No. 20-7291

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN HARRIS, Petitioner,
-vs-

PEOPLE OF THE STATE OF ILLINOIS, Respondent.

On Petition For Writ Of Certiorari

To The Appellate Court Of Illinois

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF FOR PETITIONER

The Illinois Appellate Court erroneously held that the trial court had the authority to reinstate a previously vacated guilty plea, without the consent of Mr. Harris, thus violating several of his fundamental constitutional rights. Furthermore, there is a split in authority on how to handle this situation.

The issue presented in this case is straightforward: Does a trial court have the authority to forcibly reinstate a previously vacated guilty plea, without admonishments or the opportunity to plead anew, which effectively strips a defendant of his fundamental constitutional rights? The State does not dispute that once a guilty plea is vacated, a defendant's fundamental constitutional rights are restored, and he enjoys his presumption of innocence. (Pet. 8-9) Nor does the State dispute that only a defendant can waive his constitutional trial rights afforded to him under the Fifth and Sixth Amendments. (Pet. 8-9) Rightfully so – nothing in our jurisprudence or Constitution would support an argument to the contrary. Instead, without any meaningful discussion of the constitutional rights at issue, the State avers that the trial court's actions of reinstating Mr. Harris' vacated guilty plea, without his consent, was permissible. (Resp. Br. 7-11) The State goes further and contends that this is a "state-law" issue, inferring that this Court does not have the authority to review whether or not Mr. Harris' constitutional rights were violated. (Resp. Br. 12-14) Neither of these arguments withstands scrutiny, and this Court should not be dissuaded from granting certiorari to address this important question. (Pet. i)

As an initial matter, the State asserts that Mr. Harris does not dispute "that the

trial court erred in granting his motion to withdraw his plea before allowing the State to respond." (Resp. Br. 1,7-9)[1] Albeit, while the State generally has a right to respond to a defendant's motion, there was nothing inherently wrong with the trial court's initial decision to allow Mr. Harris to withdraw from his plea. *See People v. Harris*, 2020 IL App (5th) 170158, ¶¶ 13-15 (The Illinois appellate court rejecting the State's argument that the trial court lacked the authority to grant Mr. Harris' motion to withdraw guilty plea because it was a "premature" decision before the State had the opportunity to respond.).

In this case, the trial court asked Mr. Harris why he believed he received ineffective assistance of counsel, Mr. Harris explained that he felt coerced into accepting the guilty plea, and, on April 22, 2016, the court believed that was a sufficient reason to allow Mr. Harris to withdraw from his plea. *Id.* at ¶ 4; *See Boykin v. Alabama*, 395 U.S. 238, 242-43 (1969)(discussing how a guilty plea must be voluntarily made). Thus, when the trial court vacated Mr. Harris' guilty plea, the court believed Mr. Harris established a reason that would allow him to withdraw from his plea, and the court undoubtedly had the authority to make that determination at that time. *See Harris*, 2020 IL App (5th) 170158, ¶¶ 4,13-15. Mr. Harris was then presumed innocent for five months before the trial court decided its decision was "premature" and forcibly reinstated his plea against his will. *Id.* at ¶ 7.

Mr. Harris does not dispute that he is unable to argue that the trial court's

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[1] Mr. Harris acknowledges that his record citations in his petition for certiorari differ from the State's citations in its brief in opposition. Mr. Harris' record citations relied on a paper record that appellate counsel was provided with on direct appeal. On March 24, 2021, the St. Clair County Clerk's Office sent the State a digital copy of the record on a flash drive. This may explain why the record citations are different.

ultimate decision to deny his motion to withdraw guilty plea was an abuse of discretion. *Harris*, 2020 IL App (5th) 170158, ¶¶ 11-12. However, the contested issue has always been whether the trial court's initial decision to vacate Mr. Harris' plea on April 22, 2016, a decision the court had the authority to make, reattached Mr. Harris' constitutional rights. *Id.* at ¶¶ 4,11-15. If so, then Mr. Harris was presumed innocent of the pending charge against him, and he alone could decide to either waive his constitutional rights again or have a trial. (Pet. 8-12); *Boykin*, 395 U.S. at 242-43. Thus, the State's focus on whether or not Mr. Harris was actually entitled to withdraw from his plea is simply a distraction from the real issue at hand. (Resp. Br. 7-11); *citing United States v. Hyde*, 520 U.S. 670, 676-77 (1997); *Hill v. Lockhart*, 474 U.S. 52, 56-59 (1985).

