

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JASON SLAUGHTER
Petitioner

v.

STATE OF DELAWARE
Respondent

**PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF DELAWARE**

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QUESTION PRESENTED

Did petitioner's attorney provide ineffective assistance of counsel sufficient to constitute cause for a procedural default by advising petitioner that an appeal could not be filed because petitioner's guilty plea waived all pre-plea issues, even though the issue to be appealed implicated the very power of the State to prosecute?

PARTIES TO THE PROCEEDING

All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

OPINION BELOW	2
JURISDICTION	3
CONSTITUTIONAL PROVISIONS INVOLVED	4
STATEMENT OF CASE	5
REASONS FOR GRANTING THE PETITION	14
I. THE DELAWARE SUPREME COURT’S CONCLUSION THAT PETITIONER’S POSTCONVICTION CLAIM ASSERTING THE WAIVER OF HIS SPEEDY TRIAL IAD RIGHTS WAS INVOLUNTARY IS PROCEDURALLY BARRED CONTRAVENES PRECEDENT OF THIS COURT.....	15
CONCLUSION.....	22
APPENDIX:	
Decision of the Delaware Supreme Court on Motion for Postconviction Relief	A1
Decision of the Delaware Superior Court on Motion for Postconviction Relief	A4
Delaware Superior Court’s Denial Order on Motions to Dismiss	A21
Defense Letter Supplementing <i>Mauro</i> Motion.....	A45
Defense Renewal of First Motion to Dismiss.....	A51
Letter from State re: Misrepresentations.....	A60
Defense Second Motion to Dismiss	A61
Defense First Motion to Dismiss	A72
Petitioner’s Amended Motion for Postconviction Relief.....	A83
Petitioner’s Reply to Amended Motion for Postconviction Relief.....	A145
Petitioner’s Opening Brief to the Delaware Supreme Court.....	A164

Petitioner’s Reply Brief to the Delaware Supreme Court	A213
Letter Establishing Appointment of Counsel, Delaware Superior Court	A242

TABLE OF AUTHORITIES

Federal Cases

<i>Blackledge v. Perry</i> , 417 U.S. 21 (1974)	14, 16, 18, 19, 21
<i>Class v. United States</i> , 138 S.Ct. 798 (2018)	14, 15, 16, 17, 18, 19, 20, 21
<i>Lafler v. Cooper</i> , 132 S.Ct. 1376 (2012)	18
<i>Menna v. New York</i> , 423 U.S. 61(1975)	14, 16, 17, 18, 19, 20, 21
<i>Murray v. Carrier</i> , 477 U.S. 478 (1986)	15
<i>New York v. Hill</i> , 528 U.S. 110 (2000)	5
<i>Smith v. Horn</i> , 120 F.3d 400 (3d Cir. 1997)	15
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984)	1, 13
<i>United States v. Broce</i> , 488 U.S. 563 (1989)	17, 18, 19, 20
<i>United States v. Mauro</i> , 436 U.S. 340 (1978)	5, 10, 11, 12, 19

State Cases

<i>Slaughter v. State</i> , No. 87, 2021 (Del. Jan. 25, 2022)	1, 2
<i>Younger v. State</i> , 580 A.2d 552 (Del. 1990)	15

Constitutional Provisions

U.S. Const. amend. VI	4, 13, 14, 15
U.S. Const. amend. XIV	4, 13, 20, 21

Statutes

11 <i>Del. C.</i> § 2542(a)	5, 8
11 <i>Del. C.</i> § 2543(c)	5, 10, 11, 12, 19
11 <i>Del. C.</i> § 2544(c)	11, 12

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v.

STATE OF DELAWARE, Respondent

PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF DELAWARE

Petitioner, Jason Slaughter, by and through his counsel Christopher S. Koyste, respectfully prays that a writ of certiorari be issued to review the judgment and opinion of the Delaware Supreme Court filed on January 25, 2022, cited as *Slaughter v. State*, No. 87, 2021 (Del. Jan. 25, 2022) and appearing at A1-3.

