

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2024-2661
Lower Tribunal No. 2018-CF-015474

ELIJAH JOHNSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the Circuit Court for Orange County.
Michael J. Snure, Judge.

October 16, 2026

WOZNIAK, J.

Elijah Johnson was permitted a belated appeal of the order revoking his community control and sentencing him to twelve years' incarceration. He asserts a claim of fundamental, reversible error arising from the trial court's failure to conduct a *Faretta*¹ hearing after he made an unequivocal request to represent himself in his violation of community control proceedings. Because Johnson's request was

¹ *Faretta v. California*, 422 U.S. 806 (1975).

unequivocal, the trial court was required to conduct a *Faretta* hearing and it committed fundamental error in not doing so.

Following the denial of Johnson's request to replace his counsel, the following exchange occurred:

THE DEFENDANT: *So I can't represent myself?*

THE COURT: No, sir.

THE DEFENDANT: What about 3.111, though?

THE COURT: But what is that?

THE DEFENDANT: So -- I don't know. That's what they're helping me.

. . . .

THE COURT: Listen to me. Your lawyer is in charge of the strategy decisions in your case, that's what lawyers do. They don't respond to jailhouse lawyers. And what -- the only issue in your case is whether I'm bound by Judge Lubet's proclamation that the next sentence is capped if you're found in violation it's 15 years.

THE DEFENDANT: *Why would I when I can be pro se? I'm ready to be pro se, sir.*

THE COURT: I didn't hear you. You'd like to be what?

THE DEFENDANT: *Defend myself. Yeah, defend myself.*

THE COURT: You -- what training do you have to defend yourself? You ever been to law school?

THE DEFENDANT: That isn't -- that isn't what she's doing for me.

THE COURT: That's absolutely not true. *I'm gonna deny your request to defend yourself* and your *Nelson* hearing. We'll set the matter for a VOP hearing.

The case proceeded to the community control revocation hearing, during which the trial court determined that Johnson had violated the conditions of his release and sentenced Johnson to twelve years' incarceration.

Because Johnson did not object to the trial court's failure to hold a *Faretta* hearing, this matter is reviewed for fundamental error. *Hooks v. State*, 236 So. 3d 1122, 1124 (Fla. 1st DCA 2017) ("Hooks never objected to the sufficiency of the *Faretta* inquiry at trial. However, a deficient *Faretta* inquiry constitutes fundamental error that can be raised for the first time on appeal."). "[A] trial court's failure to take the preliminary step of holding a hearing on a defendant's unequivocal pro se request results in per se reversible error." *McCray v. State*, 71 So. 3d 848, 864 (Fla. 2011).

The Sixth Amendment to the United States Constitution confers the right of self-representation. *Faretta*, 422 U.S. at 819. This right is present at violation of probation hearings. *See, e.g., Evans v. State*, 427 So. 3d 624, 625 (Fla. 3d DCA 2026) (finding reversible error for trial court to fail to hold *Faretta* inquiry where defendant made unequivocal request for self-representation prior to commencement of his probation violation hearing). To trigger the *Faretta* inquiry, the defendant's request for self-representation must be unequivocal. *See Mosley v. State*, 209 So. 3d 1248,

1271 (Fla. 2016) (“Before the trial court is mandated to hold a *Faretta* hearing, ‘the defendant’s request for self-representation must be unequivocal.’” (quoting *Tennis v. State*, 997 So. 2d 375, 377–78 (Fla. 2008))). “[I]f a defendant unequivocally states that he chooses to represent himself instead of having counsel represent him and the trial court denies the defendant this right, such an error requires reversal.” *Id.* at 1271-72.

Here, Johnson’s request to represent himself was unequivocal. *See, e.g., Evans*, 427 So. 3d at 626 (finding defendant’s statement, “I want to represent myself. I said we got to have a *Faretta* hearing” to be an unequivocal request); *Laramie v. State*, 90 So. 3d 341, 343 (Fla. 5th DCA 2012) (finding defendant’s statement, “I’m going pro se—I’m filing. I refuse to go to court with somebody who ain’t seen me at all, and I’m supposed to go to trial and I have my life on the line” an unequivocal request). The trial court understood Johnson’s request as one to represent himself, having explicitly denied the request when he stated, “I’m gonna deny your request to defend yourself.” Therefore, the trial court committed per se reversible error when it refused to proceed to a *Faretta* hearing. Accordingly, we reverse the order revoking Johnson’s community control and the sentence imposed and remand for a *Faretta* hearing.

REVERSED and REMANDED for further proceedings.

STARGEL and NARDELLA, JJ., concur.

Blair Allen, Public Defender, and Lisa B. Lott, Assistant Public Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Kurt T. Koehler, Assistant Attorney General, Daytona Beach, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED