SUPREME COURT OF THE UNITED STATES

No. 92–725

SALVADOR GODINEZ, WARDEN, PETITIONER *v.*
RICHARD ALLAN MORAN

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

[June 24, 1993]

JUSTICE THOMAS delivered the opinion of the Court.

This case presents the question whether the competency standard for pleading guilty or waiving the right to counsel is higher than the competency standard for standing trial. We hold that it is not.

On August 2, 1984, in the early hours of the morning, respondent entered the Red Pearl Saloon in Carson City, Nevada, and shot the bartender and a patron four times each with an automatic pistol. He then walked behind the bar and removed the cash register. Nine days later, respondent arrived at the apartment of his former wife and opened fire on her; five of his seven shots hit their target. Respondent then shot himself in the abdomen and attempted, without success, to slit his wrists. Of the four victims of respondent's gunshots, only respondent himself survived. On August 13, respondent summoned police to his hospital bed and confessed to the killings.

After respondent pleaded not guilty to three counts of first-degree murder, the trial court ordered that he be examined by a pair of psychiatrists, both of whom concluded that he was competent to stand trial.[1] The

[1]One of the psychiatrists stated that there was "not the slightest doubt" that respondent was "in full

State thereafter announced its intention to seek the death penalty. On November 28, 1984, two and a half months after the psychiatric evaluations, respondent again appeared before the trial court. At this time respondent informed the court that he wished to discharge his attorneys and change his pleas to guilty. The reason for the request, according to respondent, was to prevent the presentation of mitigating evidence at his sentencing.

On the basis of the psychiatric reports, the trial court found that respondent

> "is competent in that he knew the nature and quality of his acts, had the capacity to determine right from wrong; that he understands the nature of the criminal charges against him and is able to assist in his defense of such charges, or against the pronouncement of the judgment thereafter; that he knows the consequences of entering a plea of guilty to the charges; and that he can intelligently and knowingly waive his constitutional right to assistance of an attorney." App. 21.

The court advised respondent that he had a right both to the assistance of counsel and to self-representation, warned him of the "dangers and disadvantages" of self-representation, *id.*, at 22, inquired into his understanding of the proceedings and his awareness of his rights, and asked why he had chosen to represent himself. It then accepted respondent's waiver of counsel. The court also accepted respondent's guilty pleas, but not before it

---

control of his faculties" insofar as he had the "ability to aid counsel, assist in his own defense, recall evidence and . . . give testimony if called upon to do so." App. 8. The other psychiatrist believed that respondent was "knowledgeable of the charges being made against him"; that he had the ability to "assist his attorney, in his own defense, if he so desire[d]"; and that he was "fully cognizant of the penalties if convicted." *Id.*, at 17.

had determined that respondent was not pleading guilty in response to threats or promises, that he understood the nature of the charges against him and the consequences of pleading guilty, that he was aware of the rights he was giving up, and that there was a factual basis for the pleas. The trial court explicitly found that respondent was "knowingly and intelligently" waiving his right to the assistance of counsel, *id.*, at 22, and that his guilty pleas were "freely and voluntarily" given, *id.*, at 64.[2]

---

[2]During the course of this lengthy exchange, the trial court asked respondent whether he was under the influence of drugs or alcohol, and respondent answered as follows: "Just what they give me in, you know, medications." *Id.*, at 33. The court made no further inquiry. The "medications" to which respondent referred had been prescribed to control his seizures, which were a by-product of his cocaine use. See App. to Pet. for Cert. D–4.

On January 21, 1985, a three-judge court sentenced respondent to death for each of the murders. The Supreme Court of Nevada affirmed respondent's sentences for the Red Pearl Saloon murders, but reversed his sentence for the murder of his ex-wife and remanded for imposition of a life sentence without the possibility of parole. *Moran* v. *State*, 103 Nev. 138, 734 P. 2d 712 (1987).

On July 30, 1987, respondent filed a petition for post-conviction relief in state court. Following an evidentiary hearing, the trial court rejected respondent's claim that he was "mentally incompetent to represent himself," concluding that "the record clearly shows that he was examined by two psychiatrists both of whom declared [him] competent." App. to Pet. for Cert. D–8. The Supreme Court of Nevada dismissed respondent's appeal, *Moran* v. *Warden*, 105 Nev. 1041, 810 P. 2d 335 (1989), and we denied certiorari, 493 U. S. 874 (1989).

