

20-7364

No. 20-

ORIGINAL

IN THE
Supreme Court of the United States

JAMES BALDWIN,
Petitioner,

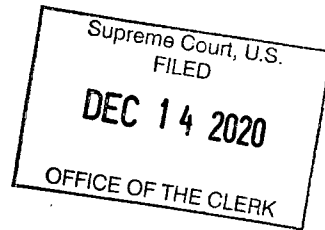
v.

COMMONWEALTH OF PENNSYLVANIA
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Appellant was denied rights under the Sixth and Fourteenth Amendments of the United States Constitution to effective trial counsel and whether denial of such effective counsel and discriminatory trial and appellate court decisions deprived him of nearly every right under the 4th, 5th, 6th, and 14th Amendments of the United States Constitution with their concept of a "separate but equal" system of criminal procedure for persons suffering mental disability?
2. Whether Appellant was denied the fundamental constitutional right to testify in violation of the 5th, 6th, and 14th Amendments of the United States Constitution, and the state and federal appeals court's disposition of Appellant's grievances violated 5th and 14th Amendment equal protection by discriminately applying and creating laws that only prohibit those with mental disabilities from exercising these rights?

LIST OF PARTIES

The following were parties to the proceedings in the U.S. Court of Appeals for the Third Circuit:

1. James Baldwin, the petitioner on review.
2. Commonwealth of Pennsylvania, the respondent on review.

TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i
PARTIES TO THE PROCEEDINGS.....	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES.....	iv
OPINIONS BELOW.....	1
JURISDICTION	2
STATUTE INVOLVED	2
STATEMENT	4
REASONS FOR GRANTING THE PETITION	12
CONCLUSION	30

TABLE OF AUTHORITIES

	<i>Page</i>
Cases	
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).....	27
<i>Fla. v. Nixon</i> , 543 U.S. 175 (2004).....	26
<i>Buck v. Davis</i> , 137 S. Ct. 759 (2017).....	17
<i>Brown v. Board of Education of Topeka, Shawnee City, Kansas, et al.</i> , 347 U.S. 483 (1954).....	14
<i>Com. v. Legg</i> , 551 Pa. 437, 711 A.2d 430 (1998).....	20
<i>Com. v. Carbone</i> , 375 Pa. Superior Ct. 261, 544 A.2d 462 (1988).....	20
<i>Com. v. Weaver</i> , 500 Pa. 439, 457 A.2d 505 (1983).....	26
<i>Com v. MacBride</i> , 402 Pa. Super. 624, 587 A. 2d 797 (1991).....	15
<i>Com v. Weiss</i> , 622 Pa. 663, 81 A. 3d 767 (Pa. 2013).....	29
Rules and Statutes	
P.A. Rule of Criminal Procedure 569(A)(2).....	14, 34

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Commonwealth of Pennsylvania
Respondent.

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PETITION FOR A WRIT OF CERTIORARI

James Baldwin respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit.

OPINIONS BELOW

The Third Circuit's decision is unpublished but reported at Baldwin v. Superintendent Albion SCI, et al., No. 20-1667, U.S. Court of Appeals for the Third Circuit. Judgment entered Sep. 14, 2020.

The District Court's order is unpublished but reported at Baldwin v. Superintendent, SCI Albion, No. CV 17-540, U. S. District Court for the Western District of Pennsylvania. Judgment entered Mar. 6, 2020.

JURISDICTION

The Third Circuit entered judgment on September 14, 2020. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves a state criminal defendant's constitutional rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments.

The Fourth Amendment provides in part:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures...”

The Sixth Amendment provides in relevant part:

“In all criminal prosecutions, the accused shall enjoy the right to ... have the assistance of counsel for his defense.”

The Fourteenth Amendment provides in relevant part:

“... nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.”

This case also involves the application of 28 U.S.C. § 2253(c), which states:

(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from

(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court;

...

