

NOV 13 2007

United States v. Coppola, No. 06-10440CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

TALLMAN, Circuit Judge, concurring:

I join the court's disposition because I am required to do so by the law of this circuit. *United States v. Erskine*, 355 F.3d 1161 (9th Cir. 2004); *United States v. Forrester*, 495 F.3d 1041 (9th Cir. 2007). Were I writing on a clean slate, I would follow the more enlightened view articulated in Judge Kozinski's concurrence to *United States v. Balough*, 820 F.2d 1485, 1490-91 (9th Cir. 1987), rejecting the "rote recitation of mechanical formulas . . . [which] [a]ppellate judges are fond of inventing . . . to constrain trial courts." *Id.* I am satisfied on the record as a whole that Coppola knowingly and intelligently waived his right to counsel. But until the Supreme Court corrects the error of our mechanistic ways, I must abide the law of my circuit.