OPINION BELOW

The Supreme Court of Delaware issued an opinion on January 25, 2022 affirming the Delaware Superior Court's denial of petitioner's motion for postconviction relief, finding that petitioner's claim that his waiver of rights under the Interstate Agreement on Detainers was involuntary was procedurally barred for failure to raise in an earlier proceedings and that Mr. Slaughter's ineffective assistance of counsel claims do not pass muster under *Strickland v. Washington*. The Delaware Supreme Court's opinion appears at A1-3 and is reported as *Slaughter v. State*, No. 87, 2021 (Del. Jan. 25, 2022).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a). The decision of the Supreme Court of Delaware for which petitioner seeks review was issued on January 25, 2022. This petition is filed within 90 days of the Delaware Supreme Court's decision in compliance with United States Supreme Court Rule 13.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment 6 provides, in pertinent part:

In all criminal prosecutions, the accused shall enjoy the right to . . . have the assistance of counsel for his defense. (U.S. Const. amend. VI).

United States Constitution, Amendment 14 provides, in pertinent part:

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. (U.S. Const. amend. XIV).

STATEMENT OF THE CASE

Petitioner Jason Slaughter (hereinafter referred to as “Mr. Slaughter” or “petitioner”) pleaded guilty to one count of Murder Second Degree following a lengthy pre-plea litigation on the method by which petitioner was extradited to Delaware from Georgia, where he was in the custody of the Georgia Department of Corrections (hereinafter referred to as “GDOC”), and whether this method of extradition complied with the Interstate Agreement on Detainers (hereinafter referred to as the “IAD” or “UAD”).¹ Although prison officials at the GDOC improperly mailed petitioner’s properly executed paperwork requesting final disposition of charges, which resulted in petitioner’s rights under IAD § 2542² failing to vest, it was later determined by the Delaware Superior Court that the IAD’s 120 day time period was triggered under *United States v. Mauro*³ and IAD § 2543⁴ when the State of Delaware secured custody of petitioner through a Governor’s Warrant after first lodging a detainer. Nevertheless, the Delaware Superior Court determined that because defense counsel agreed to a trial date outside of the 120 day time period, albeit prior to his knowledge of the applicability of the IAD to petitioner’s case, petitioner’s right to be tried within 120 days of his arrival in Delaware was waived, and the indictment was therefore not dismissed.

On December 14, 2007, officers responded to a shooting in Newark, Delaware involving two victims, Christopher Masters and Jason Slaughter. (A5). Upon arrival, Mr. Masters was found

¹ Delaware codified the IAD at 11 *Del. C.* §§ 2540-2550; see *New York v. Hill*, 528 U.S. 110, 111 (2000) (“The Interstate Agreement on Detainers (IAD) is a compact entered into by 48 States, the United States, and the District of Columbia to establish procedures for resolution of one State’s outstanding charges against a prisoner of another State.”).

² 11 *Del. C.* § 2542(a).

³ *United States v. Mauro*, 436 U.S. 340, 363-64 (1978).

⁴ 11 *Del. C.* § 2543(c).

deceased, and Mr. Slaughter was treated for a gunshot wound to the shoulder. (A5). Petitioner advised that he and Mr. Masters became involved in a dispute with two individuals over the purchase of marijuana, and he and Mr. Masters were the victims of an attempted robbery during which both were shot. (A5).

The two individuals were never identified, and petitioner relocated to Georgia, moving in with his wife, Donna Slaughter, and a roommate, Michael Haegele. (A6). On May 7, 2010, a male body was discovered on a secluded road in Macon County, Georgia, the victim of an apparent homicide. Petitioner contacted police to advise he believed the unidentified body was that of his roommate, Mr. Haegele. (A6). During questioning, Donna Slaughter confessed to shooting Mr. Haegele in the back of the head at their shared residence and implicated Mr. Slaughter in the attempted cover up of the crime. (A6).

During the investigation into Mr. Haegele's death, Georgia law enforcement uncovered a life insurance policy on Mr. Haegele worth \$500,000 listing Mr. Slaughter as the beneficiary. (A6). The policy had been purchased online through HSBC, a life insurance company based out of Delaware. A HSBC life insurance policy on Mr. Slaughter worth \$25,000 listing Mr. Haegele as the beneficiary and purchased by Mr. Slaughter was also found. (A6).

Law enforcement also discovered an HSBC life insurance policy on Mr. Masters worth \$250,000 listing Mr. Slaughter as the beneficiary. (A6). An HSBC life insurance policy for Mr. Slaughter worth \$25,000 with Mr. Masters as the beneficiary was additionally discovered. (A6). After Georgia law enforcement learned that Mr. Masters was deceased, this information was relayed to Delaware law enforcement, who reopened the investigation into Mr. Masters' death. (A5-6).