Respondent then filed a habeas petition in the United States District Court for the District of Nevada. The District Court denied the petition, but the Ninth Circuit reversed. 972 F. 2d 263 (1992). The Court of Appeals concluded that the "record in this case" should have led the trial court to "entertai[n] a good faith doubt about [respondent's] competency to make a voluntary, knowing, and intelligent waiver of constitutional rights," *id.*, at 265,[3] and that the Due Process Clause therefore "required the court to hold a

---

[3]The specific features of the record upon which the Court of Appeals relied were respondent's suicide attempt; his desire to discharge his attorneys so as to prevent the presentation of mitigating evidence at sentencing; his "monosyllabic" responses to the trial court's questions; and the fact that he was on medication at the time he sought to waive his right to counsel and plead guilty. 972 F. 2d, at 265.

hearing to evaluate and determine [respondent's] competency . . . before it accepted his decision to discharge counsel and change his pleas," *ibid.* Rejecting petitioner's argument that the trial court's error was "cured by the postconviction hearing," *ibid.*, and that the competency determination that followed the hearing was entitled to deference under 28 U. S. C. §2254(d), the Court of Appeals held that "the state court's postconviction ruling was premised on the wrong legal standard of competency," 972 F. 2d, at 266. "Competency to waive constitutional rights," according to the Court of Appeals, "requires a higher level of mental functioning than that required to stand trial"; while a defendant is competent to stand trial if he has "a rational and factual understanding of the proceedings and is capable of assisting his counsel," a defendant is competent to waive counsel or plead guilty only if he has "the capacity for `reasoned choice' among the alternatives available to him." *Ibid.* The Court of Appeals determined that the trial court had "erroneously applied the standard for evaluating competency to stand trial, instead of the correct `reasoned choice' standard," *id.*, at 266–267, and further concluded that when examined "in light of the correct legal standard," the record did not support a finding that respondent was "mentally capable of the reasoned choice required for a valid waiver of constitutional rights," *id.*, at 267.[4] The Court of Appeals accordingly instructed the District Court to issue the writ of habeas corpus within 60 days, "unless the state court allows [respondent] to withdraw his guilty pleas, enter new pleas, and proceed to trial with the assistance of counsel." *Id.*,

---

[4]In holding that respondent was not competent to waive his constitutional rights, the court placed heavy emphasis on the fact that respondent was on medication at the time he sought to discharge his attorneys and plead guilty. See *id.*, at 268.

at 268.

Whether the competency standard for pleading guilty or waiving the right to counsel is higher than the competency standard for standing trial is a question that has divided the federal courts of appeals[5] and state courts of last resort.[6] We granted certiorari to resolve the conflict. 506 U. S. ___ (1992).

---

[5]While the Ninth Circuit and the District of Columbia Circuit, see *United States* v. *Masthers*, 176 U. S. App. D. C. 242, 247, 539 F. 2d 721, 726 (1976), have employed the "reasoned choice" standard for guilty pleas, every other circuit that has considered the issue has determined that the competency standard for pleading guilty is identical to the competency standard for standing trial. See *Allard* v. *Helgemoe*, 572 F. 2d 1, 3–6 (CA1), cert. denied, 439 U. S. 858 (1978); *United States* v. *Valentino*, 283 F. 2d 634, 635 (CA2 1960) *(per curiam); United States ex rel. McGough* v. *Hewitt*, 528 F. 2d 339, 342, n. 2 (CA3 1975); *Shaw* v. *Martin*, 733 F. 2d 304, 314 (CA4), cert. denied, 469 U. S. 873 (1984); *Malinauskas* v. *United States*, 505 F. 2d 649, 654 (CA5 1974); *United States* v. *Harlan*, 480 F. 2d 515, 517 (CA6), cert. denied, 414 U. S. 1006 (1973) ; *United States ex rel. Heral* v. *Franzen*, 667 F. 2d 633, 638 (CA7 1981); *White Hawk* v. *Solem*, 693 F. 2d 825, 829–830, n. 7 (CA8 1982), cert. denied, 460 U. S. 1054 (1983); *Wolf* v. *United States*, 430 F. 2d 443, 444 (CA10 1970); *United States* v. *Simmons*, 961 F. 2d 183, 187 (CA11 1992), cert. denied, 507 U. S. ___ (1993). Three of those same circuits, however, have indicated that the competency standard for waiving the right to counsel is "vaguely higher" than the competency standard for standing trial, see *United States ex rel. Konigsberg* v. *Vincent*, 526 F. 2d 131, 133 (CA2 1975), cert. denied, 426 U. S. 937 (1976); *United States* v. *McDowell*, 814 F. 2d 245, 250 (CA6), cert. denied, 484 U. S. 980