A. The Constitution supports Mr. Harris' claim that his rights were violated in this case. Thus, regardless of a lack of specific precedent from this Court, the State is not permitted to create rules or laws that violate a defendant's constitutional rights.

In support of its argument, the State first avers that the Illinois appellate court's decision does not conflict with any decision of this Court. (Resp. Br. 7-11, Pet. 8-12) The State is technically correct that this Court has never specifically held that state courts are restricted from "correcting a mistake of this kind in this manner." (Resp. Br. 9) That is because this Court has never decided the precise issue presented in this case. However, a lack of precedent from this Court does not give the State free reign to create rules or laws that violate a defendant's constitutional rights. *See Marbury v. Madison*, 5 U.S. 137, 180 (1803)(holding that the Constitution is the supreme law of

the land and a law repugnant to the constitution is void).

The State then reasons that *Kercheval v. United States*, 274 U.S. 220 (1927), is inapplicable to the case at bar because Mr. Harris' "guilty plea was not ultimately vacated." (Resp. Br. 9, Pet. 8-9) Yet again, this ignores that Mr. Harris' guilty plea was indeed vacated, and he stood before the court as an innocent man for five months until the trial court decided to reconsider its decision. (Pet. 5); U.S. Const. amend V, VI, XIV. Thus, *Kercheval's* holding that a withdrawn guilty plea "be held for naught" is relevant to this case. *Kercheval*, 274 U.S. at 224.

The State's attempt to skew Mr. Harris' reliance on *Evans v. Michigan*, 568 U.S. 313 (2019), also fails to support its position. (Resp. Br. 9) Mr. Harris has never contended that his case violated *Evans*. (Pet. 9) Instead, Mr. Harris used *Evans* to highlight how this Court has decided that protecting a defendant's constitutional rights can be more important than a court's ability to reconsider a potentially erroneous decision. (Pet. 9) *Evans*, 568 U.S. at 320. However, Mr. Harris' interest in his Fifth and Sixth Amendment protections against compulsory self-incrimination, right to trial by jury, and right to confront one's accusers, are equally as important as a defendant's interest in barring retrial under double jeopardy. U.S. Const. amend V, VI, XIV.

"The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice." *Estelle v. Williams*, 425 U.S. 501, 503 (1976); *See also Coffin v. United States*, 156 U.S. 432, 453 (1895). Thus, the presumption of innocence, along with a criminal defendant's fundamental constitutional rights, are futile if a trial court has the ability to forcibly take them away without due process of law.

B. The constitutional violations in this case warrant review by this Court. Furthermore, the decisions encompassed in the split in authority encapsulate the constitutional underpinnings set forth in Mr. Harris' claim.

Strikingly, the State suggests that this Court does not have the authority to review this case because it is simply rests on a "state-law question." (Resp. Br. 13-14) However, this Court unquestionably has the authority to review cases where a defendant's constitutional rights have been violated in light of state rules or laws. *See e.g., Ramos v. Louisiana*, 140 S.Ct. 1390, 1393-97 (2020) (holding that Louisiana and Oregon were not permitted to make laws allowing for nonunanimous verdicts where the Sixth Amendment, incorporated through the Fourteenth Amendment, requires a unanimous verdict to convict a defendant of a serious offense); *Gideon v. Wainwright*, 372 U.S. 335, 337-45 (1963) (holding that Florida's law only appointing counsel to a defendant charged with a capital offense was a violation of the Sixth Amendment's right to counsel).