Petitioner was then indicted for the first degree murder of Mr. Masters but was incarcerated in Georgia pending trial for the first degree murder of Mr. Haegele at the time of indictment. (A7). After being convicted of first degree murder in the death of Mr. Haegele, petitioner was transported from Georgia to Delaware. (A7).

The litigation in this case focused almost entirely on the manner in which petitioner was extradited to Delaware and whether the State had sufficiently complied with the Interstate Agreement on Detainers, such that petitioner was not entitled to dismissal of the indictment. Midway through the proceedings, the State of Delaware discovered that it had relayed incorrect information to the Georgia Department of Corrections regarding the extradition of petitioner and had erroneously informed defense counsel that the IAD was not implicated in petitioner's case. (A60). A time-line of events relating to petitioner's extradition is set forth below.

On July 16, 2012, petitioner was indicted in Delaware on charges of First Degree Murder and Possession of a Firearm During the Commission of a Felony and an authorization for extradition was signed by a deputy attorney general. (A7). On October 4, 2013, the State of Delaware lodged a detainer with the GDOC, which was acknowledged by the GDOC on October 15, 2013. (A7). On October 24, 2013, petitioner requested disposition of the charges underlying the detainer, pursuant to IAD § 2542, by delivering the appropriate paperwork to the GDOC Warden. (A7). On October 24, 2013, the GDOC sent petitioner's request under the IAD to the Attorney General's Office in Wilmington, Delaware but failed to also send the IAD request to the Delaware Superior Court. (A7). Accompanying the IAD request was Georgia's offer of temporary custody and Form VII, "Prosecutor's Acceptance of Temporary Custody", which was to be completed by the State of

Delaware and returned to Georgia. (A7). The Delaware Department of Justice received petitioner's request for final disposition of charges on November 5, 2013.

On April 14, 2014, the GDOC sent a letter to the Delaware Department of Justice informing them that Mr. Slaughter had been advised that the IAD did not apply to his case and that the State of Delaware would need to use a Governor's Warrant to extradite him. (A8). On July 23, 2014, Governor Markell of Delaware signed the Governor's Warrant. (A8). On July 28, 2014, Governor Deal of Georgia signed the Governor's Warrant. (A8). On October 6, 2014, an Authority to Release Custody of Offender was sent by the Delaware Department of Justice to the Georgia IAD coordinator, and on October 9, 2014, petitioner arrived at the James T. Vaughn Correctional Institute in Smyrna, Delaware. (A8).

On November 13, 2014, defense counsel was appointed for Mr. Slaughter. (A8). On November 18, 2014, a routine office conference was held to discuss scheduling. (A8). Both the prosecutor and defense counsel advise the Superior Court that the case could not be tried within one year, and the court schedule trial for April 5, 2016 with no objection from either party. (A8). On November 19, 2015, a joint request was made for a continuance of the April 5, 2016 trial date due to scheduling conflicts. The Superior Court set a new trial date of January 9, 2017. (A8).

On March 31, 2015, petitioner filed a motion to dismiss, asserting the IAD applied to his case and that the State had failed to timely extradite him from Georgia and try him within 180 of receipt of his paperwork requesting final disposition of charges, as required by IAD § 2542.⁵ (A72-

⁵ 11 *Del. C.* § 2542(a) ("Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the

82). Petitioner argued that because his properly executed IAD paperwork was received by the State on November 6, 2013 and because he was not tried within 180 days, the indictment should have been dismissed with prejudice on May 6, 2014. (A8-9). During a hearing on the motion, the State advised the Superior Court that before the 180 days had expired, Georgia had informed the State of Delaware that Georgia would not honor the IAD because it was a capital murder case, and a Governor's Warrant would be needed to obtain custody of Slaughter. (A9). The State informed the court that it did not know why the GDOC took that position, as it appeared to be legally incorrect. (A9).

