

No. 23 - 6564

FILED  
DEC 27 2023  
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SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

Jerome Teats – PETITIONER

Vs.

Brandon Watwood, Warden – RESPONDENT  
ON PETITION FOR WRIT OF CERTIORARI TO

U.S. Court of Appeals, Sixth Circuit  
PETITION FOR WRIT OF CERTIORARI

Jerome Teats Tomis #313227  
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### **QUESTION(S) PRESENTED**

1. Did the decision in Martinez v Ryan 132 SCT 1309 require claims to be raised beyond the initial collateral proceeding for exhaustions purposes in Tennessee and other states with similar collateral proceeding procedural framework? If exhaustion is still required beyond the initial collateral proceeding, did the petitioner satisfy the "Exhaustion Rule" by submitting his claims to the Tennessee Criminal Court of Appeals by way of Motion to Rehear?

## **LIST OF PARTIES**

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

## **RELATED CASES**

Teats v Genovese, No. 22-5365, U.S. court of Appeals for the Sixth Circuit. Judgment entered November 4, 2022.

Teats v Phillips, 2022 WL 879418, MD Tenn. March 23, 2022.

Teats v State 2019 WL 76643, Tenn. Crim. App. January 2, 2019, permission appeal denied (June 20, 2019).

State v Teats 468 SW 3d 495, Tenn. Sup. Ct. July 14, 2015.

State v Teats 2014 WL 98650 Tenn. Crim. App. January 10, 2014.

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### APPENDIX A

Copy of Sixth Circuit Order denying petition for panel rehearing.

Copy of Sixth Circuit Order denying a petition for a COA.

Copy of Sixth Circuit Order denying Teats' request for more time to submit a petition for rehearing en banc.

Copy of the Middle District Court of Tennessee dismissing Teats' 2254 Habeas petition and not supporting a COA.

Copy of the Index of the State Court Record provided by the Middle District Court of Tennessee (used in this petition for referencing purposes).

Copy of motion to rehear submitted by Teats to the Tennessee Criminal Court of Appeals.

Copy of post-conviction petition and supplemental petition both submitted by Teats to the post-conviction court and Tennessee Criminal Court of Appeals on collateral appeal.

Copy of the Tennessee Criminal Court of Appeals Order denying Teats' request for Rehearing.

Copy of Amended post-conviction petition submitted by appointed counsel Elaine Heard

## TABLE OF AUTHORITIES CITED

### CASES

Castille v Peoples 489 US 346 ... 6, 7  
Doe v Hofbauer 546 US 1 ... 6  
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Tennessee Supreme Court Rules, Rule 11 ... 6  
Tennessee rules of Post-Conviction Procedure, Rule 28 ... 4, 6  
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### OTHER

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 A 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 United States district court appears at Appendix A to the petition and is

[✓] reported at Teats v Phillips 2022 WL 879418; 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 \_\_\_\_\_ 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

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 4, 2022.

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: July 31, 2023, and a copy of the order denying rehearing appears at Appendix A.

An extension of time to file the petition for a writ of certiorari was granted to and including December 28, 2023 (date) on November 13, 2023 (date) in Application No. 23 A 426.

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**

14<sup>th</sup> Amendment U.S. Constitution

6<sup>th</sup> Amendment U.S. Constitution

## STATEMENT OF THE CASE

On July 12, 2016 Teats submitted a petition for post-conviction relief to the trial court, (trial case no. 2009-D-2955). Elaine Heard, appointed counsel submitted an amended petition to the trial court on January 10, 2017. Teats then submitted a supplemental post-conviction petition to the trial court on March 29, 2017. The post-conviction court considered all petitions, testimony and denied relief through written Order. On January 2, 2019 the Tennessee Criminal Court of Appeals affirmed the post-conviction court's decision to deny post-conviction relief. Following the court's decision appointed counsel Elaine Heard moved to withdraw from Teats' case on January 3, 2019. The request was granted by the Crim. Ct. of App. On January 8, 2019. Teats immediately submitted a motion to rehear to the court so his claims would be exhausted and considered by the Crim. Ct. of App. On January 18, 2019. The Crim. Ct. of App. Issued an Order stating that after **full consideration** the request for rehearing was denied on February 6, 2019. The Tennessee Supreme Court denied discretionary review on June 20, 2019.

