclusion that respondent’s right to counsel in these circumstances was clearly established by the Supreme Court of the United States, the Court of Appeals for the Ninth Circuit invoked certain Sixth Amendment precedents from its own earlier cases and from cases in other Circuits. From those precedents, the panel identified two relevant principles that it deemed to have been clearly established by this Court’s cases: first, that a defendant’s waiver of his right to trial counsel does not bar his later election to receive assistance of counsel at a later critical stage of the prosecution, absent proof by the State that the reappointment request was made in bad faith, see *id.*, at 1159–1162; and, second, that a new-trial motion is a critical stage, see *id.*, at 1156–1159. Combining these two propositions, the court held that respondent had a clearly established right to the reappointment of counsel for purposes of his new-trial motion, and that the California courts—which vest the trial judge with discretion to approve or deny such requests based on the totality of the circumstances, see *People v. Lawley*, 27 Cal. 4th 102, 147–151, 38 P. 3d 461, 493–495 (2002)—violated that right by refusing to order the reappointment of counsel. 678 F. 3d, at 1162–1163.

## II

The starting point for cases subject to §2254(d)(1) is to identify the “clearly established Federal law, as determined by the Supreme Court of the United States” that governs the habeas petitioner’s claims. See *Williams v.*

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*Taylor*, 529 U. S. 362, 412 (2000); *Knowles v. Mirzayance*, 556 U. S. 111, 122 (2009). As indicated above, the parties here dispute whether two principles of law are clearly established under this framework. One is whether, after a defendant’s valid waiver of his right to trial counsel under *Faretta*, a post-trial, preappeal motion for a new trial is a critical stage of the prosecution. For purposes of analysis here, it will be assumed, without so holding, that it is.

The other disputed question is whether, after a defendant’s valid waiver of counsel, a trial judge has discretion to deny the defendant’s later request for reappointment of counsel. In resolving this question in respondent’s favor, the Court of Appeals first concluded (correctly) that “the Supreme Court has never explicitly addressed a criminal defendant’s ability to re-assert his right to counsel” once he has validly waived it. 678 F. 3d, at 1159 (internal quotation marks omitted). It then (also correctly) recognized that the lack of a Supreme Court decision on nearly identical facts does not by itself mean that there is no clearly established federal law, since “a general standard” from this Court’s cases can supply such law. *Yarborough v. Alvarado*, 541 U. S. 652, 664 (2004). The Court of Appeals erred, however, in its application of this latter proposition to the controlling issues here.

It is beyond dispute that “[t]he Sixth Amendment safeguards to an accused who faces incarceration the right to counsel at all critical stages of the criminal process.” *Iowa v. Tovar*, 541 U. S. 77, 80–81 (2004); see *United States v. Cronin*, 466 U. S. 648, 653–654 (1984); *Gideon v. Wainwright*, 372 U. S. 335, 344 (1963). It is just as well settled, however, that a defendant also has the right to “proceed *without* counsel when he voluntarily and intelligently elects to do so.” *Faretta*, 422 U. S., at 807.

There can be some tension in these two principles. As the *Faretta* Court observed, “[t]here can be no blinking the fact that the right of an accused to conduct his own de-

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fense seems to cut against the grain of this Court’s decisions holding that the Constitution requires that no accused can be convicted and imprisoned unless he has been accorded the right to the assistance of counsel.” *Id.*, at 832. California has resolved this tension by adopting the framework under review. Under that approach, trial judges are afforded discretion when considering postwaiver requests for counsel; their decisions on such requests must be based on the totality of the circumstances, “includ[ing] ‘the quality of [the defendant’s] representation of [himself], the defendant’s prior proclivity to substitute counsel, the reasons for the request, the length and stage of the proceedings, and the disruption or delay [that] might reasonably be expected to follow the granting of such a motion.’” *Lawley, supra*, at 149, 38 P. 3d, at 494 (quoting *People v. Windham*, 19 Cal. 3d 121, 128, 560 P. 2d 1187, 1191–1192 (1977); final alteration in original). The state appellate court applied those rules to the case at bar, concluding that the totality of the circumstances—and especially the shifting nature of respondent’s preferences, the unexplained nature of his motion, and his demonstrated capacity to handle the incidents of trial—supported the trial court’s decision. App. to Pet. for Cert. 128–131.