At the end of the hearing, the court made an oral ruling denying the first motion to dismiss, finding that because petitioner was brought to Delaware pursuant to a Governor's Warrant and not the IAD, the IAD did not apply. (A9). The court additionally found that Georgia had notified the State of Delaware prior to the expiration of the 180 days that a Governor's Warrant was needed to obtain custody of petitioner, and that although the State received actual notice from petitioner requesting disposition of the charges pursuant to the IAD, the Superior Court did not receive actual notice. (A9). Thus, the court concluded, petitioner's IAD rights never vested. (A9).

prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request for a final disposition to be made of the indictment, information or complaint; provided, that for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.”).

Petitioner then filed a second motion to dismiss on August 24, 2016, alleging that under IAD § 2543⁶ and *United States v. Mauro*,⁷ the State was required to bring him to trial within 120 days of his arrival in Delaware and failed to do so. (A61-71). Petitioner argued that under the holding of *Mauro*, the State triggered the 120 day time limit of IAD § 2543 by lodging a detainer followed by a written request for temporary custody via the Governor's Warrant. (A10). Both the State and defense counsel conceded that they had previously been unaware of *Mauro* and had not considered its impact on Mr. Slaughter's case. (A10). As such, they had also failed to consider whether a detainer plus a Governor's Warrant implicated IAD § 2543. (A10).

However, the State emphasized that the office conference was held on November 18, 2014, before the 120 days expired, and both parties did not object to a trial date outside of the 120 day limit at that time. (A10). Thus, the State argued, petitioner had waived his IAD claim. (A10). In response, petitioner asserted that prior to the office conference, the State had specifically informed defense counsel that petitioner was brought to Delaware via a Governor's Warrant, prompting defense counsel to believe the IAD was inapplicable to petitioner's case.

The Superior Court held a hearing on the second motion to dismiss during which the parties essentially agreed that *United State v. Mauro* applied to petitioner's case and therefore, the 120 day

⁶ 11 *Del. C.* § 2543(c) ("In respect of any proceeding made possible by this section, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.").

⁷ *Mauro*, 436 U.S. at 363-64 (holding that "whenever the receiving State initiates the disposition of charges underlying a detainer it has previously lodged against a state prisoner," the IAD requires commencement of trial within 120 days of the defendant's arrival in the receiving State).

provision of § 2543 began to run the day petitioner arrived in Delaware.⁸ (A10). The main issue of contention was whether petitioner had waived the issue by agreeing to a trial date outside of the 120 day time period. The State also argued that the Superior Court could retroactively find that good cause existed to grant a continuance, had one been requested during the November 18, 2014 office conference; thus, the State alleged, any error would be harmless. Petitioner argued that despite the lack of bad faith, the State misled defense counsel as to whether this case was a Governor's Warrant or an IAD case, and it would not be fair to deem what was said at a routine office conference as a waiver of an IAD right.

The State thereafter filed a letter with the court correcting misrepresentations it had made during the hearing on the first motion to dismiss. (A10, 60). The State disclosed for the first time that it had actually been the State's Extradition Supervisor who had advised the GDOC that the IAD did not apply to Mr. Slaughter's case and that a Governor's Warrant was needed to obtain custody. (A10, 60). As a result of this newly disclosed information, Mr. Slaughter renewed his first motion to dismiss, arguing that the State did not affirmatively accept Georgia's offer of temporary custody of Mr. Slaughter within the meaning of IAD § 2544(c),⁹ and as a result, the indictment must be dismissed with prejudice pursuant to IAD § 2544. (A10, 51-59). Thus, petitioner asserted, it was

⁸ The State later changed its position on whether a Governor's Warrant constitutes a written request for purposes of the IAD and/or *Mauro*.

⁹ 11 *Del. C.* § 2544(c) ("If the appropriate authority shall refuse or fail to accept temporary custody of the person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in § 2542 or § 2543 of this title, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.").

immaterial that the court never received actual notice of his IAD paperwork, because the State triggered automatic dismissal by refusing to accept custody. (A11).

The Superior Court thereafter denied both petitioner's renewed first motion to dismiss and his second motion to dismiss. (A21-44). In regard to the renewed first motion to dismiss, the court found that petitioner's rights under IAD § 2544 never vested, because the court never received actual notice of his IAD paperwork. (A35). Thus, the State's alleged refusal to accept Georgia's offer of temporary custody did not warrant dismissal of the indictment. (A35-37). In regard to the second motion to dismiss, the court found that petitioner had waived the speedy trial protections of IAD § 2543 by agreeing to a trial date outside of the 120 day time period. (A38-41). The court also concluded that any error was harmless, because a continuance for good cause would likely have been requested and granted if the parties had been aware of *Mauro* at the time of the scheduling conference. (A42-44).