Teats then submitted a 2254 petition for Habeas relief to the Middle District Court of Tennessee on or about September 23, 2019. The district court dismissed the petition and declined to recommend a COA to the Sixth Circuit on March 23, 2022. The district court cited claims as being procedurally defaulted. The Sixth Circuit denied Teats' request for a COA on November 4, 2022. Teats then submitted a petition for panel rehearing on or about March 15, 2023. The Sixth Circuit denied Teats' petition for panel rehearing on July 31, 2023. After the petition denial Teats submitted a request for an extension to submit a petition for rehearing en banc so two important constitutional questions could be answered or certified to the U.S. Supreme Court for certiorari on August 18, 2023. The Sixth Circuit considered the request as successive and returned the petition and exhibits unfiled on August 18, 2023.

## **REASONS FOR GRANTING THE PETITION**

Did the decision in Martinez v Ryan 132 SCT 1309 require claims to be raised beyond the initial collateral proceeding for exhaustions purposes in Tennessee and other states with similar collateral proceeding procedural framework?

Jurists of reason would agree that the holding in Martinez implies that Teats is not required to present his claims beyond the initial review proceeding. The court in Martinez made this statement, “the holding in this case does not concern attorney errors in other kinds of proceedings, including appeals from initial review collateral proceedings... it does not extend to attorney errors in any proceeding beyond the first occasion the state allows a prisoner to raise a claim of ineffective assistance at trial”, Martinez at 1320. The court also put specific emphasis on this point, “when an attorney errs in initial review proceedings it is likely that no state court at any level will hear the prisoner’s claim, Martinez at 1316. The supreme court did not squarely address this issue therefore it cannot be relied upon as clearly established precedent. But the supreme court stated that a case can be clearly established despite the differences in factual pattern. As long as legal principals apply lower federal courts must follow the established caselaw. Based on this statement the US Supreme Court cases presented in this motion are in favor of Teats’ position regarding this court’s procedural ruling.

If exhaustion is still required beyond the initial collateral proceeding, did the petitioner satisfy the “Exhaustion Rule” by submitting his claims to the Tennessee Criminal Court of Appeals by way of Motion to Rehear?

Teats presented the claims deemed defaulted by this court in the proper manner so the merits would be considered. The Tennessee court of Criminal Appeals denied Teats relief following a post-conviction hearing on January 2, 2019. Counsel for Teats immediately submitted a motion to withdraw, which was granted on January 8, 2019. Prior to this point in the proceedings Tennessee law prevented Teats from submitting pro se motions, see State v Parsons 437 SW 3d 457, 478. As long as Teats was represented by counsel he could not simultaneously proceed pro se. At this point Teats was recognized and legally permitted to proceed pro se throughout all proceedings pursuant to Tennessee procedural law, see Teats v Phillips 2022 WL 879416 \*22. Immediately following counsel’s withdrawal approval Teats submitted a Motion to Rehear pursuant to T.R.A.P., Rule 39, see exhibit 1, also labeled exhibit 50 in the state record index.

The Rule 39 motion and the exhibits included with the motion contained specific facts and legal basis for each claim defaulted by this court, in compliance with clearly established US

Supreme Court authority, see *Gray v Netherland* 518 US 152, 162-163 and *Duncan v Henry* 513 US 364, 365, the exhibits included with the Rule 39 motion are found in the index of the state court record as exhibit #29- 1. Post-conviction petition 2. Amended post-conviction petition 3. Supplemental post-conviction petition. On page two, last sentence of the Rule 39 motion, Teats alerted the Criminal Court of Appeals that all proof supporting each claim is included as an exhibit. On page two, third paragraph first sentence, Teats referenced the pro se supplemental petition submitted to the trial court which was included as an exhibit. On page two Teats made this reference, “AEDPA federal guidelines and US Supreme Court authority require me to present every claim I intend to pursue in a 2254 petition be raised to every available state proceeding/court available.” Finally, on page three of the same motion Teats makes this reference in the final paragraph, “in addition adjudicate all claims raised in his original petition, supplemental, those raised by counsel, and raised during the hearing,” all included as an exhibit for the Criminal Court of Appeals to consider.