(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

STATEMENT

A. Factual History

The Pennsylvania Superior Court, in a Memorandum, dated June 14, 2016, set forth the factual history of the underlying crimes as follows:

On January 25, 2006, Baldwin and his roommate, Brendan Martin, had an altercation when Baldwin served Martin with a notice to vacate the premises due to Martin's drug use. Martin attempted to hit Petitioner with a hammer, and Baldwin attacked Martin with a large knife, fatally stabbing him in the neck and heart. Baldwin dismembered the body, placed the parts in five plastic bags, and buried the remains in a shallow, makeshift grave. The next day, a road department employee discovered the grave and alerted police, who found the plastic bags containing the victim's remains, along with a backpack containing a piece of paper with Baldwin's

name on it. Police interviewed Baldwin, who admitted he attacked the victim and killed him. Baldwin was charged with homicide and abuse of a corpse, and proceeded to a jury trial, at which he asserted an insanity defense.

Com. v. Baldwin, 1240 WDA 2015, 2016 WL 3268835, at *1 (Pa. Super. June 14, 2016); ECF No. 12-15 at 19 – 20 (quoting Com. v. Baldwin, 58 A.3d 754, 756 (Pa. 2012)).

B. Procedural History

1. State Court

The Superior Court recounted the procedural history of the conviction and direct appeal as follows:

Baldwin's trial counsel conceded the basic facts of the case in his opening statement, and focused his case on the insanity defense. The Commonwealth presented fact witnesses who testified to the

circumstances of the crime and a recording of Baldwin's confession to investigators. Baldwin presented the testimony of a single witness, Laszlo Petras, M.D., a psychiatrist who treated Baldwin while he was involuntarily committed after his arrest. Dr. Petras opined that Baldwin was incapable of distinguishing right from wrong when he committed the homicide. In rebuttal, the Commonwealth called Bruce Wright, M.D., a forensic psychiatrist who interviewed Baldwin prior to trial and opined that Baldwin was not legally insane at the time he committed the homicide. After deliberation, the jury returned a verdict of guilty on the charges of first-degree murder and abuse of a corpse. The trial court sentenced Baldwin to life in prison without possibility of parole plus a consecutive term of one to two years' imprisonment.

The trial court subsequently denied Baldwin's post-sentence motions.

On appeal, the Superior Court affirmed the judgment of sentence in a published decision. The Supreme Court of Pennsylvania granted Baldwin's petition for allowance of appeal, and affirmed the Superior Court's decision in an opinion dated December 28, 2012. Baldwin filed a timely *pro se* PCRA petition. Counsel was appointed to represent Baldwin, and counsel filed an amended PCRA petition. The PCRA court denied the amended petition on August 3, 2015, and Baldwin filed a timely appeal.

On appeal, Baldwin raised ten separate allegations of trial counsel ineffectiveness. On June 14, 2016, the Superior Court affirmed the denial of relief by the PCRA trial court.

Petitioner then filed a Petition for Allowance of Appeal in the Pennsylvania Supreme Court, raising

the same claims as he had raised in the Superior Court. The Pennsylvania Supreme Court denied the Petition for Allowance of Appeal on December 6, 2016.

2. Federal Court

On April 26, 2017, Petitioner filed a counseled Petition, seeking to attack his convictions for first-degree murder and abuse of a corpse. In the Petition, the following grounds for relief were asserted.

GROUND ONE: Denial of the right to effective assistance of trial counsel in violation of the Sixth Amendment.

GROUND TWO: Conviction was obtained and sentence imposed in violation of the right to testify in violation of the 5th, 6th and 14th Amendments.

In the Petition, Petitioner listed the following supporting facts as to Ground One.

Trial counsel's performance was deficient (IATC) for (1) making inflammatory and prejudicial remarks and arguments for no reason and which conferred no benefit on the client; (2) failing to investigate and prepare the insanity defense[;] (3) failing to present a claim of self-defense even though the Medical Examiner (ME) testified that the first blows with the survival knife hit the jugular vein and one of them was the fatal wound, which was inflicted during the course of a struggle instigated by the decedent to stop the decedent from killing the defendant/petitioner; (4) failing to insist on compliance with Rule 569(A)(2); (5) failing to make an argument that the record should be reopened once the defendant/petitioner decided he wanted to testify; (6) failing to object to the prosecution's closing argument stating that the

attempt to to [sic] conceal the crime was evidence of malice; (7) failing to object to the prosecution's characterization of the crime as an "execution" where the evidence showed that the first blow with the knife was lethal; (8) failing to call character witnesses; (9) failing to cross-examine a witness to show that the decedent was taller than the defendant/petitioner.

Id. at 5.