On January 18, 2017, petitioner pleaded guilty to one count of Murder Second Degree. (A12). Petitioner did not appeal his conviction or sentence to the Delaware Supreme Court. (A13). However, petitioner thereafter sought postconviction relief. Petitioner's Amended Motion for Postconviction Relief raised three claims: 1) that defense counsel was constitutionally ineffective for carelessly and non-strategically waiving petitioner's IAD right to be tried within 120 days of arrival in Delaware; 2) that if the Superior Court found defense counsel's reliance on the prosecutor's misrepresentations that this was not an IAD case but rather a Governor's Warrant case to be objectively reasonable, then defense counsel's waiver of the 120 day time period was involuntary and therefore invalid; and 3) that defense counsel was constitutionally ineffective for

failing to appeal the denial of petitioner's second motion to dismiss to the Delaware Supreme Court. (A83-144).

Following an affidavit from prior defense counsel, a response from the State, a reply from petitioner, and oral argument, the Superior Court denied all of petitioner's postconviction claims. (A4-20). Petitioner timely appealed to the Delaware Supreme Court. Following briefing from both petitioner and the State, as well as oral argument, the Delaware Supreme Court issued an opinion on January 25, 2022, denying petitioner's appeal and affirming the judgment of the Superior Court with one caveat. (A1-3).

The Delaware Supreme Court concluded that the Superior Court correctly determined: 1) that Mr. Slaughter's claim that his waiver of the IAD 120 time provision was involuntary was procedurally barred under Delaware Superior Court Civil Rule 61(i)(3), for failure to assert in the proceedings leading to conviction; 2) that defense counsel's decision to forgo filing an appeal did not pass muster under *Strickland v. Washington*,¹⁰ as it was not objectively unreasonable to forgo filing an appeal following a guilty plea that explicitly waived the right to appeal; and 3) that defense counsel was not constitutionally ineffective under *Strickland v. Washington* by waiving the 120 day IAD time period, as Mr. Slaughter suffered no prejudice from his counsel's failure to push for the earlier trial date, as it was a capital case at the time, and regardless, the Superior Court would have exercised its authority under the IAD to grant a good cause continuance. (A2). However, the Delaware Supreme Court disagreed with the Superior Court conclusion that petitioner's ineffective assistance of counsel claims were procedurally barred as a result of entering into a valid guilty plea,

¹⁰ 466 U.S. 668 (1984).

holding that ineffective assistance of counsel claims are not procedurally barred in postconviction relief proceedings. (A2-3).

The constitutional question at issue was preserved in the Delaware Supreme Court, as petitioner asserted that the constitutionally ineffective assistance of counsel provided by defense counsel, both in waiving petitioner's speedy trial IAD right and in erroneously advising petitioner that a guilty plea waived his right to appeal the IAD issue which resulted in the objectively unreasonable decision to forgo filing an appeal, resulting in the procedural bar of petitioner's postconviction claim that the IAD waiver was involuntary and therefore invalid, infringed on his Sixth and Fourteenth Amendment rights to the effective assistance of counsel and due process of law, as defense counsel's constitutional ineffectiveness legitimized an otherwise impermissible prosecution.

REASONS FOR GRANTING THE WRIT

Supreme Court Rule 10(c) provides that a writ of certiorari may be granted where "a state court of last resort . . . has decided an important federal question in a way that conflicts with relevant decisions of this Court." In denying petitioner's claim that defense counsel's waiver of petitioner's speedy trial IAD right was involuntary and invalid as procedurally barred for failure to raise in an earlier proceeding, the Delaware Supreme Court implicitly concluded that defense counsel's belief that a guilty plea waives all pre-plea errors, even those that implicate the power of the State to prosecute, was objectively reasonable, which contravenes this Court's constitutional holdings in

Class v. United States,¹¹ *Blackledge v. Perry*,¹² and *Menna v. New York*.¹³ Moreover, in failing to find that defense counsel's legal advice to petitioner that his guilty plea waived his right to appeal the IAD issues was legally incorrect, the Delaware Supreme Court's decision not only conflicts with this Court's holdings in *Class*, *Blackledge* and *Menna*, but also disregards the clearly established Sixth Amendment principle that ineffective assistance of counsel constitutes cause for a procedural default.

