

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEBORAH KINSER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38608

**FILED**

**JUN 05 2002**

JANEITE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Roberts*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of battery upon a peace officer, a gross misdemeanor in violation of NRS 200.481(2)(d). The district court sentenced appellant Deborah Kinser to serve 49 days in jail, with 49 days credit for time served.

Kinser's sole contention on appeal is that the district court abused its discretion in allowing her to represent herself in the district court. More specifically, Kinser argues that her only legal experience was "being in trouble," and that her "unstable history in terms of substance abuse, mental health, maintaining a steady residence, and maintaining employment," left her unable to appreciate the consequences of her decision to represent herself.<sup>1</sup> We conclude that Kinser's contention is without merit.

"A criminal defendant has the right to self-representation under the Sixth Amendment of the United States Constitution and the

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<sup>1</sup>An order was filed in the justice court appointing stand-by counsel for Kinser.

Nevada Constitution.”<sup>2</sup> The record as a whole must show that an accused wishing to represent him- or herself truly understood the dangers and disadvantages of self-representation so that the choice is made “with eyes open.”<sup>3</sup> Further, “[t]he district court should inquire of a defendant about the complexity of the case to ensure that the defendant understands his or her decision and, in particular, the difficulties he or she will face proceeding in proper person.”<sup>4</sup> The decision to exercise the right to self-representation “can be competent and intelligent even though the accused lacks the skill and experience of a lawyer,”<sup>5</sup> and must be honored even when the decision ultimately works to the accused’s detriment.<sup>6</sup> This court has stated that it gives deference to a district court’s determination that the defendant waived his or her right to counsel while conscious of the dangers and risks of self-representation.<sup>7</sup>

We conclude that the district court did not abuse its discretion in allowing Kinser to represent herself. Our review of the documents submitted in this appeal demonstrates that Kinser was thoroughly canvassed by both the justice court, and the district court pursuant to

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<sup>2</sup>Vanisi v. State, 117 Nev. \_\_\_, \_\_\_, 22 P.3d 1164, 1169 (2001); see also U.S. Const. amend. VI; Faretta v. California, 422 U.S. 806, 818-19 (1975); Nev. Const. art. 1, § 8, cl. 1.

<sup>3</sup>Faretta, 422 U.S. at 835 (quotation omitted); see also Arajakis v. State, 108 Nev. 976, 980, 843 P.2d 800, 802-03 (1992).

<sup>4</sup>Vanisi, 117 Nev. at \_\_\_, 22 P.3d at 1172.

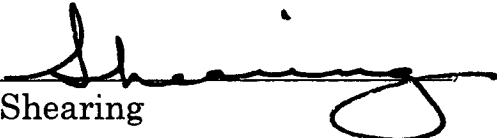
<sup>5</sup>Id. at \_\_\_, 22 P.3d at 1170.

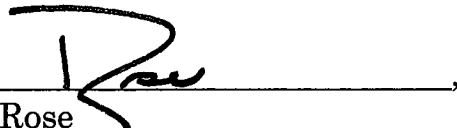
<sup>6</sup>Faretta, 422 U.S. at 834.

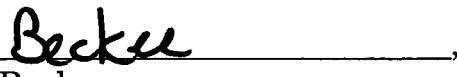
<sup>7</sup>Graves v. State, 112 Nev. 118, 124, 912 P.2d 234, 238 (1996).

Supreme Court Rule 253, in regard to her desire to represent herself, and both courts sufficiently made her aware of the dangers and disadvantages of self-representation.<sup>8</sup> Kinser also had the opportunity to consult with stand-by counsel at all times during the proceedings below, and during the sentencing hearing stand-by counsel informed the district court that he advised Kinser about the consequences of her entering a guilty plea. Therefore, having considered Kinser's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

  
Shearing J.

  
Rose J.

  
Becker J.

cc: Hon. Richard Wagner, District Judge  
State Public Defender/Carson City  
Attorney General/Carson City  
Humboldt County District Attorney  
Humboldt County Clerk

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<sup>8</sup>See generally Harris v. State, 113 Nev. 799, 942 P.2d 151 (1997).