No. 21-5697

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

SHAWN MAYREIS — PETITIONER
(Your Name)

vs.

BOBBY LUMPKIN DIR. TDCJ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHAWN MAYREIS
(Your Name)

777 FM 3497
(Address)

Woodville, Texas 75990
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

I. This Court has established that a defendant's right to a public trial extends to voir dire. When counsel's defective advice given in advance of trial results in an unlawful and total closure of the courtroom to a defendant's family members prior to the jury selection, can prejudice be presumed?

II. In the context of a public trial violation where defense counsel does not know the law and is the sole party responsible for barring family members from the courtroom before the jury selection, should that attorney be allowed to circumvent the Constitution by seeking shelter under Strickland knowing that the burden will be placed squarely on the defendant to demonstrate either prejudice or fundamental unfairness when he later raises the error via an ineffectiveness claim?

III. If the public trial error complained of could not have possibly been objected to at trial, nor raised on direct review, nor remedied by the trial court because defense counsel was solely responsible for the court closure in the first place; and it was later determined and admitted to by counsel that he mistakenly caused that closure as a result of not knowing the law; is the defendant essentially being denied the right to effective assistance of counsel when counsel breaches the duty of loyalty, perhaps the most basic of his duties?

LIST OF PARTIES

[X] 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

- MAYREIS V. LORIE DAVIS, DIR. TDCJ, U.S. District Court for the Souther District of Texas. Judgment entered July 10, 2020.
- MAYREIS V. BOBBY LUMPKIN, DIR. TDCJ, U.S. Court of Appeals for the Fifth Circuit. Judgment entered April 05, 2021.

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CASES:

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

[X] For cases from **federal courts:**

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

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[X] is unpublished.

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

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

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits 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 _____ 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.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was APR 05, 2021.

[X] 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 _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides that:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Section one of the Fourteenth Amendment to the United States Constitution provides that:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Petitioner Shawn Mayreis was tried and eventually convicted of a Texas state law offense of capital murder in 2013. At the outset of his trial, Mayreises trial counsel barred his sister and her husband, as well as Mayreises mother from attending the jury selection. See Affidavit of trial counsel in App. C. After exhausting all of his remedies in state and federal court, Mayreis attempted to reopen his habeas by way of a Rule 60(b) due to mistake of law by the U.S. District Court for the southern district of texas in denying him a certificate of appealability regarding a violation to his Sixth Amendment right to a public trial. See App. B. However, the U.S. District Court ruled that Mayreis was instead challenging his conviction, and thus determined that Rule 60(b) motion to be an unauthorized second or successive writ. See App. B. Mayreis then appealed that decision to the United States Court of Appeals for the Fifth Circuit, in which that court entered a judgment on April 05, 2021, affirming the U.S. District Court finding based on Mayreises failure to meet the requisite of a "substantial showing" for a COA under 20 U.S.C. § 2253(c)(2); Slack v. McDaniel, 120 S.Ct. 1595, 1603-1604 (2000). Contrary to the Fifth Court of Appeals and U.S. District Court's ruling, Mayreis argues that a COA should have issued in his case because not only has he established a violation of his right to a public trial under the Sixth Amendment to the U.S. Constitution, but also can establish that jurists of reason would find it debatable that he has stated a valid claim of a denial of a constitutional right, and find it debatable whether the district court was correct in its procedural ruling. Slack, 120 S.Ct. at 1604. The mere fact that the Honorable Justices Breyer and Kagan would not require a personalized showing of prejudice to obtain relief where a petitioner has established a public trial violation and later raises the error via ineffective assistance of counsel

proves Mayreises assertion correct that he is entitled to a COA. Weaver v. Massachusetts, 582 U.S. ___2017 (Dissent Breyer J., Kagan J.)

REASONS FOR GRANTING THE PETITION

This case presents an issue of national significance: the fundamental right to a public trial. More precisely, petitioner Mayreises trial attorney was the root cause of an unlawful total court closure when he single-handedly blocked Mayreises family members from the courtroom during voir dire because he did not know the law.