I. The Delaware Supreme Court's Conclusion That Petitioner's Postconviction Claim Asserting the Waiver of His Speedy Trial IAD Rights Was Involuntary is Procedurally Barred Contravenes Precedent of This Court.

In response to petitioner's postconviction claim that his attorney's non-strategic waiver of his speedy trial IAD right was involuntary, as it was induced by misrepresentations made by the State, the Delaware Supreme Court erroneously concluded that petitioner's claim was properly denied by the Superior Court as procedurally barred. (A2). However, the Delaware Supreme Court's decision contravenes controlling precedent of this Court.

This Court long ago held that ineffective assistance of counsel constitutes cause for a procedural default.¹⁴ Petitioner did fail to raise his postconviction claim on direct appeal, which

¹¹ 138 S.Ct. 798 (2018) (holding that a guilty plea does not bar a defendant from appealing his conviction on the basis that the Government did not have the power to criminally prosecute him).

¹² 417 U.S. 21 (1974).

¹³ 423 U.S. 61(1975).

¹⁴ See, e.g., *Murray v. Carrier*, 477 U.S. 478, 488 (1986), superseded on other grounds by statute ("If the procedural default is the result of ineffective assistance of counsel, the Sixth Amendment itself requires that responsibility for the default be imputed to the State, which may not "[conduct] trials at which persons who face incarceration must defend themselves without adequate legal assistance"[;] [i]neffective assistance of counsel, then, is cause for a procedural default."); see also *Smith v. Horn*, 120 F.3d 400, 408-09 (3d Cir. 1997); *Younger v. State*, 580 A.2d 552, 556 (Del. 1990) ("Attorney error short of ineffective assistance of counsel does not constitute 'cause' for a procedural default even when that default occurs on appeal rather than at

would normally result in the courts correctly finding the issue to be procedurally barred during postconviction review. However, the sole reason petitioner failed to raise the issue on direct appeal, is because defense counsel advised petitioner that he could not file a direct appeal, as the entry of his guilty plea waived all pre-plea errors. Such legal advice was legally incorrect, as relevant decisions of this Court clearly establishes that petitioner's right to appeal the IAD issue in his case was not waived by the entering of a valid guilty plea.

In *Class v. United States*, this Court was asked to decide the specific question of whether “a guilty plea bar[s] a criminal defendant from later appealing his conviction on the ground that the statute of conviction violates the Constitution.”¹⁵ In concluding that it does not, this Court's detailed analysis quite clearly articulated the rights that are and are not waived through a guilty plea and identified the issues that may still be challenged on appeal notwithstanding the entry of a valid guilty plea.¹⁶

In *Class*, this Court summarized the development of its precedent on this subject matter, beginning with the Court's holding in *Blackledge v. Perry*, a case in which a state criminal defendant challenged his conviction on the basis of an unconstitutional vindictive prosecution. In finding that this claim was not barred by the defendant's guilty plea, this Court held that “the nature of the underlying constitutional infirmity”, vindictive prosecution in this case, “implicates ‘the very power of the State’ to prosecute the defendant”, as “[t]he very initiation of the proceedings” against the defendant “operated to deprive him of due process of law.”¹⁷

trial.”).

¹⁵ *Class*, 138 S.Ct. at 801-02.

¹⁶ *Id.* at 802-06.

¹⁷ *Id.* at 803 (quoting *Blackledge*, 417 U.S. at 30-31).

Moving on to the holding of *Menna v. New York*, in which a state criminal defendant challenged his conviction, after entering a guilty plea, on the basis of a violation of the Double Jeopardy Clause,¹⁸ this Court held that “a plea of guilty to a charge does not waive a claim that—judged on its face—the charge is one which the State may not constitutionally prosecute.”¹⁹ More specifically, because the defendant’s claim alleged that “the State may not convict” him “no matter how validly his factual guilt is established”, this Court concluded that the guilty plea did not bar his claim.²⁰

As noted in *Class*, the aforementioned decisions have since been upheld in cases such as *United States v. Broce*, in which this Court held that a guilty plea does not bar a claim “where on the face of the record the court had no power to enter the conviction or impose the sentence.”²¹ As the holding of *Broce* specified, the claim must be proven by relying on, and without contradicting, the existing record.²² Because the constitutional claim raised by Class did not contradict the indictment or his voluntary, intelligent and knowing admission that he committed the alleged conduct, Class’ claim could be “resolved without any need to venture beyond th[e] record.”²³ Accordingly, this Court concluded in *Class* that the defendant’s guilty plea did not bar a direct appeal, because his claims, which challenged the Government’s power to criminalize the conduct to which the defendant admitted, “call[ed] into question the Government’s power to ‘criminally prosecute’ him”.²⁴

¹⁸ *Id.* at 803 (citing *Menna*, 423 U.S. 61).

