No. 23A889

IN THE SUPREME COURT OF THE UNITED STATES

WALTER TAYLOR, III

Petitioner,

v.

STATE OF VERMONT,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of the State of Vermont

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PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Is a criminal defendant denied his right to a jury trial under the Sixth Amendment and due process under the Fourteenth Amendment when the trial court denies a requested jury instruction on a valid defense theory and the admitted, relevant, and exculpatory evidence supporting that defense is presented at trial?

PARTIES TO THE PROCEEDINGS BELOW

Petitioner is Walter Taylor, III.

Respondent is the State of Vermont.

RELATED PROCEEDINGS

Vermont Superior Court, Rutland Unit, Criminal Division:

> *State v. Walter Taylor, III*, No. 21-CR-05873 (final order following jury verdict entered on July 27, 2022).

Vermont Supreme Court:

> *State v. Walter Taylor, III*, No. 22-AP-211 (affirming judgment of conviction entered on December 1, 2023 and denying motion for reargument on January 8, 2024).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Walter Taylor, III, respectfully petitions for a writ of certiorari to review the judgment of the Vermont Supreme Court in this case.

OPINIONS BELOW

The opinion of the Vermont Supreme Court is reported at 2023 VT 60, 2023 WL 8291717 (Dec. 1, 2023). App., *infra*, 1a-15a. A motion for reargument was denied on January 8, 2024. App., *infra*, 16a.

JURISDICTION

The Vermont Supreme Court entered judgment and affirmed Petitioner's conviction and sentence on December 1, 2023. Petitioner's motion for reargument was denied on January 8, 2024. The Honorable Justice Sotomayor extended the time to file a petitioner for writ of certiorari to and including June 6, 2024. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

RELEVANT CONSTITUTIONAL PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law...." U.S. Const. amend XIV.

The Sixth Amendment to the United States Constitution provides, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . ." U.S. Const. amend VI.

STATEMENT OF THE CASE

Following a jury trial, Petitioner Walter Taylor, III was found guilty of committing four offenses: aggravated assault, attempted domestic assault, assault and robbery, and obstruction of justice. App. *infra* 1a. Evidence was presented to the jury of Petitioner's intoxication and impaired mental state at the time of the incident. This was relevant to Petitioner's defense theory of diminished capacity by way of intoxication, which is recognized as a valid defense in Vermont. The defense was critical as it negated Petitioner's ability to form the specific intent required for the crimes charged and provided the jurors with a possible basis for finding reasonable doubt on all four counts. *Id.* at 4a. But when Petitioner requested a jury instruction for the defense, the trial court weighed the conflicting evidence of mental impairment due to intoxication and determined it was insufficient to warrant the instruction. Petitioner renewed his objection in a post-verdict motion for a new trial based on the court's error in denying his instruction request, but the court rejected this argument on the same ground. *Id.* Petitioner appealed the convictions to the Vermont Supreme Court and raised the same argument.

Specifically, Petitioner argued on appeal that he had a "Sixth Amendment right to a fair trial by having credibility and factual questions resolved by the jury." Quoting *Mathews v. United States*, 485 U.S. 58, 63 (1988), which cited *Stevenson v. United States*, 162 U.S. 313 (1896), Petitioner argued: "As a general proposition a defendant is entitled to an instruction as to any recognized defense for which there

exists evidence sufficient for a reasonable jury to find in his favor." He further asserted that "the trial court failed to uphold Mr. Taylor's constitutional rights when it concluded that there was conflicting and insufficient evidence for a jury instruction on the voluntary intoxication defense, putting itself in the role of a thirteenth juror."

Additionally, the Petitioner argued that "[a] voluntary intoxication instruction furthers the principle that the State must present sufficient evidence to meet this standard. A court must instruct the jury of any theory, such as defense instructions, that supports a presumption of innocence if the defense requests the court to do so." Quoting *In re Winship*, 397 U.S. 358, 364 (1970), Petitioner argued that that "the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."

The Vermont Supreme Court affirmed without addressing Petitioner's federal constitutional arguments. It failed to address Petitioner's Sixth Amendment right to a jury argument entirely and summarily dismissed Petitioner's due process argument in a footnote, determining that it was declining to reach the merits because he did not raise the specific constitutional argument before the trial court. App. *infra* at a8.