This Court has made it perfectly clear that

> "Ignorance of the law is no excuse for men in general. It is less an excuse for men whose special duty is to apply it, and therefore to know and observe it."

Screws v. United States, 325 U.S. 91, 129-130 (1944).

LEVERAGING THE CONSTITUION

The Strickland Dilemma

Pertaining to defendants in general, if "[a]n ineffective-assistance claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial," thus undermining the finality of jury verdicts, Harrington v. Richter, 562 U.S. 86, 105 (2011); then counsel must not be allowed to escape the Constitutional protections afforded to Mayreis under the public trial guarantee when he violates that right, and then runs for cover under Strickland v. Washington, 466 U.S. 668, (1984) in reliance upon this Court's holding in Weaver, 582 U.S. ___(2017), to aid and abet that incompetence; especially, when counsel's unprofessionalism "affects the framework within which the trial proceeds." Arizona v. Fulminante, 499 U.S. 310 (1991). Indeed, trial counsel should not be permitted to leverage the Constituti-

on to tip the scales in his favor by upsetting the proper balance between fair and just trials and the importance of finality of judgments through the artful use of Strickland, supra; Weaver, supra, at p. 16. This crafty maneuvering by counsel of both the Constitution and Strickland entagles Mayreis in a bind: on the one hand, counsel completely hamstrings Mayreises ability to object to the error at trial. And on the other hand, the trial court is rendered powerless to remedy the defect because counsel has not made the court aware of his unilateral decision to bar Mayreses family from the jury selection. Hence, the "impossibility" of the structural error being preserved for direct review.

By all accounts, trial counsel deprived Mayreis of his basic intangible right to a public trial to have his family's show of support, but also effectively undermines his ability to obtain relief in the context of an ineffective-assistance-of-counsel claim. Instead of counsel, for instance, having to account for his own deficiency, Mayreis must now bear the brunt of Strickland's rigorous testing. Question: if, therefore, courtroom closure is to be avoided with few exceptions, can an attorney simply close the courtroom to family members based on not knowing the law, that Mayreis has a fundamental right to have his family members present during the jury selection, and that still be a valid and acceptable reason to justify an unconstitutional court closure in the Court's view?

The Supreme Court's Concern

A. Arbitrary Court Closure

If anything, this Court in Presley v. Georgia, 558 U.S. 209

(2010), expressed concern that the state court's reasoning would allow the courtroom to be closed during jury selection "whenever the trial judge decides, for whatever reason, that he or she would prefer to fill the courtroom with potential jurors rather than spectators." Id., at 215 (internal quotation marks omitted).

Of primary concern after Presley's uncle was excluded from the voir dire in which Presley's counsel objected to the exclusion of the public from the courtroom, the state court reasoned

> "[t]here just isn't space for them to sit in the audience." Id. at 210

The Court explained its ruling further

> "There's no, really no need for the uncle to be present during jury selection... [W]e have 42 jurors coming up. Each of the rows will be occupied by jurors. And his uncle cannot sit and intermingle with members of the jury panel." Id., at 210

After Presley was convicted, he moved for a new trial based on the exclusion of the public from the juror voir dire in which the trial court denied the motion commenting that

> "it's up to the individual judge to decide"...."It's totally up to my discretion whether or not I want family members in the courtroom to intermingle with the jurors." Id., at 211

Needless to say, Presley appealed his way all the way to the U.S. Supreme Court and received an automatic reversal because the state court did not adhere to the four requirements prescribed by Waller v. Georgia, 467 U.S. at 48 (1984).

B. Balance of Interests

While the accused does have a right to insist that the jury selection be open to the public, the right to an open trial may give way in certain cses to other rights or interests, such as

the defendant's right to a fair trial or the government's interest in inhibiting disclosure of sensitive information. Waller, 467 U.S. at 45, 104 S.Ct. 2210, 81 L.Ed.2d 31. Such circumstances will be rare, however, and the balance of interests must be struck with special care. Ibid. Waller provided standards for courts to apply before excluding the public from any stage of a criminal trial:

> (1) [T]he party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, (2) the closure must be no broader than necessary to protect that interest, (3) the trial court must consider reasonable alternatives to closing the proceeding, and (4) it must make findings adequate to support the closure." Id., at 48, 104 S.Ct. 2210, 81 L.Ed.2d 31.