The Criminal Court of Appeals made this statement in its February 6, 2019 Order denying Teats’ request for rehearing, “Before the court is the pro se appellant’s petition seeking rehearing of this court’s January 2, 2019 opinion affirming the judgment of the Davidson County Criminal Court... Upon **full consideration**, the petition to rehear is Denied. Teats’ claims were fully exhausted based on the court’s order. A claim is exhausted if the court decides or reaches a merits decision, see *Doe v Hofbauer* 546 US 1, 7 (2005). The T.C.C.A. reached the merits of the Motion to Rehear. The court did not deny the motion without comment. The court gave the motion, “**full consideration**” but was not persuaded a rehearing was warranted. The order cannot be characterized as merely procedural. A decision based upon “**full consideration**” by the court is not a decision based on procedural irregularity, but rather a decision on the merits. A claim is exhausted even if not presented in the proper manner if the state court addresses the claim on the merits, *Castille v Peoples* 489 US 346, 351.

Teats presented specific facts and legal basis for each individual claim. In addition, they were presented in a proper procedural context where the merits could be considered. The crux of the holding in *Castille v Peoples* 489 US 346 is whether the claim is presented for the first and only time to a court in which the merits would only be considered in extraordinary circumstances. Teats presented each defaulted claim to the post-conviction court first, next to the Criminal Court of Appeals by way of motion to rehear rule 39, and the Tennessee Supreme Court via Rule 11 motion, even though a Sixth Circuit En Banc decision did not require Teats to do so. For these reasons Teats has fully exhausted each defaulted claim properly.

Tennessee courts have a unique process for collateral appeal proceedings. Petitioners begin the post-conviction process by submitting a pro se petition to the trial court. If the petition states a colorable claim counsel is appointed. But despite this appointment the trial court by law is permitted to consider what was raised in the pro se petition, counsel’s amended petition, and any claim(s) presented during the hearing.

The law in Tennessee drastically changed when Teats appealed the denial of post-conviction relief. The intermediate appellate court could no longer any motion from Teats as long as counsel remained. Furthermore, appellate judges in Tennessee refuse to

remove counsel following a denial of post-conviction relief. Teats was prejudiced severely because counsel failed to include nearly every meritorious claim that was presented in the post-conviction. In fact, most indigent petitioners in Tennessee suffer the same prejudice Teats did. Appellate judges refuse to substitute counsel, allow counsel to withdraw, and rarely allow the indigent to proceed pro se on appeal. Teats and most other petitioners are unable to exhaust claims at this stage in the collateral proceedings.

Guidance is needed for each state with a procedural framework like Tennessee's. litigants are caught in a web of state procedural bars at the transition from initial collateral proceeding to the intermediate appellate court. The following cases illustrate the same pattern of litigants unable to properly exhaust claims at the intermediate court level.

Norris v B. 794 F3d 401- litigants in Pennsylvania

Arnold v Dormire 675 F3d 1082- litigants in Missouri

West v Carpenter 790 F3d 693- litigants in Tennessee

Woolbright v Crew 791 F3d 628- litigants in Kentucky

Indigent petitioners like Teats are impacted the most. After the announcement of Martinez appointed attorneys are required to perform at an effective level. The same is not required for appointed attorneys appealing after the initial collateral proceeding. Furthermore, counsels are forced to continue representation of indigents because judges are reluctant to remove them until the conclusion of collateral appeal. Teats' counsel attempted to withdraw prior to the appeal but the judge refused her request.

Indigent petitioners fall into one of three categories 14<sup>th</sup> Amendment Equal Protection under the U.S. Constitution and Clearly Established case law. Therefore, intervention by this court will be more impactful due to the amount of states involved and the rights sought to be protected. The supreme Court has not had the occasion to address a claim of this type since Castille v Peoples 489 US 346. The current procedure in place are highly prejudicial to indigents. Case research will prove that many litigants are unable to exhaust claims post Martinez.

Petitioners that retain private counsel rarely face the same defaults at the intermediate appeal level. The Sixth Amendment of the US constitution has no jurisdiction over appointed counsel following the initial collateral proceedings. Teats and other similarly situated litigants, Circuit courts need guidance as to how claims can be exhausted if required. The supreme court never examined Tennessee's collateral proceeding framework. An En Banc Sixth circuit panel merely rule that Martinez applies to Tennessee Convictions after the decision in Trevino, see Sutton v Carpenter 745 f3d 787.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jerome Jeath

Date: December 27, 2023