The Court of Appeals, however, has resolved that tension differently in its own direct-review cases. It has adopted a “‘strong presumption that a defendant’s post-trial request for the assistance of an attorney should not be refused,’” 678 F. 3d, at 1160 (quoting *Robinson v. Ignacio*, 360 F. 3d 1044, 1058 (CA9 2004); emphasis deleted), as well as a default rule that, “‘in the absence of extraordinary circumstances,’ a defendant’s post-trial revocation of his waiver should be allowed unless the government can show that the request is made ‘for a bad faith purpose,’” *id.*, at 1058 (quoting *Menefield*, 881 F. 2d, at 701; emphasis deleted).

It is unnecessary for present purposes to judge the

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merits of these two approaches or determine what rule the Sixth Amendment in fact establishes for postwaiver requests of appointment of counsel. All this case requires—and all the Court of Appeals was empowered to do under §2254(d)(1)—is to observe that, in light of the tension between the Sixth Amendment’s guarantee of “the right to counsel at all critical stages of the criminal process,” *Tovar, supra*, at 80–81, and its concurrent promise of “a constitutional right to proceed *without* counsel when [a criminal defendant] voluntarily and intelligently elects to do so,” *Faretta, supra*, at 807, it cannot be said that California’s approach is contrary to or an unreasonable application of the “general standard[s]” established by the Court’s assistance-of-counsel cases. *Alvarado, supra*, at 664.

The Court of Appeals’ contrary conclusion rested in part on the mistaken belief that circuit precedent may be used to refine or sharpen a general principle of Supreme Court jurisprudence into a specific legal rule that this Court has not announced. *Parker v. Matthews*, 567 U. S. \_\_\_, \_\_\_ (2012) (*per curiam*) (slip op., at 12–13) (“The highly generalized standard for evaluating claims of prosecutorial misconduct set forth in *Darden* [*v. Wainwright*, 477 U. S. 168 (1986)] bears scant resemblance to the elaborate, multistep test employed by the Sixth Circuit here”); see 678 F. 3d, at 1155, 1157. The error in this approach is subtle, yet substantial. Although an appellate panel may, in accordance with its usual law-of-the-circuit procedures, look to circuit precedent to ascertain whether it has already held that the particular point in issue is clearly established by Supreme Court precedent, see, *e.g.*, *Tolliver v. Sheets*, 594 F. 3d 900, 916, n. 6 (CA6 2010) (“We are bound by prior Sixth Circuit determinations that a rule has been clearly established”); *Chambers v. McDaniel*, 549 F. 3d 1191, 1199 (CA9 2008), it may not canvass circuit decisions to determine whether a particular rule of law is



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so widely accepted among the Federal Circuits that it would, if presented to this Court, be accepted as correct. See *Parker, supra*, at \_\_\_\_ (slip op., at 12–13); *Renico v. Lett*, 559 U. S. 766, 778–779 (2010). The Court of Appeals failed to abide by that limitation here. Its resulting holding was erroneous and must be reversed.

### III

The Court expresses no view on the merits of the underlying Sixth Amendment principle the respondent urges. And it does not suggest or imply that the underlying issue, if presented on direct review, would be insubstantial. This opinion is instead confined to the determination that the conclusion of the California courts that there was no Sixth Amendment violation is not contrary to “clearly established Federal law, as determined by the Supreme Court of the United States.” §2254(d)(1).

The petition for a writ of certiorari and respondent’s motion to proceed *in forma pauperis* are granted. The judgment of the United States Court of Appeals for the Ninth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*