1. Mayreis in connection with Presley

Mayreis hammers home this connection with Presley, Id., at 210-211, because of the striking similarity involving the exclusion of family members based on a seating issue and for a lack thereof. Specifically, Mayreises trial attorney used in part the same rationale as the state court in Presley, supra, to deny Mayreises right to have his family members present during jury selection. For example, in a letter dated May 16, 2013, in which Mayreises trial attorney responded to his request for the accommodation of his family's presence in preparation of the voir dire slated for August 2, 2013, Mayreises trial attorney stated that

> "Now with respect to the trial date, we are actually set for 'Pre-trial Conference' on August 1st and 'Jury Selection' on August 2nd. During jury selection your family will not be allowed in the courtroom because there will be no room for them to sit. The jury panel will fill up the entire room."

See App. D Trial counsel's letter

Mayreis contends that if the state court judge in Presley was held to the Waller standard to answer for an unlawful court closure due to lack of seating in the courtroom, then Mayreises trial attorney should also be held to, at the very least, Waller's test for one solid reason: Accountability. Because Mayreises attorny was the party seeking to close the hearing, he must be held to account for the overriding interest that is likely to be prejudiced.

Can ignorance of the law be a sufficient reason to validate any court closure for all intents and purposes? If not, then in the Mayreis case, prejudice can be presumed.

Trial counsel cost Mayreis his Constitutional right to a public trial, and in turn, to the detriment of the potential trial court remedy to counterbalance that deficiency. Which is all the more reason why the Mayreis case warrants a presumption of prejudice with respect to the public trial right under the Sixth Amendment to the United States Constitution.

IGNORANCE OF THE LAW

The Universal Effect of Its Reach

Though there exist an inherent subjectivity in the method of identifying prejudice, and the law prides itself on being objective and determinable - how does one quantify ignorance of the law relative to its universal effect on the judgment? More specifically, where counsel's unwise decision to infringe Mayreises Constitutional right is not based on any sound trial strategy but in the sphere of his own subjective reasoning to spare Mayreises family the expense of travel in spite of the fact that he and his

family let it be known to counsel that they explicitly wanted to be present at jury selection. For example, Mayreises trial attorney in his own affidavit to the court states that

> "First of all, I was not aware that a defendant's family had an absolute right to watch jury selection and that the trial court had a duty to make certain that there was seating for the family in the courtroom... I did not know that was the law and never even mentioned the request to Judge Krocker or whoever was actually on the bench for the trial. In my 45 years, all in criminal law and all in doing trial work, it has simply never come up. I do indigent defense almost exclusively and the reality is that I rarely have family even remotely interested in the trial at all. I often have to beg family to come. I always tell family of the importance of the jury seeing that the defendant has family who are concerned, but it is rare to actually have family even present for the testimony so it was clearly my fault that they did not get to see jury selection. The Judge was never even told of the request."

See App. C Affidavit of trial counsel

A. No Regard for Fairness and Necessity

Accordingly, Mayreis contends that his trial counsel's peremptory line of thinking was unquestionably devoid of any regard for fairness and necessity. Point blank: Mayreises trial counsel simply 'shot down' his most basic, intangible constitutional right and cast by the wayside his family's request to be present at the voir dire predicated on factors that were outside of and irrelevant to Mayreises family situation or even to the Mayreis case. It is incredulous that trial counsel did indeed block Mayreises family from jury selection as a result of counsel's previous cases involving former clients and their families lack of interest or unwillingness to attend voir dire. It is even more incredible that counsel did not know that Mayreis even had a right to have his family members watch the jury selection in addition to not

even making Mayreises and his family's request known to the trial court.