A criminal defendant may not be tried unless he is competent, *Pate* v. *Robinson*, 383 U. S. 375, 378 (1966), and he may not waive his right to counsel or plead guilty unless he does so "competently and intelligently," *Johnson* v. *Zerbst*, 304 U. S. 458, 468 (1938); accord, *Brady* v. *United States*, 397 U. S. 742, 758 (1970). In *Dusky* v. *United States*, 362 U. S. 402 (1960) *(per curiam)*, we held that the standard for competence to stand trial is whether the defendant has "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and has "a rational as well as factual understanding of the proceedings against him." *Id.*,

---

(1987); *Blackmon* v. *Armontrout*, 875 F. 2d 164, 166 (CA8), cert. denied, 493 U. S. 939 (1989), and one of them has stated that the two standards "may not always be coterminous," *United States* v. *Campbell*, 874 F. 2d 838, 846 (CA1 1989). Only the Ninth Circuit applies the "reasoned choice" standard to waivers of counsel, and only the Seventh Circuit, see *United States* v. *Clark*, 943 F. 2d 775, 782 (CA7 1991), cert. pending, No. 92–6439, has held that the competency standard for waiving counsel is identical to the competency standard for standing trial. The Fourth Circuit has expressed the view that the two standards are "closely linked." *United States* v. *McGinnis*, 384 F. 2d 875, 877 (CA4 1967) *(per curiam),* cert. denied, 390 U. S. 990 (1968).

[6]Compare, *e. g.*, *State* v. *Sims*, 118 Ariz. 210, 215, 575 P. 2d 1236, 1241 (1978) (heightened standard for guilty plea); and *Pickens* v. *State*, 96 Wis. 2d 549, 567–568, 292 N. W. 2d 601, 610–611 (1980) (heightened standard for waiver of counsel), with *People* v. *Heral*, 62 Ill. 2d 329, 334, 342 N. E. 2d 34, 37 (1976) (identical standard for pleading guilty and standing trial); and *People* v. *Reason*, 37 N. Y. 2d 351, 353–354, 334 N. E. 2d 572, 574 (1975) (identical standard for waiving counsel and standing trial).

at 402 (internal quotation marks omitted). Accord, *Drope* v. *Missouri*, 420 U. S. 162, 171 (1975) ("[A] person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial"). While we have described the standard for competence to stand trial, however, we have never expressly articulated a standard for competence to plead guilty or to waive the right to the assistance of counsel.

Relying in large part upon our decision in *Westbrook* v. *Arizona*, 384 U. S. 150 (1966) *(per curiam)*, the Ninth Circuit adheres to the view that the competency standard for pleading guilty or waiving the right to counsel is higher than the competency standard for standing trial. See *Sieling* v. *Eyman*, 478 F. 2d 211, 214–215 (CA9 1973) (first Ninth Circuit decision applying heightened standard). In *Westbrook*, a two-paragraph *per curiam* opinion, we vacated the lower court's judgment affirming the petitioner's conviction, because there had been "a hearing on the issue of [the petitioner's] competence to stand trial," but "no hearing or inquiry into the issue of his competence to waive his constitutional right to the assistance of counsel." 384 U. S., at 150. The Ninth Circuit has reasoned that the "clear implication" of *Westbrook* is that the *Dusky* formulation is not "a high enough standard" for determining whether a defendant is competent to waive a constitutional right. *Sieling*, 478 F. 2d, at 214.[7] We think the Ninth Circuit has read too much into *Westbrook*, and we think it errs in applying two

[7]A criminal defendant waives three constitutional rights when he pleads guilty: the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. *Boykin* v. *Alabama*, 395 U. S. 238, 243 (1969).

different competency standards.[8]

The standard adopted by the Ninth Circuit is whether a defendant who seeks to plead guilty or waive counsel has the capacity for "reasoned choice" among the alternatives available to him. How this standard is different from (much less higher than) the *Dusky* standard—whether the defendant has a "rational understanding" of the proceedings—is not readily apparent to us. In fact, respondent himself opposed certiorari on the ground that the difference between the two standards is merely one of "terminology," Brief in Opposition 4, and he devotes little space in his brief on the merits to a defense of the Ninth Circuit's standard, see, *e. g.*, Brief for Respondent 17–18, 27, 32; see also Tr. of Oral Arg. 33 ("Due process does not require [a] higher standard, [it] requires a separate inquiry").[9] But even assuming that there is some meaningful distinction between the capacity for "reasoned choice" and a "rational understanding" of the proceedings, we reject the notion that competence to plead guilty or to waive the right to counsel must be measured by a standard

---

[8]Although this case comes to us by way of federal habeas corpus, we do not dispose of it on the ground that the heightened competency standard is a "new rule" for purposes of *Teague* v. *Lane*, 489 U. S. 288 (1989), because petitioner did not raise a *Teague* defense in the lower courts or in his petition for certiorari. See *Parke* v. *Raley*, 506 U. S. ___, ___ (1992) (slip op., at 5); *Collins* v. *Youngblood*, 497 U. S. 37, 41 (1990).

