

23-6999 No. \_\_\_\_\_

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

NOV 27 2023

OFFICE OF THE CLERK

Ronald Monique Best, Pro se — PETITIONER  
(Your Name)

vs.

Harold W. Clarke — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ronald Monique Best, Pro se  
(Your Name)

P.O. Box 518 Pocahontas State Correction Center  
(Address)

Pocahontas, Va. 24635  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

**QUESTION(S) PRESENTED**

When guilt and punishment is the sole issue for the jury, is it ever permissible for counsel to make the unilateral decision to concede the actual charge act of the offense charge?

## **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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## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

McClay V. Louisiana 138 S. Ct. 1500 (2018)  
United States V. Hashimi 768 Fed. Appx 159, 4th Cir (2019)

### STATUTES AND RULES

U.S. Const. amend. VI

The ABA Model Rule of Professional Conduct 1.2 (A) 2016

### 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 2023 U.S. App. lexis 23326; 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 is unpublished.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 B to the petition and is

reported at 2023 U.S. Dist. lexis 27278; 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[ ] is unpublished.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[ ] is unpublished.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 September 1, 2023

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).

To review the United States Court of Appeals decision for the Fourth Circuit, by Writ of Certiorari. Record-# 23-6214.

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 following constitutional provisions and statutes are involved:

U.S. Const. amend. VI ..... *passim*

### **STATUTES**

28 U.S.C. § 1254 (1) .....

28 U.S.C. § 1257 (A) .....

28 U.S.C. § 2254 .....

### **RULES**

The ABA Model Rules of Professional Conduct 1.2 (A) 2016

## STATEMENT OF THE CASE

- 1) The case and cause underlying this petition is a action that took place during closer argument by trial Counsel Andrew M. Sacks. During a 7 day jury trial of (2019). Counsel conceded to the Jury petitioner's guilt to the charge act of the crime, where the Jury was the deciding factor as to guilt and punishment. Record # CR1700-1999-00-01-02 of Norfolk Cir Court of Virginia.
- 2) While petitioner's direct Appeal was proceeding through the Court of Appeals of Virginia, petitioner file a Habeas Corpus to the Supreme Court of Virginia on March 26, 2021 No # 210308 and the Supreme Court of Virginia dismissed and discharge on December 2, 2021.
- 3) On April 11, 2022 petitioner timely file a Habeas Corpus to the THE UNITED STATES DISTRICT COURT FOR THE EASTEN DISTRICT OF Virginia. # 1:22 cv-266 LMB/JFA, and on February 16, 2023 the Court dismissed the petition.
- 4) In, THE United STATES Court of Appeals For THE Fourth Circuit- No # 23-6214, petitioner file a Notice of Appeal, and Memorandum informal Brief in Support of Notice of Appeal, in compliance with rule 34(b), and court order of March 8, 2023. And on September 1, 2023 the U.S. Court of Appeals for the Fourth Cir, denied a Certificate of Appealability and dismissed the Appeal.
5. Now as of September 27, 2023 petitioner file's Writ of CERTIORARI To THE U.S. Supreme Court of last resort of United STATES, in regards to petitioner's Sixth-Amendment- secured autonomy being violated by counsel.

## REASONS FOR GRANTING THE PETITION

1) With respect to the Court it should be noted, in regards to petitioner's Sixth Amendment-secure Autonomy claim at issue here the following.

2) The Supreme Court of Virginia has conceded the following:  
that counsel conceded during closing argument that petitioner Kill Ganther. (Record No. 210308) (VSCT II) page 7 line 10-11.

2A. The United States District Court for the Eastern District of Virginia has conceded the following:  
In reviewing petitioners state habeas petition the Supreme Court of Virginia had declined to apply McLoy page 9, Line 15, 16.

2B) Also, that neither the Supreme Court, nor the Fourth Circuit has considered how a Federal Court should consider a habeas claim based on alleged violation of the Autonomy right recognized in McLoy. (Record No. 1:22-cv-00266-LMB/JFA) page\* 9-Line 5,6,7.

2C) The District Court conceded that trial Counsel conceded petitioner's guilt to the alleged charge crime. But try to frame it, as a misstatement by Counsel Page\* 11 Line 21,22,23. (Record No. 1:22-cv-00266-LMB/JFA.)

3.) The United STATE Court of Appeals for the Fourth Circuit:  
has also apply the Strickland standard to petitioners Autonomy claim which is clear base on their response, to deny the certificate of appealability and dismissal, with out even answering the actual merits of petitioner claim.