B. Capitalizing on the Court Closure

1. Deficiency Deposited

Incredibly, counsel then seeks to capitalize on the court closure by measuring his deficiency against a reasonable probability of a different outcome, and thus banking on this Court's ruling in Weaver, supra, to co-sign his actions. It is, therefore, incomprehensible that as maestro - counsel can play upon the Constitution by robbing Mayreis of his right, then evade capture to the tune of Strickland to avoid the peril of impending consequence. Not just the public trial guarantee, at stake is also the Freedom of Speech - the suppressing of it, and thus by extension the Public at large.

How many criminal cases in America today involve relatives of defendants who lay claim to their first amendment right to Freedom of Expression to attend the jury selection process? Equally important, how will these types of cases be adversely impacted moving forward starting with the Mayreis case today that is now before the Court?

2. Fully Vested

The implication is clear: if counsel is able to make off with the plundering of the individual liberties and receive a windfall vial Strickland's unintended use, he may very well be made the most powerful officer in the courtroom bar none, a 'teflon don', so to speak. He will be armed with the free rein to dictate who can and cannot come to jury selection and whether a defendant is

allowed to have his relatives present; hence, the 'shutting down' of the courtroom arbitrarily, fundamental rights subject to the whim of counsel, and the trampling of those rights at his disposal. Yet, how will this serve to threaten the dignity of the courts that will eventually cause the people to lose faith in the criminal justice system?

C. No Objection, No Problem

For good measure, it is of the utmost concern that the following setup will be a recurring theme played out in courtrooms across America if Mayreises trial attorney were to retain power over his right to a public trial:

The Scenario

For reasons unkown, trial attorny does not want his client's family present at the jury selection. Counsel is also aware that his client is too poor to hire a paid attorney as a result of his indigency, and more than likely does not know his rights as a layman of the law. Counsel then tells his client that his family cannot watch the jury selection because the courtroom will be packed full of prospective jurors; and that there will be no room for them to sit. Moreover, counsel is fully aware that if his client ever finds out that he has been duped out of his Constitutional right, he will never win on appeal thanks to the 'harmless error analysis'. By the time his client figures out what happened, he will not know what hit him. Besides, counsel asserts ignorance of the law. And when the dust settles, all he has to say is: I may not have known the law, but it would not change the outcome.

The ensuing calamitous effect cannot be denied. In light of this plausible scenario, what is there to be said for the maxim: ignorantia juris non excusat* and the accompanying asterik (excepting the public trial guarantee) that will assuredly follow if attorneys are let off the hook in the manner delineated above? Indeed, Strickland will definitively be seen as the apparatus to eclipse Constitutional rights with the looming threat on the horizon.

D. Variables at Play

Though not exhaustive, the following is a list of essentials that will be adversely impacted by the tentacles of incognizance: An open and public trial; free speech; equal protection of the law; fair and just trials; assistance of counsel; and the American Bar Association standards for attorney conduct.

1. Incognizance Enormous Footprint

The trickle down effect of incognizance will reasonably give rise to the assumption that if ignorance of the law has its way with the courts, where will its footprint end up in society? In other words, trials will now be conducted unfairly and behind closed doors; free speech will be censored and ultimately suppressed; judiciary powers and attorney counduct left unchecked; and the United States Constitution turned on its head.

In Gonzalez-Lopez, 548 U.S. 149 (2016), this Court determined that there is difficulty in assessing the error involving a defendant's right to a public trial. Understandably so. If that determination uncluded the factoring in of the public trial violation coming as a result of an attorney's deficiency not knowing

the law, it would increase the difficulty in assessing the error exponentially because of the moral aspect inherently built into the Constitutional framework. The collection or system of rules of conduct will be thrown into disarray inasmuch as the law was established to protect against the excuse of breaking it.

2. Reasonable Representation Defined

Since the law was created to establish order, this bespeaks effective assistance of counsel to mean: a conscientious, meaningful representation, whereby the defendant is advised of all rights and the lawyer performs all required tasks reasonably according to the prevailing professional standards in criminal cases. Black's Law Tenth Ed.; see Fed. R. Crim. P. 44; USCA § 3006A.