[9]We have used the phrase "rational choice" in describing the competence necessary to withdraw a certiorari petition, *Rees* v. *Peyton*, 384 U. S. 312, 314 (1966) *(per curiam)*, but there is no indication in that opinion that the phrase means something different from "rational understanding."

that is higher than (or even different from) the *Dusky* standard.

We begin with the guilty plea. A defendant who stands trial is likely to be presented with choices that entail relinquishment of the same rights that are relinquished by a defendant who pleads guilty: He will ordinarily have to decide whether to waive his "privilege against compulsory self-incrimination," *Boykin* v. *Alabama*, 395 U. S. 238, 243 (1969), by taking the witness stand; if the option is available, he may have to decide whether to waive his "right to trial by jury," *ibid.;* and, in consultation with counsel, he may have to decide whether to waive his "right to confront [his] accusers," *ibid.*, by declining to cross-examine witnesses for the prosecution. A defendant who pleads not guilty, moreover, faces still other strategic choices: In consultation with his attorney, he may be called upon to decide, among other things, whether (and how) to put on a defense and whether to raise one or more affirmative defenses. In sum, *all* criminal defendants—not merely those who plead guilty—may be required to make important decisions once criminal proceedings have been initiated. And while the decision to plead guilty is undeniably a profound one, it is no more complicated than the sum total of decisions that a defendant may be called upon to make during the course of a trial. (The decision to plead guilty is also made over a shorter period of time, without the distraction and burden of a trial.) This being so, we can conceive of no basis for demanding a higher level of competence for those defendants who choose to plead guilty. If the *Dusky* standard is adequate for defendants who plead not guilty, it is necessarily adequate for those who plead guilty.

Nor do we think that a defendant who waives his right to the assistance of counsel must be more competent than a defendant who does not, since there is no reason to believe that the decision to

waive counsel requires an appreciably higher level of mental functioning than the decision to waive other constitutional rights. Respondent suggests that a higher competency standard is necessary because a defendant who represents himself "`must have greater powers of comprehension, judgment, and reason than would be necessary to stand trial with the aid of an attorney.'" Brief for Respondent 26 (quoting Silten & Tullis, Mental Competency in Criminal Proceedings, 28 Hastings L. J. 1053, 1068 (1977)). Accord, Brief for National Association of Criminal Defense Lawyers as *Amicus Curiae* 10–12. But this argument has a flawed premise; the competence that is required of a defendant seeking to waive his right to counsel is the competence to *waive the right*, not the competence to represent himself.[10] In *Faretta* v. *California*, 422 U. S. 806

[10]It is for this reason that the dissent's reliance on *Massey* v. *Moore*, 348 U. S. 105 (1954), is misplaced. When we said in *Massey* that "[o]ne might not be insane in the sense of being incapable of standing trial and yet lack the capacity to stand trial without benefit of counsel," *id.*, at 108, we were answering a question that is quite different from the question presented in this case. Prior to our decision in *Gideon* v. *Wainwright*, 372 U. S. 335 (1963), the appointment of counsel was required only in those state prosecutions in which "special circumstances" were present, see *id.*, at 350–351 (Harlan, J., concurring), and the question in *Massey* was whether a finding that a defendant is competent to stand trial compels a conclusion that there are no "special circumstances" justifying the appointment of counsel. The question here is not whether a defendant who is competent to stand trial has no right to have counsel appointed; it is whether such a defendant is competent to waive the right to counsel that (after *Gideon*) he under all circumstances has.