Petitioner also listed the following supporting facts as to Ground Two.

Petitioner could not make up his mind whether he wanted to testify or not. The Court asked him whether he wanted to testify or not. The defense attorney intervened and twisted Petitioner [sic] arm so Petitioner decided not to testify. The very next day, Petitioner counsel told the Court that Petitioner wanted to testify. The judge denied the request for no good reason and without making a record for

appellate review. There was no reason not to allow the Petitioner to testify. Nevertheless, the Court refused on application of mechanistic rules. If Petitioner had testified, he would have been able to explain to the jury that the first knife wound was to Martin's neck and it was the lethal blow, as confirmed by the Medical Examiner's testimony. He would have been able to clarify that the first blow was in self-defense and there was no possible avenue of retreat. The later blows were non-lethal wounds. The lethal wound to the jugular vein was inflicted in self-defense, but the later wounds and the abuse of the corpse were symptomatic of panic at the outcome of the fight.

Petitioner also filed a "Memorandum of Law Supporting Petition for Habeas Corpus Under 28 U.S.C. 2254" [sic]. ECF No. 2. Respondents filed an Answer, with attached copies of much of the state

court record, denying that Petitioner was entitled to any relief. ECF No. 12. Respondents also caused the original state court record to be transmitted to this Court. Petitioner then filed a "Response to State's Answer Opposing Petition for Habeas Corpus" (the "Traverse"). The Petition for Habeas Corpus was denied on March 6th, 2020. Petitioner then filed a Certificate of Appealability, which was denied on August 13, 2020, and a Petition for Rehearing that was denied on September 14, 2020.

REASONS FOR GRANTING THE PETITION

This case is of national importance because it involves the rights of all Americans suffering from disabilities, and specifically those with mental illnesses. The courts' decisions violated the Fifth and Fourteenth Amendment of the United States Constitution's "equal protection of law" clauses because they specifically

target people with genetic conditions or injuries that cause certain conditions and allow them to be vilified and deprived of their rights. They further infringe upon the Fourth and Sixth Amendments of the United States Constitution as the decisions say that such a person can be deprived of the right to present a defense, call and cross-examine witnesses, and take the stand and testify.

The manner in which the district attorney and the Superior Court opined on the inflammatory use of bigoted stereotypes and various slurs and epithets for the mentally disabled reveals the strong discriminatory undercurrent of the proceedings. They said that the characters were "outside the realm of legal insanity but..." or that the stereotypes "merely helped paint a picture of the criminally insane for the jury..."

However, if these arguments are even halfheartedly analyzed, they clearly try to be politically correct while skirting the issue that although the comments are clearly discriminatory, the bigotry at issue is not one yet in vogue in our society, and therefore the judges and prosecutors involved want to address the issue as politicians rather than the administrators of justice that the constitution require them to be. The same occurred with the administration who fought to keep segregation in place by using euphemisms like "separate but equal" (Brown v. Board of Education).

The courts were to review the issues for unnecessary conduct of counsel that prejudiced the accused. There is voluminous case law that reverses convictions where the prosecutor called the defendant a "nut", "executioner", "Clint Eastwood", etc. The question is always whether a fair trial was denied. For example, "But to characterize defendant as a 'nut' suggests more

than reckless behavior because it insinuates that defendant is a mindless and dangerous individual who had no reason whatsoever for his conduct. Clearly, this inference is belied by the record which shows a landowner motivated by the rather unremarkable desire to protect his property" (Macbride at 402 Pa. 633, 587 A. 2d 797), and, "The intendiment is clear-- the prosecution sought to portray defendant as a present and continual menace to society insofar as reckless conduct might become, or is, perhaps, the norm. The cumulative effect of this line of argument produced a highly prejudicial atmosphere at the close of trial. The remarks served no legitimate purpose and can be seen as merely a plea to inflame the passions and prejudices of the jury...As such, defendant has been denied his right to a fair trial." (Macbride at 402 Pa. 634, 587 A.2d 797).

Petitioner's counsel's comments were worse than those made in other cases that were reversed, but the courts refused to acknowledge that this insanity defense, which labeled the accused as mentally ill and compared him to serial killers and the most violent and reviled individuals imaginable and offered no mitigating cross-examination, witnesses, or character testimony to establish what type of person he was and what actually occurred that night, was completely inappropriate, prejudicial, and equated to ineffectiveness of Petitioner's counsel. The courts fear the political implications of ruling in favor of someone who was painted as a monster, even though the underlying issue is that he was wrongfully so characterized. This is another reason that only this court, which is not restricted by term limits and

therefore political bias, is needed to resolve this issue of national interest.