Conversely, in determining whether a criminal defendant received ineffective-assistance-of-counsel, courts generally consider several factors: (1) whether the lawyer previously handled criminal cases; (2) whether strategic trial tactics were involved in the allegedly incompetent action; (3) whether, and to what extent, the defendant was prejudiced as a result of the lawyer's alleged ineffectiveness; and (4) whether the ineffectiveness was due to matters beyond the lawyer's control. Black's Law Tenth Ed.

It is a given that reasonable representation does not guarantee an error-free trial to the defendant. But it is imperative under any reasonable standard that counsel is expected to know the law. Acting as a defendant's diligent advocate, reasonably competent assistance provides that counsel know the law; or that counsel's representation must be "within the range of competence de-

manded of attorney's." Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977).

E. Reliability of Result

Thusly, in an ongoing effort to improve the administration of justice, the Strickland, 466 U.S. at 688, 695, court established a two-part test to measure the effective assistance of defense counsel with the ultimate focus of the inquiry on the reliability of the proceeding. By definition, Strickland's test for prejudice is whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result; meaning a defendant must demonstrate "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 694. If the attorney's error complained of had no effect on the outcome, there will be no setting aside of the judgment. Id. at 691.

F. Presumption of Prejudice

This Court, however, alleviates the insurmountable task on the part of defendants from having to make this affirmative showing where the accused has been denied of counsel altogether; an actual or constructive denial of counsel, state interference with counsel's assistance, or counsel that works under a conflict of interest. Id. at 602; United States v. Cronic, 466 U.S. 658-660 80 L.Ed.2d 657, 104 S.Ct. 2039.

Here, Mayreis contends that his trial counsel was in breach of his fiduciary duty and loyalty because he led him to believe what was untrue - that his family could not come to the jury

selection because there was no room for them to sit. More significantly, Mayreises trial counsel's defective advice was not just incorrect, it resulted in a structural error predicated on the daulty premise of his own conclusory, ill-advised belief - oblivious to a defendant's public trial right - that is insufficient to pass Constitutional muster. And therefore, it can be said that Mayreises trial counsel was operating under a conflict of interest which warrants a presumption of prejudice.

WHAT CONSTITUTES FIDUCIARY DUTY

Fiduciary duty by definition is: A duty of utmost good faith, confidence, and candor owed by a fiduciary (such as a lawyer) to the beneficiary (such as a lawyer's client). In essence, fiduciary duty is indicative of a fiduciary relationship between an attorney-client that requires an unusually high degree of care. In that regard, fiduciary relationships usually arise in one of four situations: (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act for or give advice to another on matters falling within the scope of the relationship, or (4) when there is a specific relationship that has traditionally recognized as involving fiduciary duties. This suggests that if counsel's function is to assist the defendant, and hence counsel owes the client a duty of loyalty, a duty to avoid a conflit of interest Cuyler v. Sullivan, 466U.S., at 346, 100 S.Ct. 1708 (1980), counsel's most basic duty requires that he know the law so as to provide adequate legal assistance.

especially involving fundamental rights, such as Mayreises public trial right. If the objective of counsel's function is to make the adversarial testing process work in a particular case, how the is Mayreises trial counsel's overarching duty to advocate his cause - to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process - when that error involves certain, basic constitutional guarantees that should define the frame work within which the trial proceeds. See Powell v. Alabama, 287 U.S., at 68-69, 77 L.Ed 158, 53 S.Ct. 55, 84 ALR 527 (1932); Arizona v. Fulminante, 499 U.S. 279, 310 (1991). Although defense counsel is given leeway to make sound, strategic choices in providing effective assistance Michel v. Louisiana, 350 U.S. 101, 76 S.Ct. 158 (1955), they are not exempt from basic principles of fundamental fairness, nor can that assistance be wielded in a manner that violates a defendant's rights.

