

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

ERIC HUMBERT

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CRIMINAL ACTION

No. 04-506-1

MEMORANDUM AND ORDER

Defendant Eric Humbert, through his counsel Stephen J. Britt, moves this Court to permit Defendant to represent himself as “co-counsel” with his licensed attorney at his trial. For the following reasons, Defendant’s motion is denied.

I. BACKGROUND

Mr. Britt, Defendant’s third defense attorney, has represented Defendant since May 11, 2006. Defendant’s first counsel was granted leave to withdraw on March 29, 2005, and the Court granted Defendant’s motion to dismiss his second counsel on May 9, 2006. On September 11, 2006, Defendant met with Mr. Britt and requested that Mr. Britt file the present motion to enable Defendant to conduct cross-examination of government witnesses at trial. (Def.’s Mem. in Supp. of Mot. to Permit Hybrid Representation [hereinafter “Def.’s Mem.”] at 1-2). The Government opposes Defendant’s motion and argues that Defendant must either accept the representation of his current counsel or proceed *pro se*. (Gov’t’s Mot. to Preclude Def. from Using Hybrid Representation at 2-3). Defendant’s trial is scheduled for December 4, 2006.

II. STANDARD OF REVIEW

The Sixth Amendment guarantees a defendant the right to counsel but not the right to hybrid

representation. U.S. CONST. amend. VI; *see McKaskle v. Wiggins*, 465 U.S. 168, 183-84 (1984); *United States v. Risquet* 426 F. Supp. 2d 310, 311 n.2 (E.D. Pa. 2006). The decision to allow hybrid representation lies entirely within the sound discretion of the district court. *United States v. Stewart*, Civ. A. No. 02-62-1, 2003 WL 21730629, at *1 (D. Del. July 23, 2003) (“Whether a [d]efendant may participate as co-counsel in his own defense is a matter addressed to the sound discretion of the trial court absent a showing of special circumstances.”); *United States v. Thomas*, 220 F. Supp. 2d 430, 441 (W.D. Pa. 2002).

III. DISCUSSION

No circumstances exist in this case to convince the Court that Defendant should be allowed to act as co-counsel in his own defense. Mr. Britt, who has both prosecutorial and defense experience, is well qualified and has ably and diligently advanced Defendant’s interests. *See Stewart*, 2003 WL 21730629, at *1 (denying defendant’s request to act as co-counsel where defense counsel was diligent in representing defendant). The fact that Defendant believes that previous counsel have sabotaged his case does not amount to a special circumstance sufficient to warrant hybrid representation. (Def.’s Mem. at 4). Not only has Mr. Britt performed effectively thus far, but joint representation has the potential to negatively affect Defendant’s trial. *See United States v. Kosmel*, 272 F.3d 501, 506 (7th Cir. 2001) (noting the existence of “systemic problems” associated with hybrid representation). Indeed, even in a case where the defendant was an attorney and a judge, the drawbacks of co-counsel representation led the Sixth Circuit to affirm a district court’s decision not to permit hybrid representation. *United States v. Mosley*, 810 F.2d 93, 97-98 (6th Cir. 1987) (noting “obvious justifications for the refusal to allow hybrid representation in criminal trials,

regardless of the legal experience of the defendant”); *see also United States v. Chavin*, 316 F.3d 666, 671-72 (7th Cir. 2002) (affirming district court’s decision not to permit tax-attorney defendant to act as his own co-counsel). Where, as here, a defendant has no legal experience and is currently represented by highly qualified counsel, the problems associated with co-counsel hybrid representation are even more pronounced. *See United States v. Green*, 388 F.3d 918, 922-23 (6th Cir. 2004) (affirming district court’s refusal to permit co-counsel hybrid representation by non-attorney defendant because of “potential for confusion, the competence of the defendant’s attorneys, and the existence of ample time for the defendant to consult his attorneys”). In light of the Court’s concerns regarding hybrid representation, and because Defendant is currently well represented by Mr. Britt, the Court finds no reason to grant Defendant’s motion.

IV. CONCLUSION

For the foregoing reasons, the Court denies Defendant’s motion to permit hybrid representation.

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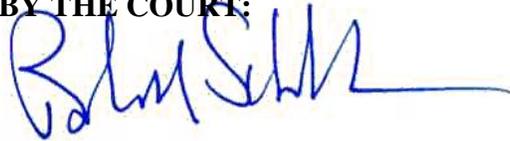
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ORDER

AND NOW, this **28th** day of **September, 2006**, after consideration of Defendant's Motion to Permit Hybrid Representation, the Government's response thereto, and for the foregoing reasons, it is hereby **ORDERED** that Defendant's motion (Document No. 134) is **DENIED**.

BY THE COURT:



Berle M. Schiller, J.