Allowing Petitioner's counsel to characterize him and all those who suffer from mental illness in this way is similar to allowing someone to be stigmatized as "more dangerous" because of their race, as in Buck v. Davis, (137 S. Ct. 759 [2017]), in which the defendant's attorney introduced evidence that suggested the defendant would be more likely to commit violent acts in the future because he was black. Chief Justice Roberts' ruling rejected the District Court's argument that the discussion of race at trial was de minimis and therefore not prejudicial, and he wrote that "when a jury hears expert testimony that expressly makes a defendant's race directly pertinent on the question of life or death, the impact of that evidence cannot be measured simply by how much air time it received at

trial or how many pages it occupies in the record. Some toxins can be deadly in small doses."

The same can be said for any form of bigotry, and to say that it could only be based on skin color and not physical and mental oddities or deformities that one is born with or develops is simply untrue. Failure to grant certiorari for this case will assure the continuation of this form of bigotry within all latitudes and longitudes of the Third Circuit, and possibly the nation.

The Petitioner presented evidence on his state post-conviction motion that he did not want to concede guilt by presenting an insanity defense. The state was forced to concede this was accurate, but attributed his desire to present a claim of self-defense as a "cynical attempt to escape responsibility" (see the state's PCRA brief to the Superior Court, pages 29-32).

Moreover, based on the Commonwealth's stipulations that the medical examiner's report was entirely consistent with Petitioner's recorded statement in early proceedings and the fact that there were no fatal wounds to the victim's chest, it's debatable whether a chargeable homicide even occurred. Certainly, the fact that the accused was attacked in his own home with a weapon with his child present and that the victim had a PFA against him for months prior attacking his previous housemates seems to make it pretty obvious that a defense based on the physical evidence and explaining mitigating homicide laws could only have helped and not diminished his chances. To think that because the body was disposed of or because Petitioner had a mental illness his only hope was a defense based on bigotry and movie stereotypes is nonsensical "reasoning" to justify the obvious fact that counsel had no reasonable basis to forego these strong defensive

arguments. It is also inconsistent with other court decisions that do not involve mental health issues.

These state court decisions involve *Com v. Legg*, where the state courts have decided that one is entitled to all applicable alternative defenses, and *Com v. Carbone*, where the state courts decided that where the defendant claimed self-defense and was convicted of homicide, evidence that the victim had performed a similar attack was enough to require a new trial. In this case the victim had performed a prior attack eerily similar to what Petitioner had described in his statement, but appellate courts denied relief, ostensibly because of the autopsy report, statement, and mental health options.

Obviously, in *Carbone* the jury found the autopsy report and the defendant's statement against the defendant, yet the testimony of a prior, similar attack

was enough to grant a new trial. If laws had been applied equally, this situation would have equated to the same prejudice and required the same new trial. The only reason it did not was the discriminatory treatment that relied on the mental disability excuse.

Based on these cases, the fact that the accused was not granted jury instructions or a defense based on negating or mitigating the homicide charges violates equal protection. The reason for saying he was not entitled to such a defense was based on the fact that he had a mental disability and such a defense would be "better." A "normal" person, i.e., someone who had not been diagnosed as being or was not opined to be mentally ill, would clearly have been entitled to such a defense under the same circumstances, as the "normal" defendants in the above state cases were. This denial of equal rights is an infringement that is both constitutional and structural in dimension.

Trial counsel agreed in opening that the prosecution's evidence was true, the prosecutor's case and findings of fact also stuck with the recorded statement, and the prosecutor further agreed before the statement that the medical examiner's findings were entirely consistent with Petitioner's recorded statement. Based on this statement and excluding discriminatory excuses to deny Petitioner a chance at defense on account of his mental disability, there was no reason not to present instructions, evidence, and arguments for self-defense, defense of a dwelling, or imperfect self-defense (voluntary manslaughter). Even if the commonwealth stipulation that the statement was "entirely consistent" is to be ignored, a proper challenging of the evidence could have turned the case around, and if the medical examiner would have admitted there was no time for the passions of being attacked in one's own home to cool down, the order of

the wounds indicated self-defense. (Although Petitioner admits that faulting parties for not disputing or producing evidence for a fact that is stipulated would result in chaos and much unnecessary clutter in the legal system, and since other cases rely on stipulations as facts, the disposition of this case's stipulations also violate equal protection.)