The Court did acknowledge, however, that Vermont law recognizes the diminished capacity by way of intoxication defense: "[I]ntoxication may affect a person's ability to form the mental state requisite for conviction of certain crimes

and [w]hen specific intent is an element of a crime, evidence of either voluntary or involuntary intoxication may be introduced to show that the defendant could not have formed the necessary intent." *Id.* at 5a. The Court confirmed that "[t]here must be a nexus between such evidence and the effect it has on a defendant's mental state." *Id.*

Additionally, the Vermont Supreme Court agreed: "Where there is evidence of intoxication such as to negate the requisite criminal intent, the court should normally instruct the jury that it may consider the intoxication evidence as bearing on intent." *Id.* However, the Court held that no jury instruction was warranted in this case because the evidence was insufficient. *Id.*

Under Vermont law, "[i]ntoxication is not a defense unless it reaches the point where defendant fails to achieve the state of mental responsibility required by the charge." *Id.* (cleaned up). Imposing this higher burden on the defendant, the Court rejected the assertion that "even slight evidence of intoxication warrants an instruction." *Id.* at 5a. Instead, it confirmed that the trial court should review the totality of the evidence relating to the defense. And in the case where the State and the Petitioner presented conflicting evidence, the trial court may assess and credit the State's evidence over Petitioner's own and deny the request for a jury instruction, removing that factual question from the jury's consideration. *Id.* at 7a-8a.

Here, the State's witness, a law enforcement officer, observed that Petitioner "appeared mildly to moderately intoxicated. [The officer] testified that [Petitioner]

was speaking and walking fine; he seemed very alert as to what was going on; he acknowledged pain by comments he was making; and he had also chosen to go to the emergency room" *Id.* at 4a.

In contrast, Petitioner's witness, his ex-girlfriend, described Petitioner as "stumbling a little bit and slurring his words a little bit." *Id.* at 7a. Petitioner's ex-girlfriend also testified that Petitioner "had consumed two black cherry Mike's Harder Lemonades and some portion of a third[.]" *Id.* at 5a. Photographs admitted into evidence confirmed "several alcoholic beverage containers in his home" at the time of the incident. *Id.* Petitioner's ex-girlfriend testified that at that time, she was engaged in an argument with Petitioner in his apartment and that "the fight concerned [Petitioner's] drinking and it escalated after she dumped out [his] drink." *Id.* at 3a. She testified that the argument continued outside, where she alleged that Petitioner "took a swing at her." *Id.* at 3a. She told the jurors that Petitioner "then chased after two men walking down the street; he tried to hit them but missed and fell down because he was 'pretty drunk.'" *Id.* at 3a.

Reviewing this evidence, Vermont Supreme Court affirmed the trial court's determination that there was insufficient evidence "that the alcohol had some impact on [Petitioner's] mental state." *Id.* at 7a. The Court assessed the conflicting witness testimony and determined that the State's law enforcement witness's observations were factually supported and dismissed Petitioner's witness's testimony as not. The Court found that the State's witness had observed that Petitioner "was speaking fine" and "walking fine" and concluded that these

underlying facts went to his mental state. But when the Petitioner's witness observed that Petitioner was "slurring his words a little bit" and "stumbling a little bit," the Court determined this did not go to Petitioner's mental state and instead went to his physical manifestations of intoxication. *Id.* at 7a. The Court rejected Petitioner's argument that these assessments revealed that the judge and not the jury was improperly weighing the evidence. *Id.*

Petitioner filed a motion for reargument to request that the Vermont Supreme Court specifically address his Sixth Amendment and Due Process federal constitutional arguments raised in his initial brief, citing to the places in his briefing where the federal constitutional arguments were raised. *Id.* at a46, a28-a32. He argued that error correction was warranted even under plain error review given that the evidentiary record and controlling law supported the instruction.

The Vermont Supreme Court denied Petitioner's motion "because it fails to identify points of law or fact presented in the briefs upon the original argument which were overlooked or misapprehended by this Court." *Id.* at a16.

REASONS FOR GRANTING CERTIORARI

Denying Petitioner's request for a jury instruction on a valid diminished capacity defense that was supported by admitted, relevant, and exculpatory evidence violates his Sixth Amendment and Due Process rights to a fair jury trial. The lower courts are deeply divided on this question.

Some jurisdictions have held that if there is admitted evidence establishing a valid defense of intoxication that undercuts the State's ability to meet its burden of

providing the intent element of the charged offense and the trial court fails to give the relevant requested instruction to the jury, the error is of constitutional magnitude and requires reversal. By contrast, the Vermont Supreme Court and other appellate courts around the country applying a similar rationale, have developed a judicially-created rule that imposes a heightened threshold burden on the defendant to convince the trial judge as to the strength of the valid defense before it may be considered by the jury. Encroaching upon the fundamental role of jurors to resolve witness credibility and decide the ultimate questions of whether the mental-state required by the charged criminal statute was established beyond a reasonable doubt, these jurisdiction do not consider the Sixth Amendment or due process protections as being relevant to the analysis.

