

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Ralph Lee Prose — PETITIONER
(Your Name)

vs.

Brian E. Fresh "et al." — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

In The Court of APPEALS OF MARYLAND
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ralph Lee
(Your Name)

P.O. Box 700
(Address)

Jessup, Maryland 20794
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Did the lower court violate Maryland Rule 4-215 and Appellant's constitutional rights by failing to ensure that he knowingly and voluntarily waived his right to counsel?
2. Did the lower court violate Maryland Rule 4-246 and Appellant's constitutional rights by failing to ensure that he knowingly and voluntarily waived ~~his~~ his right to a jury trial?
3. Did the court of appeals of Maryland error in Denied writ of certiorari, Fundamental rights and Constitutional rights 6th and 14th amendment Article 21 of Maryland Declaration of Rights?

LIST OF PARTIES

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

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RELATED CASES

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APPENDIX A March 5th, 2019 Petitioner tried Circuit court for Baltimore county case No. 03-K-18003918
Convicted by Honorable John J. Nagle.

APPENDIX B December 17, 2019 Judge Nagle denied motion for New Trial case No. 03-K-18003918
Circuit Court for Baltimore County.

APPENDIX C Appeal From the Circuit Court for Baltimore County (The Honorable John J. Nagle,
Presiding) September Term, 2019 No. 2204 Appellant's Brief case No. 03-K-18003918.

APPENDIX D Appeal From the circuit court for Baltimore County (The Honorable John J. Nagle,
presiding) September Term, 2019 No. 2204 Brief of Appellee case No. 03-K-18003918.

APPENDIX E The Court of Special Appeals affirmed the judgement in an unreported opinion filed on Sept.
28, 2021 and issued its mandate on October 29, 2021 Sept. Term, 2019 No. 2204 case No. 03-K-18003918.

APPENDIX F Petition for a writ of certiorari: court of appeals September Term, 2021 denied
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OTHER

N/A

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

- ☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix N/A to the petition and is

- ☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

- ☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Special Appeals of Maryland court appears at Appendix E to the petition and is

- ☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

☐ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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STATEMENT OF THE CASE

On March 5th, 2019, in the Circuit Court for Baltimore County, in case number 03-K-18003918, the Honorable John J. Nagle presiding, Appellant, Ralph Lee, was tried by the court on charges of first and second degree assault and multiple gun possession charges. Judge Nagle convicted Appellant of possession of a firearm; possession of a firearm after a felony conviction; first and second degree assault; illegal possession of a regulated firearm; and wear/carry/transport, on December 17th, 2019, after denying Appellant's Motion for New Trial, Judge Nagle sentenced Appellant to:

- 10 years for possession of ~~a firearm~~ a firearm while prohibited; a concurrent ten years for possession of a firearm while prohibited, first five without parole; a consecutive twenty years spending all but 15 years for first degree assault (second degree assault merged); a concurrent 2 years for possession of illegal firearm; and a concurrent two years and a day for wear/carry/transport a handgun.)

REASONS FOR GRANTING THE PETITION

The Sixth Amendment to the United States Constitution, The Fourteenth Amendment's due process clause, and Articles 5, 21, 24 of the Maryland Declaration of Rights, guarantee the right to a jury trial. *Butler v. State*, 214 Md. App. 635, 647 (2013). Any constitutionally firm waiver thereof must, under the totality of the circumstances represent an "intentional relinquishment or abandonment of a known right..." *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938).

The fundamental right of a criminal defendant to the assistance of counsel for his defense is rooted in the Sixth Amendment to the United States Constitution (made applicable to the States via the Fourteenth Amendment's due process clause), as well as Article 21 of the Maryland Declaration of Rights. *Broadwater v. State*, 401 Md. 175, 179-82 (2007). Any waiver of such a right must be knowing and voluntary. *Id.* Maryland Rule 4-215 explicates how that fundamental right may be waived; and its provisions are mandatory, strict compliance is required, and failure to comply constitutes reversible error. *Id.*, *Lopez v. State*, 420 Md. 18, 31 (2011).

In this case, Judge Purpura gave Appellant some opportunity to explain why he wished to dismiss Mr. Ezacii. However, she made no further inquiry into the reasons therefor, and the record fails to reflect any actual consideration thereof or any evaluation or application of any of the six discretionary factors for determining whether the discharge was meritorious; and there was indeed, no finding regarding the merits. Neither did Judge Cox, Judge Hanley, nor Judge Nagle conduct any such inquiry or make any such determination on the record. The lower court erred in finding a waiver of the right to counsel in violation of both Maryland Rule 4-215 and the State and Federal constitutional mandate that any such waiver be knowing and voluntary.

-this petition is submitted in good faith and not for delay

**Additional material
from this filing is
available in the
Clerk's Office.**