The situation is that trial counsel illegally commandeered the defense to focus on the mind, stereotypes, and slurs with disregard for the homicide/self-defense laws and physical evidence, then the state appellate courts did not address the issue, so Habeas counsel, who appeared to cut corners by only reading the opinion and not the briefs, missed the main issue because of laziness.

Meanwhile, Petitioner has been in prison for over fifteen years without being permitted to present a

meaningful defense on the accusations. It seems he's being forced to remain there, without having presented a defense of his choosing and having his side of the story told, not because of anything he did (he asserted these rights to trial counsel and on appeal), but because other people refused to perform their duties.

There should be a remedy to this situation and currently Petitioner has no right to appeal Habeas counsel's ineffectiveness for failing to be cognizant of and address the obvious, clear-cut structural error of trial counsel's ineffectiveness, which would have been given de novo review and granted Petitioner a new trial. Petitioner asks that the United States Supreme Court create a remedy for this situation and attests that lack of such a remedy is unconstitutional, as the constitution states that there should always be a remedy for such legal wrongs and provides for other

rights not enumerated in it. At minimum, Petitioner asks that it refer the case back to the Third Circuit with instructions to grant Petitioner a hearing to reinstate his appellate rights and appoint counsel on the issue.

PCRA counsel brought up the issue that trial counsel was ineffective for disobeying Petitioner's orders to research a defense that he was not guilty of the murder charges by presenting a defense of insanity and diminished capacity that conceded guilt and did not challenge the physical evidence, make legal arguments for self-defense or defense of one's dwelling, or attempt to reduce the homicide charge.

The Commonwealth, when confronted with overwhelming evidence of this, agreed that Petitioner did not wish to present an insanity defense, their only argument being that, "The Commonwealth submits

Appellant's desire to present a claim of self-defense was due not to a legally valid defense strategy but to a cynical desire to escape responsibility" (Commonwealth's PCRA brief to Superior Court? pages 29-32).

Under both well-established state and federal law that conceding criminal liability, entering a plea, or deciding the objectives of the defense are solely and completely at the accused's discretion, not counsel's, and that infringements upon those discretions must be treated as structural errors, they do not require the proving of prejudice or that the error was harmless, only that the error occurred. See *Florida v. Nixon* and *Commonwealth v. Weaver* (Pa.1983), which states that counsel would be ineffective for presenting a defense of insanity and diminished capacity even if it were the only viable option. In this case the Commonwealth admitted the error had occurred, but

for some reason the Superior Court failed to respond to or even acknowledge the existence of this issue in their brief, despite the fact that it was the most meritorious and critical issue.

Federal Habeas counsel should have brought up the issue and pointed out that state post-conviction counsel was probably ineffective for not citing the appropriate laws and addressing it as a structural error and researching more evidence of it, like the prosecutor's file. The issue would have been reviewed de novo by the federal courts because the Superior Court failed to address it on the merits, and the case would have been overturned on this structural error.

Habeas counsel inexplicably chose instead to pursue trial counsel's structural choices, which are "virtually unchallengeable" (see *Strickland v. Washington*).

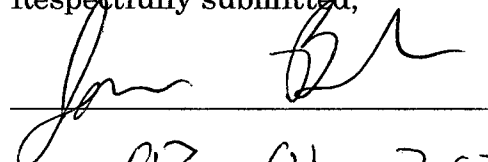
when such an error of ineffectiveness of Habeas counsel is discovered after the Habeas appeal is decided.

(To present a defense of insanity or diminished capacity, counsel would not only need the accused's permission to concede general criminal liability and guilt to murder (Com v. Weiss), but permission to present his confidential medical records under state and federal laws as well as permission for him to be interrogated by a state witness under P.A.R.C.P. 569, which may also require a Miranda warning and waiver of counsel rights. Counsel had none of this required permission.)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized first name and a last name, is written over a horizontal line.

Date: 03-01-2021