

20-6366
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

James William Riley — PETITIONER
(Your Name)

vs.

STATE OF Delaware — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Delaware Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

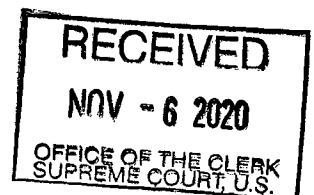
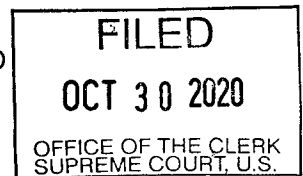
James W. Riley
(Your Name)

James T. Vaughn Correctional Center
(Address) 1181 Paddock Road

Smyrna Delaware 19977
(City, State, Zip Code)

(Phone Number)

ORIGINAL



QUESTION(S) PRESENTED

Whether The Delaware Supreme Court's Rule That

An Indigent Defendant Must Accept His Trial

Counsel's Decision To Plea Guilty To First Degree

Capital Murder Over His Express Objections Or

Represent Himself Vitiates The Voluntariness Of

Petitioner's Waiver Of Counsel And Violate His

6th Amendment Secured Autonomy Rights Not To

Plea Guilty And To Testify??

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- ① *Riley v. Metzger, Warden, et al.*, No. 19-6846
U.S. Supreme Court. Judgement entered April 6, 2020
- ② *Riley v. Delaware* No. 19-6856 U.S. Supreme Court.
Judgement entered April 6, 2020.
- ③ *Riley v. Delaware* No. 13-9254 U.S. Supreme Court.
Judgement entered denying Cert. Petition.
- ④ *In Re: James W. Riley* (2244 Petition)
No. 14-3776 3rd Cir. Ct. (denied Oct. 2014).

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STATUTES AND RULES

6th Amendment U.S. Constit.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Delaware Superior Court court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was Sept. 1, 2020. A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Six Amendment To The United States Constitution

Statement Of Case

Inadequate Faretti Proceedings:

In 2003 Appellant was retried for capital murder. The trial records will show that Appellant's court appointed counsel tried to force him to plea guilty to first degree murder. When Appellant refused to plea guilty and persisted on exercising his 6th Amendment rights to trial by jury, his counsel then employed illegal means of pressure by falsifying and altering records in Appellant's case files to suggest that he made incriminating confessions during taped recorded interviews with psychiatrists in 1987 at which time Appellant was represented by postconviction counsel Professor Lawrence J. Connell of Widner University School of Law. Because these false altered documents included the names of Professor Connell and the psychiatrists that he hired to conduct these interviews with Appellant, Appellant made timely requests prior to the retrial and to every State and Federal Court to gain access to the records in his case files and to obtain sworn affidavits from Professor Connell and the interviewing psychiatrists in an attempt to prove that his retrial counsel's accusations of incriminating confessions were false. Every State and Federal court denied Appellant's requests and access to these records to prove the accuracy of counsel's accusations against Appellant.

Because the trial court refused to hold a hearing out of the presence of the "media" so not to create unfair pretrial publicity that would jeopardize Appellant's 6th Amendment right to impartial jury selection and fair trial that these court officials' actions were intended to accomplish, Appellant was then forced to

Statement of CASE (cont'd)

represent himself throughout the retrial AND on direct appeal because his counsel threaten to use the false confessions AND altered documents against appellant if appellant exercised his 6th Amendment right to testify in his own behalf. The record show that counsel actually argued to the trial court to deny Appellant's request to conduct the Faretti hearing out of the presence of the media so appellant could reveal the misconduct of counsel AND to review the documents counsel was using to support accusations of incriminating confessions. See *Riley v. STATE*, 867 A.2d 902, 2004 WL 2850093 *2 (Del. Supr.) where the trial court accepted counsel's Argument not to conduct in camera proceedings or review any evidence supporting the ethical issues over appellant's vociferous and repeated objections to do so. See *Nix v. Whiteside*, 475 U.S. 157, 182-83 (1985) (defendant must show that hearing on ethical issues was inadequate). And because appellant did not receive an adequate hearing at this stage his rights under *Faretta v. California*, 422 U.S. 806 (1975) were violated leading to involuntary waiver of right to counsel.

The gross misconduct of counsel violated appellant's 6th Amendment autonomy rights AND affected the framework within which the trial proceeds where the effects of the error are simply too hard to measure. See *McCoy v. Louisiana* 2018 U.S. LEXIS 2802 citing *Weaver v. United States*, 137 S. Ct. 1899, 1907-08 (2017).