The State then goes further and attempts to distort the constitutional underpinnings of the recognized disagreement between state and federal courts on whether a trial court can reconsider its decision to vacate a guilty plea. (Resp. Br. 11-14) The State's analysis of Mr. Harris' cited cases seeks to create a distinction without a difference, again shifting the focus away from the actual issue presented to this Court. (Resp. Br. 11-14, Pet.10-12)

First, the State avers that the Seventh Circuit's holding in *United States v. Olson*, 880 F.3d 873, 881 (7th Cir. 2018), that the district court violated Federal Rule of Criminal Procedure 11 by reinstating a previously vacated guilty plea without new

admonishments, rested on "non-constitutional grounds." (Resp. Br. 12) Rule 11 was amended in 1974 to conform with the constitutional requirements set forth in *Boykin*. *See* Fed. R. Crim. P. 11 advisory committee's notes to 1974 amendment (discussing how Rule 11 was amended to codify the requirements of *Boykin's* holding that "a defendant must be appraised of the fact that he relinquishes certain constitutional rights by pleading guilty"); *Boykin*, 395 U.S. at 242-43. Thus, a violation of Rule 11 is a violation of the requirements set forth in *Boykin*, which mandates a showing that a defendant has voluntarily waived his fundamental constitutional rights before a plea of guilt can be accepted. *Id.*

Similarly, many of the cases Mr. Harris cites to discuss whether or not local rules allow a court to reconsider its decision in this context. (Pet. 10-12, Resp. Br. 11-13) In support of Mr. Harris' position, many courts agree that once a trial court has vacated a plea, the "ruling returned [the] defendant to the position before he entered his guilty plea and granted him a full trial." *People v. McGee*, 232 Cal. App. 3d 620, 628 (Ca. Ct. App. 1991); *See also State v. York*, 252 S.W.3d 245, 249 (Mo. Ct. App. 2008); *Turner v. Comm*, 10 S.W.3d 136, 141 (Ken. Ct. App. 1999); (Pet. 10-11) Thus, regardless of the outcome or reasoning used in the cases designated in the split of authority, they all inherently deal with the rights implicated in Mr. Harris' case. (Pet. 10-12) All of the cases involved a court vacating a guilty plea, and then reinstating the plea without giving new admonishments or the opportunity for the defendant to plead anew. (Pet. 10-12) That is the crux of Mr. Harris' argument; whether a defendant is returned to his presumption of innocence once a court vacates a guilty plea, meaning he alone can make the decision to either waive his constitutional rights again or have

a trial. (Pet. 8-12); *Boykin,* 395 U.S. at 242-43.

In this case, Mr. Harris stood before the court, an innocent man, when the trial court forced him back into his previously vacated guilty plea. (Pet. 8-12) Had Mr. Harris been in Kentucky, Kansas, or any of the other jurisdictions that do not allow a court to reinstate a previously vacated guilty plea, without at least giving the defendant new admonishments first, he would have been allowed all of the protections our Constitution affords to criminal defendants who are presumed innocent. (Pet. 10) Instead, Mr. Harris had the misfortune of being prosecuted in Illinois, where the trial court was free to violate several of his constitutional rights because the Illinois Supreme Court gave the trial court the authority to do so. *Harris*, 2020 IL App (5th) 170158, ¶¶ 22-23, *citing People v. Mink*, 141 Ill. 2d 163, 171 (1990) (discussing how none of the contentions raised by Mr. Harris, about the violations of his constitutional rights, changed the "fundamental fact" that Illinois courts have the inherent authority to reconsider its rulings that are interlocutory in nature). This is an unjust result that cannot stand and violates the protections afforded to criminal defendants enumerated in our Constitution.

Therefore, this Court should grant review and use this case to decide whether a trial court's non-consensual reinstatement of a defendant's guilty plea, without admonishments or the opportunity to plead anew, violates the presumption of innocence and other fundamental constitutional rights. (Pet. i)

CONCLUSION

For the foregoing reasons, petitioner, John Harris, respectfully prays that a writ of certiorari issue to review the judgment of the Illinois Appellate Court.

Respectfully submitted,

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