¹⁹ *Id.* at 804 (quoting *Menna*, 423 U.S. at 63 and n.2).

²⁰ *Class*, 138 S.Ct. at 804.

²¹ *Id.* at 804 (citing *United States v. Broce*, 488 U.S. 563, 569 (1989)).

²² *Id.* at 804 (quoting *Broce*, 488 U.S. at 576).

²³ *Id.* at 805.

²⁴ *Id.* at 805 (quoting *Broce*, 488 U.S. at 575 (quoting *Menna*, 423 U.S. at 61-62)).

Beyond clarifying the types of claims a guilty plea does *not* bar, this Court took the opportunity in *Class* to clarify the types of claims that a guilty plea *does* bar. Per *Class*, a valid guilty plea: 1) relinquishes the constitutional guarantees that accompany the right to a fair trial, such as the privilege against compulsory self-incrimination and the right to confront accusers; 2) the right to appeal the constitutionality of case-related government conduct that occurs before the plea is entered, such as an unconstitutionally selected grand jury or a Fourth Amendment search and seizure violation; and 3) relinquishes “any claim that would contradict the ‘admissions necessarily made upon entry of a voluntary plea of guilty.’”²⁵

Although the Delaware Supreme Court did not articulate its reasoning in finding that petitioner’s claim is procedurally barred, the Delaware Supreme Court necessarily concluded that petitioner had not demonstrated cause for the procedural default. (A2). As petitioner had explained that the cause for the procedural default was the ineffective assistance of counsel he received when defense counsel advised him he could not file an appeal because his guilty plea waived all pre-guilty plea issues, even those of constitutional dimension, the Delaware Supreme Court necessarily concluded that defense counsel did not provide ineffective assistance of counsel in this respect. (A205-207). However, as it is clearly objectively unreasonable to provide erroneous legal advice,²⁶ the Delaware Supreme Court undoubtedly concluded that defense counsel’s advice was correct, and that petitioner’s guilty plea waived his right to appeal the IAD issue. However, such a conclusion directly contravenes this Court’s holdings in *Class*, *Blackledge*, *Menna*, and *Broce*.

²⁵ *Class*, 138 S.Ct. at 805.

²⁶ See, e.g. *Lafler v. Cooper*, 132 S.Ct. 1376, 1383-84 (2012) (noting that the parties all conceded that defense counsel provided deficient performance under the Sixth Amendment when he informed the defendant of an incorrect legal rule).

Petitioner's claim that the waiver of his speedy trial IAD rights was involuntary and invalid not only falls outside of the categories for which a guilty plea bars an appeal as specified in *Class* but also falls precisely into the category of issues held by this Court in *Class*, *Blackledge* and *Menna* to not be waived through the entering of a guilty plea, specifically issues that dispute the very power of the State to constitutionally prosecute the admitted conduct.

From February 7, 2015 onward, the State of Delaware, through its own negligence in misunderstanding the application of the IAD to the facts of the case, no longer had the power to prosecute petitioner, which renders his conviction and sentence unconstitutional.²⁷ Under this Court's holding in *Mauro*,²⁸ by lodging a detainer followed by a written request for temporary custody through a Governor's Warrant, the State of Delaware triggered the 120 day time limit of IAD § 2543. As such, the State was required to bring Mr. Slaughter to trial within 120 days of his arrival in Delaware, and when the State failed to meet this deadline of February 6, 2015, the IAD required that the indictment be dismissed with prejudice. Absent a waiver of the 120 day time period, the State's continued prosecution of petitioner from that point forward violated petitioner's constitutional right to due process. However, defense counsel's non-strategic waiver of the 120 day deadline legitimized this otherwise unconstitutional prosecution. Thus, but for defense counsel's objectively unreasonable waiver of petitioner's IAD speedy trial right, the indictment against

²⁷ It should be noted that the language of *Class* makes clear that the holding of *Class* is not limited to cases in which the defendant alleges the *statute* of conviction is unconstitutional; an allegation that the State did not have the power to prosecute is sufficient. (*Class*, 138 S.Ct. at 802-06; *Blackledge*, 417 U.S. at 30-31; *Menna*, 423 U.S. at 61-63 and n.2; *Broce*, 488 U.S. at 569, 575-76).