The STATEMENT OF FACTS are incorporated by reference in support of the claims AND arguments below.

REASONS FOR GRANTING THE PETITION

We have a situation here where a number of State and Federal Courts have interpreted this Court's decision in *McCoy v. Louisiana* 138 S.Ct. 1500 (2018) to only apply to autonomy against an attorney's conceding his client's guilt without consent and not to the whole class of autonomy objectives under *Jones v. Barnes* 463 U.S. 745, 751 (1983) (attorney must abide by his client's objective of his defense whether to plea guilty; to be tried by jury; to testify and to appeal).^{*} These four original 6th Amendment autonomy objectives are equally worthy of consideration under the decision in *McCoy*, because *McCoy* was dictated by prior caselaw governing structural errors.

^{*} See *Morgan v. State*, 2020 Ala Crim. App. LEXIS 32 *2; *Saunders v. Warden, Holman Corr. Facility* (No. 19-10817, 2020 U.S. App. LEXIS 5273; *Burris v. Dalbaiso, et al*, 2018 U.S. LEXIS 173357; *Morris v. Comm. of Penn.* 2018 U.S. 184558; *United States v. Rosemond*, 322 F. Supp. 3d 482, 487 (S.D.N.Y. 2018). All these cases rejecting the interpretation that *McCoy* captures anything other than a defendant's decision to maintain innocence or concede guilt and do not extend beyond that point.

REASONS FOR GRANTING THE PETITION (continued)

The Delaware Supreme Court has taking the same position in petitioner's case at bar, ruling that McCoy only applicable to concessions of guilt without consent and have rejected petitioner's argument that other kinds of attorney's misconduct may result in autonomy right violations under Barnes. (see Delaware Supreme Court Decision at Appendix "A" and compare with Petitioner's appeal briefs Appendix "C & D"). Clearly the autonomy right violations were about a disagreement (not over trial strategy) but over petitioner's objective of his defense whether to plea guilty or exercise his 6th Amendment right to a jury trial. When petitioner told his counsel that his chosen objective was to plea not guilty to capital murder, his counsel would not honor this choice and thereafter attempted to force compliance through illegal means of pressure which resulted in petitioner's involuntary waiver of 6th Amendment right to counsel. (see detailed Statement OF The Case OF what occurred in Courts below on page 4 & 5 above herein).

Whiteside Issue Clarification

Another important issue this Court must clarify is the "Ethical" aspect of Its decisions in McCoy where,

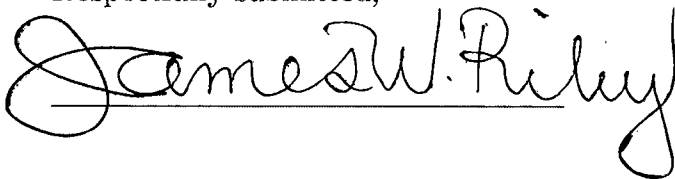
As here, an attorney attempt to justify his decision in not honoring his client's autonomy objective due to client's perjury under *Nix v. Whiteside* 475 U.S. 173 (1986). Do there have to be proof of client's perjury in the records to justify disposing of an autonomy right violation claim under *Whiteside*?

This Court's *McCoy* decision seem to suggest that since there was no factual proof of client's perjury in the record then the Louisiana State Supreme Court's reliance on "Ethical Grounds" under *Whiteside* could not provide reasonable justification for violating McCoy's 6th Amendment Autonomy right to maintain innocence. On the ethical basis petitioner at bar and McCoy are similarly situated (on all fours) involving *.
(Cont'd below)...

CONCLUSION

When this Court was confronted with identical "Question Presented" in *Clark v. Louisiana* 138 S.Ct. 2671 (2018) It remanded for further proceedings. Considering also the unresolved *Whiteside* issue this Court have good reason and should Remand this case to the Court. The petition for a writ of certiorari should be granted. below consistent with *McCoy*.

Respectfully submitted,



Date: _____

*
... a *Whiteside*, 6th Amendment Autonomy right and structural errors. Just as in *McCoy*, the Delaware Supreme Court never fully resolved the ethical issue of whether petitioner actually committed perjury and there's nothing in the State Court records to substantiate this fact. (in support hereto see STATEMENT OF THE CASE above page 4&5). Also, the *Whiteside* issue of *McCoy*, as with structural error and 6th Amendment Autonomy rights under *Barnes*, is govern by prior Supreme Court caselaw preceding petitioner's convictions. Thus, *Whiteside* issue must be revisit by a reasonable application of *McCoy*.