Continuing See Attachments 1 of 2

- 4.) With respect to the Court and petitioner autonomy claim at issue here, THE Supreme Court of Virginia, U.S Federal District Court, and the U.S. Court of Appeals for the Fourth Circuit decision's was contrary to clearly established federal law. That is so because all three Court's above used the Strickland standard for ineffective assistance of counsel claims, rather than the standard applicable to cases where a petitioner is denied the autonomy to decide the objectives of there defense.
- 5.) In fact, the District Federal Court has already conceded on record that the Supreme Court, nor the Fourth Circuit has considered how a federal Court should consider a habeas claim base on alleged violation of the Autonomy right recognized in Meloy. (Record No. 1:22-CV-266-LMB/DFA) page 9; LINES, 5,6, and 7.
- 6.) IF that is infact the case above. this Court can infer, that base on that admission "all three courts of record apply only the Strickland standard and neither had any clear direction on how to respond to petitioner's claim of Autonomy violation.
7. The Constitution gave the courts the authority to decide real case's and controversies but with respect to the Virginia Courts involved with the present petitioner case at issue, The Constitution did not give Court's the right to simplify or otherwise change the fact of a case in order to make there work easier or to achieve a desired result.
8. But that's exactly what the Virginia Courts involved has done in petitioner case at issue.

With respect to Virginia Supreme Court, District Federal Court and The Fourth Circuit Court of Appeals, neither court conducted a de novo review. Because the courts was applying the incorrect standard, "the Strickland ineffective assistance of counsel, to petitioner autonomy claim. See Meloy 138 S. Ct. 1510-11 (holding that where "a client's autonomy, not counsel's competence, is in issue, we do not apply our ineffective-assistance-of counsel jurisprudence".

9.) Once counsel rung the door bell to the jury, "it can not be unrun," as the respondent and the courts has tryed to do throughout there response's and dismissals of petitioner's claim.

Even going as far to say counsel misspoke in did not mean to concede petitioner Kill Gathen in closing argument, page 13, Line 1, 2, 3 (Dist Ct).

Even when the respondent, nor the courts have any support, to back such a broad conclusion.

10.) It must be noted; 1) That counsel of record have never attested to such a statement made by neither respondent or the courts for that matter, "That he misspoke. 2) The assistant attorney General Leanna C. Minix Virginia State Bar No. 924111, has conceded to the Supreme Court of Virginia that she has throughout this process has reachout to trial counsel of record and counsel has not responded." And this is notated in her footnotes to the Supreme Court of Virginia.

11.) So this court may infer, that petitioners claim's are true to the violation of petitioner's U.S. Constitution Sixth Amendment - Secure Autonomy right. And that counsel of record has never submmitted a affidavit in support of the courts ideal of what counsel intentions and counsel has never rebutted petitioner claim...

12. The presentation alone of a active defense of a clients innocenes to a jury is infact the clients objectives of his defense. So for a clients trial counsel to contradict this presumption, and subvert the clients desire to maintain that innocenes, "by conceding to the jury during closing argument a client's guilt, avails the client of that presumption of innocence "with the same equal force", as counsel opening statement.

- 13) First even considering the context of counsel's closing argument, counsel still conceded petitioners guilt, which the court admits. The thing is that McCoy doesn't put any conditions or exception to counsel conceding a clients guilt. There is no harmless error when it comes to a McCoy violation. Once the error was made as stipulated by the Supreme Court page 7, line-10, the only remedy is reversal because it is structural error.
- 14) Petitioner insistence that trial counsel maintain his innocence of the charge crime was petitioners defense. Petitioner both before trial, and during trial to counsel, and to the jury on the stand, vociferously insisted that he did not engage in the charge act, and objected to any admission of guilt.
- 15) Petitioner autonomy was violated when his lawyer acted contrary to petitioner express assertion that the objective of his defense was to maintain innocence of the charge criminal acts.
- 16) The violation of petitioner Sixth Amendment-Secure Autonomy ranks as error of the kind that this, "U.S. Supreme Court" decisions have called "Structural" when present such an error is not subjected to harmless-error review.
- 17) It is true that under Strickland, a court need not review the reasonableness of counsel's performance. However, under McCoy a court does not need to review for reasonableness a concession of the guilt of the defendant during closing argument. Prejudice is assumed- as the petitioner cannot weigh the impact on the jury, nor can the court assert there was no impact. The statement of the client's guilt is assumed to be prejudicial on its face.

18) In spite, of the District Court, Supreme Court, and Fourth Circuit Court of Appeals, pretext given to the record for justifying to the respondent, relief. Petitioner believes it is an injustice upon himself, and the public, to let the lower courts overrule his Federal Constitutional rights, which is binding on all courts in United States, and may not be infringed upon. To let this ruling stand by this court sends a clear message to the mind of the public that their federal Constitutional rights may be violated with no consequence to the violator. The court should grant certiorari, because of the importance of the question for the administration of criminal justice in State and federal courts, and because this Court is embody by THE Constitution of United States.

#### CONCLUSION

With respect to the Court the petitioner ask the Honorable Court to vacate petitioner current conviction, and release, with a set date for a New Trial...

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Mr. Ronald Bat Pro-Se

Date: September 28, 2023