²⁸ *Mauro*, 436 U.S. at 363-64 (holding that "whenever the receiving State initiates the disposition of charges underlying a detainer it has previously lodged against a state prisoner," the IAD requires commencement of trial within 120 days of the defendant's arrival in the receiving State).

petitioner would have been dismissed and no guilty plea would have been entered by petitioner. Accordingly, if petitioner's claim that defense counsel's waiver of the applicable time period was involuntary and therefore invalid is successful on the merits, then the State no longer had the power to prosecute petitioner from February 7, 2015 onward.

As such, petitioner's claim raises the issue of whether the State had the power to prosecute the admitted conduct at the time of the guilty plea. Thus, this falls within the scope of the exceptions to the general principle that a valid guilty plea waives all pre-plea issue as described in *Class*, *Blackledge*, *Menna*, and *Broce*. Petitioner does not challenge the constitutionality of case-related government conduct that occurred prior to the entry of the guilty plea; rather, just as in *Class*, petitioner asserts that based solely upon the existing record, if his claim is successful, it "would extinguish the government's power to 'constitutionally prosecute'" him.²⁹

Likewise, just as in *Class*, Mr. Slaughter does not contradict the indictment or the terms of the plea agreement or his voluntary, intelligent and knowing admission that he committed the alleged conduct. Rather, Mr. Slaughter alleges, pursuant to *Class*, that even if the facts admitted during the plea are taken as true, they do not constitute a prosecutable offense, because the time for prosecuting them had already expired. Accordingly, pursuant to *Class* and related cases, petitioner did not waive his postconviction claim when he entered the guilty plea. Therefore, petitioner did not receive the constitutional effective assistance of counsel to which he was entitled when defense counsel decided to forgo filing an appeal on this issue based on the mistaken belief that petitioner's claim was waived through the entry of the guilty plea. Such ineffective assistance of counsel constitutes cause for the

²⁹ *Class*, 138 S.Ct. at 806 (quoting *Broce*, 488 U.S. at 575 (quoting *Menna*, 423 U.S. at 62-63)).

procedural default, and in reaching a contrary conclusion, the Delaware Supreme Court departed from clear federal constitutional precedent.

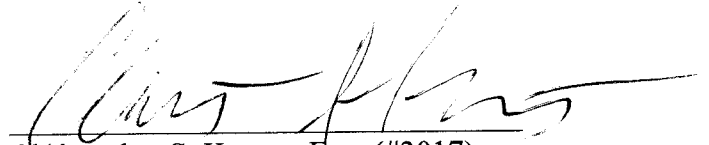
Because the State was required, and failed to, bring petitioner to trial by February 6, 2015 under the plain language of the statute, and because defense counsel's waiver of the time period was invalid, the State no longer had the power to prosecute petitioner for the alleged conduct at the time the guilty plea was entered, and the indictment should have been dismissed with prejudice long before the plea colloquy. As such, the very continuation of proceedings against petitioner from February 7, 2015 forward violated petitioner's right to due process of law under the Fourteenth Amendment to the United States Constitution. In denying petitioner's claim as procedurally barred, it is clear that the Delaware Supreme Court determined that petitioner's claim was waived when he entered a valid guilty plea, in direct conflict with this Court's decisions in *Class*, *Blackledge*, and *Menna*. Certiorari should be granted on this issue, not only because petitioner was deprived of his right to the due process of law under the Fourteenth Amendment to the United States Constitution, but because the Delaware Supreme Court's failure to adhere to this Court's holdings in the *Class* line of cases will inevitably result in similar deprivation of due process in future similarly situated cases.

CONCLUSION

For the foregoing reasons, petitioner requests that this Court grant the petition for certiorari.

Dated: April 25, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Koyste', written over a horizontal line.

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