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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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MARTINEZ *v.* COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA

No. 98–7809. Argued November 9, 1999– Decided January 12, 2000

Accused of converting a client's money to his own use while employed as a paralegal, petitioner Martinez was charged by California with grand theft and the fraudulent appropriation of another's property. He chose to represent himself at trial before a jury, which acquitted him of theft but convicted him of embezzlement. He then filed a timely notice of appeal, a motion to represent himself, and a waiver of counsel. The California Court of Appeal denied his motion to represent himself based on its prior holding that there is no constitutional right to self-representation on direct appeal under *Faretta* v. *California*, 422 U. S. 806, in which this Court held that a criminal defendant has a constitutional right to conduct his own defense at trial when he voluntarily and intelligently elects to proceed without counsel, *id.*, at 807, 836. The state court had explained that the right to counsel on appeal stems from the Due Process and Equal Protection Clauses of the Fourteenth Amendment, not from the Sixth Amendment on which *Faretta* was based, and held that the denial of self-representation at this level does not violate due process or equal protection. The California Supreme Court denied Martinez' application for a writ of mandate.

Held: Neither *Faretta*'s holding nor its reasoning requires a State to recognize a constitutional right to self-representation on direct appeal from a criminal conviction. Although some of *Faretta*'s reasoning is applicable to appellate proceedings as well as to trials, there are significant distinctions. First, the historical evidence *Faretta* relied on as identifying a right of self-representation, 422 U. S., at 812–817, is not useful here because it pertained to times when lawyers were scarce, often mistrusted, and not readily available to the average person accused of crime, whereas it has since been recognized

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that every indigent defendant in a criminal trial has a constitutional right to the assistance of appointed counsel, see *Gideon* v. *Wainwright*, 372 U. S. 335. Moreover, unlike the right recognized in *Faretta*, the historical evidence does not provide any support for an affirmative constitutional right to appellate self-representation. Second, *Faretta*'s reliance on the Sixth Amendment's structure interpreted in light of its English and colonial background, 422 U. S., at 818–832, is not relevant here. Because the Amendment deals strictly with trial rights and does not include any right to appeal, see *Abney* v. *United States*, 431 U. S. 651, 656, it necessarily follows that the Amendment itself does not provide any basis for finding a right to appellate self-representation. *Faretta*'s inquiries into historical English practices, 422 U. S., at 821–824, do not provide a basis for extending that case to the appellate process because there was no appeal from a criminal conviction in England until 1907. Third, although *Faretta*'s conclusion that a knowing and intelligent waiver of the right to trial counsel must be honored out of respect for individual autonomy, *id.*, at 834, is also applicable in the appellate context, this Court has recognized that the right is not absolute, see *id.*, at 835. Given the Court's conclusion that the Sixth Amendment does not apply to appellate proceedings, any individual right to self-representation on appeal based on autonomy principles must be grounded in the Due Process Clause. Under the practices prevailing in the Nation today, the Court is entirely unpersuaded that the risk of disloyalty by a court-appointed attorney, or the suspicion of such disloyalty, that underlies the constitutional right of self-representation at trial, see *id.*, at 834, is a sufficient concern to conclude that such a right is a necessary component of a fair appellate proceeding. The States are clearly within their discretion to conclude that the government's interests in ensuring the integrity and efficiency of the appellate process outweigh an invasion of the appellant's interest in self-representation, although the Court's narrow holding does not preclude the States from recognizing a constitutional right to appellate self-representation under their own constitutions. Pp. 3–12.

Affirmed.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, SOUTER, THOMAS, GINSBURG, and BREYER, JJ., joined. KENNEDY, J., and BREYER, J., filed concurring opinions. SCALIA, J., filed an opinion concurring in the judgment.