(1975), we held that a defendant choosing self-representation must do so "competently and intelligently," *id.*, at 835, but we made it clear that the defendant's "technical legal knowledge" is "not relevant" to the determination whether he is competent to waive his right to counsel, *id.*, at 836, and we emphasized that although the defendant "may conduct his own defense ultimately to his own detriment, his choice must be honored," *id.*, at 834. Thus, while "[i]t is undeniable that in most criminal prosecutions defendants could better defend with counsel's guidance than by their own unskilled efforts," *ibid.*, a criminal defendant's ability to represent himself has no bearing upon his competence to *choose* self-representation.[11]

A finding that a defendant is competent to stand trial, however, is not all that is necessary before he

---

[11]We note also that the prohibition against the trial of incompetent defendants dates back at least to the time of Blackstone, see *Medina* v. *California*, 505 U. S. ___, ___ (1992) (slip op., at 8); *Drope* v. *Missouri*, 420 U. S. 162, 171–172 (1975); *Youtsey* v. *United States*, 97 F. 937, 940 (CA6 1899) (collecting "common law authorities"), and that "[b]y the common law of that time, it was not representation by counsel but self-representation that was the practice in prosecutions for serious crime," *Faretta* v. *California*, 422 U. S. 806, 823 (1975); accord, *id.*, at 850 (BLACKMUN, J., dissenting) ("self-representation was common, if not required, in 18th century English and American prosecutions"). It would therefore be "difficult to say that a standard which was designed to determine whether a defendant was capable of defending himself" is "inadequate when he chooses to conduct his own defense." *People* v. *Reason*, 37 N. Y. 2d, at 354, 334 N. E. 2d, at 574.

may be permitted to plead guilty or waive his right to counsel. In addition to determining that a defendant who seeks to plead guilty or waive counsel is competent, a trial court must satisfy itself that the waiver of his constitutional rights is knowing and voluntary. *Parke* v. *Raley*, 506 U. S. ___, ___ (1992) (slip op., at 8) (guilty plea); *Faretta*, *supra*, at 835 (waiver of counsel). In this sense there *is* a "heightened" standard for pleading guilty and for waiving the right to counsel, but it is not a heightened standard of *competence*.[12]

This two-part inquiry[13] is what we had in mind in

---

[12]The focus of a competency inquiry is the defendant's mental capacity; the question is whether he has the *ability* to understand the proceedings. See *Drope* v. *Missouri*, *supra*, at 171 (defendant is incompetent if he "lacks the *capacity* to understand the nature and object of the proceedings against him") (emphasis added). The purpose of the "knowing and voluntary" inquiry, by contrast, is to determine whether the defendant actually *does* understand the significance and consequences of a particular decision and whether the decision is uncoerced. See *Faretta* v. *California*, *supra*, at 835 (defendant waiving counsel must 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 eyes open'") (quoting *Adams* v. *United States ex rel. McCann*, 317 U. S. 269, 279 (1942)); *Boykin* v. *Alabama*, 395 U. S., at 244 (defendant pleading guilty must have "a full understanding of what the plea connotes and of its consequence").

[13]We do not mean to suggest, of course, that a court is required to make a competency determination in every case in which a defendant seeks to plead guilty or to waive his right to counsel. As in any criminal case, a competency determination is necessary only

Westbrook. When we distinguished between "competence to stand trial" and "competence to waive [the] constitutional right to the assistance of counsel," 384 U. S., at 150, we were using "competence to waive" as a shorthand for the "intelligent and competent waiver" requirement of *Johnson* v. *Zerbst*. This much is clear from the fact that we quoted that very language from *Zerbst* immediately after noting that the trial court had not determined whether the petitioner was competent to waive his right to counsel. See 384 U. S., at 150 ("`This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused'") (quoting *Johnson* v. *Zerbst*, 304 U. S., at 465). Thus, *Westbrook* stands only for the unremarkable proposition that when a defendant seeks to waive his right to counsel, a determination that he is competent to stand trial is not enough; the waiver must also be intelligent and voluntary before it can be accepted.[14]

Requiring that a criminal defendant be competent has a modest aim: It seeks to ensure that he has the capacity to understand the proceedings and to assist counsel. While psychiatrists and scholars may find it useful to classify the various kinds and degrees of competence, and while States are free to adopt competency standards that are more elaborate than the *Dusky* formulation, the Due Process Clause does not impose these additional requirements. Cf. *Medina* v. *California*, 505 U. S. ___, ___–___ (1992) (slip

---

when a court has reason to doubt the defendant's competence. See *Drope* v. *Missouri*, *supra*, at 180–181; *Pate* v. *Robinson*, 383 U. S. 375, 385 (1966).

[14]In this case the trial court explicitly found both that respondent was competent and that his waivers were knowing and voluntary. See *supra*, at 2–3.

op., at 8–15). The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

So ordered.