As a simple matter of fundamental fairness, should not it be the one who encroaches the public trial right who has to show why he is justified in doing so? Moreover, should not the burden of proving the justification of an action that is adverse to another always fall on whoever is trying to take that action, especially involving the moral imperative not to restrict a client's ability to make well-informed choices? The entire crux of Mayreises public trial claim entails the one caveat: ignorance of the law. This only compounds the error because it seeks to foreclose an important remedy intended to punish and deter Mayreises trial counsel's deficient actions that run afoul of the United States

Constitution. Still worse, Mayreises trial counsel failed to uphold the requirements of the law, his fiduciary duty and moral obligation by exercising poor judgment that violated such a basic protection in which this structural error's precise effects are unmeasurable, but without which a trial cannot reliably serve its function respecting that right. See Sullivan v. Louisiana, 508 U.S. 275, 281, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993). Thus, as a practical matter, and where the evidence of unconstitutionality is said to be unquantifiable and inherently indeterminate, Id., at 281-282, Mayreises trial counsel is no longer bound by the Constitution unless he can show specific injury resultant of that public trial violation. So, even though the public trial right is structural in nature, but subject to rare exceptions, can ignorance of the law be the deciding factor to strip a defendant of this most critical right in favor of the finality of judment as opposed to fundamental fairness? This has allowed Mayreises trial attorney to throw off Constitutional constraints and infringe upon Mayreises public trial guarantee. And Mayreises trial attorney's justification for doing so: "It wouldn't change the outcome." See Affidavit for Trial Counsel App. C. Moreover, Maryeises trial attorney breaches his fiduciary duty by imposing his will & acting in his own interest, violates Mayreises public trial right, forecloses any opportunity to remedy the defect by the trial court, in addition to seriously undermining Mayreises ability to obtain relief via habeas corpus due to non-preservation of error for failure to object, and ultimately attempts to justify his actions under the benchmark of Strickland's rigorous testing.

What makes Mayreises trial counsel's error so egregious and significant is that he violates the Constitution, but is now seeking to garner the protections of it; all of this stemming from ignorance of the law. How then is this a duty of utmost good faith, trust, and candor owed by a fiduciary - Mayreises trial counsel - to his client, Mayreis? For instance, from what the record reflects, and what we can definitely see is that Mayreises trial attorney, who inflicts irrepairable harm by thrusting down and laying waste to Mayreises natural right, is absolutely not working in his best interest. Yet, with the benefit of hindsight facing the potential consequence, and from what we cannot see, Mayreisee trial attorney in his affidavit claims to involve him in the jury selection process to be the ultimate decision-maker in deciding every single strike to the prospective jurors. Stated differently, Mayreises trial counsel blocks Mayreises family from attending the jury selection, but yet supposedly goes above and beyond by allowing Mayreis to participate in his own jury selection process. See Affidavit p. 2 App. C. And then contradicts himself by stating that "the courtroom was not closed, not b[y] me, and not by the Court." Affidavit p. 3 App. C. What kind of sense does that make? How can defense counsel supposedly admit to violating Mayreises fundamental right by restricting his family members access to voir dire, and straightforwardly claim that he did not close the courtroom? This type of caprice is a classic example of an attorney who gets caught with his hand in the cookie jar, then tries to worm his way out of trouble by finagling this Court's precedent in Weaver, supra, to gut his responsib-

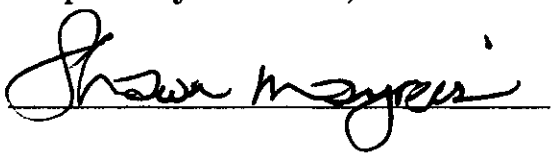
ility. If the right to a public trial is to be respected and mean more than a right in name and appearance only, this Court should grant the writ of certiorari to protect the sanctity of the fundamental nature of that right, and to provide clear guidance to the lower courts when that most critical right is violated by trial attorneys based on their ignorance of the law.

Nowhere in our principles of justice, nor society's expectations, nor the court system's sense of fair play and decency can tolerate anything short of holding Mayreises trial attorney accountable for his actions. Ignorance of the law excuses no one. Thus, this Court should grant the writ of certiorari to resolve violations of the right to a public trial by warranting a presumption of prejudice when raised via ineffective assistance of counsel claim to ensure that trial attorneys will adhere to the express commands of the Sixth Amendment, and abide by their fiduciary duty and loyalty owed to their clients in every criminal case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: September 2, 2021