

JUN 06 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD FRANCIS BANVILLE, a/k/a  
RICH BANVILLE,

Defendant - Appellant.

No. 07-50088

D.C. No. CR-05-00206-AHS

MEMORANDUM \*

Appeal from the United States District Court  
for the Central District of California  
Alicemarie H. Stotler, District Judge, Presiding

Submitted June 4, 2008\*\*  
Pasadena, California

Before: KOZINSKI, Chief Judge, ALDISERT\*\*\* and D.W. NELSON, Circuit  
Judges.

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Ruggero J. Aldisert, Senior United States Circuit  
Judge for the Third Circuit, sitting by designation.

A criminal defendant's assertion of his right to self-representation must be (1) knowing and intelligent; (2) timely and not for the purpose of delay; and (3) unequivocal. *Adams v. Carroll*, 875 F.2d 1441, 1442 (9th Cir. 1989). The district court did not clearly err in finding that Richard Banville's request to represent himself on the first day of trial was made for the purpose of delay.

In reviewing the denial of a motion to substitute counsel, this court considers (1) the timeliness of the motion; (2) the adequacy of the court's inquiry into the defendant's complaint; and (3) whether the conflict between the defendant and counsel was so great that it resulted in a total lack of communication preventing an adequate legal defense. *See, e.g., United States v. George*, 85 F.3d 1433, 1438 (9th Cir. 1996). Here, as in *George*, "it is clear that this motion was untimely (the day of trial), the district court made adequate inquiry, and there was no total lack of communication." *Id.* at 1439.

AFFIRMED.