But jurisdictions that remove admitted, relevant, and exculpatory evidence from the jury's consideration directly conflicts with this Court's precedents that have defined the scope of the guarantees of the right to a jury and due process at trial. The Court's decision in Without clear guidance from this Court that this evidence cannot be kept away from the jury's consideration without violating these federal constitutional provisions, lower courts will continue to erode the

The question presented is an important and recurring one, an issue that arises in every criminal jury trial that involves a valid diminished capacity defense and a charged offense that requires a mental state to be proven by the prosecution. This case presents an ideal vehicle to answer this question as the issues were

properly preserved and the procedural posture of this direct appeal maximizes this Court's standard of review to consider the matter.

I. Lower courts are deeply divided on how much evidence must be shown before the trial court will give a voluntary intoxication instruction that permits the jury to consider the evidence as negating the mental state required for the charged offense

In jurisdictions where voluntary intoxication is a recognized defense in criminal cases, federal circuits and the state's highest courts do not apply the same standard for deciding when to give a requested jury instruction in support of that defense where admitted and relevant evidence is presented to the jury at trial. Some jurisdictions have held that evidence is sufficient to warrant a jury instruction on a valid voluntary intoxication defense if there is at least some foundation for it in the evidence, even if that evidence is weak. Meanwhile, the Vermont Supreme Court and other jurisdictions require the defendant to meet a heightened sufficiency standard that convinces the trial court that the evidence negates the intent element of the crime charged before the court permits the jury to consider the defense.

For instance, in the Second Circuit, "a requested voluntary intoxication charge should be read to the jury when there is some foundation in the evidence presented at trial." *United States v. Crowley*, 236 F.3d 104, 106 (2d Cir. 2000) (clarifying "[n]early five decades ago, we made it clear that a 'criminal defendant is entitled to have instructions presented relating to any theory of defense for which

there is any foundation in the evidence, no matter how weak or incredible that evidence may be'") (quoting *United States v. O'Connor*, 237 F.2d 466, 474 n.8 (2d Cir. 1956)). Similarly, in the Ninth Circuit, "[a] defendant is entitled to an instruction concerning his theory of the case if it is supported by law and has some foundation in evidence." *United States v. Echeverry*, 759 F.2d 1451 (9th Cir. 1985) (citing *United States v. Winn*, 577 F.3d 86, 90 (9th Cir. 1978)). The defendant need only produce "slight evidence of . . . intoxication before an instruction on the defense may be given." *Id.*

State courts in jurisdictions that recognize voluntary intoxication as a valid defense apply a similar standard. These appellate courts recognize that whether the evidence presented by the defendant is sufficient to negate the specific intent of the crime is a question that should ultimately be decided by the jury. For example, the Iowa Supreme Court recognized that when "intent [is] an essential element of the crime with which [the] defendant [is] charged . . . the issue as to whether [a] defendant's intoxication rendered him incapable of forming the necessary intent to commit the crime . . . should have been submitted to the jury." *State v. Watts*, 223 N.W.2d 234, 239 (Iowa 1974) (determining it was reversible error when the trial judge failed to instruct jury on the effect of intoxication evidence). Similarly, in Louisiana, "[w]hether voluntary intoxication in a particular case is sufficient to preclude specific intent is a question to be resolved by the trier of fact." *State v. Leroux*, 641 So.2d 656, 662 (La. 1994) (citing *State v. Freeman*, 517 So. 2d 390 (5th Cir 1987) (recognizing voluntary intoxication should be decided by jury)). New York

also has a "relatively low threshold" before a defendant is entitled to a voluntary intoxication instruction to support his theory of defense. *People v. Rodriguez*, 564 N.E.2d 658, 659 (N.Y. 1990) (noting "charge may . . . be warranted if the record contains evidence of the recent use of intoxicants" but "evidence that defendant's mental capacity has been diminished by intoxicants" not necessarily required). In New York, "[a] charge on intoxication should be given if there is sufficient evidence of intoxication in the record for a reasonable person to entertain a doubt as to the element of intent on that basis." *People v. Perry*, 462 N.E.2d 143, 143 (N.Y. 1984) (holding "trial court's refusal to charge on intoxication denied defendant his right to have the jury properly consider the effect intoxication could have on the element of intent"). In South Dakota, whether there is enough proof to negate the element of intent by reason of voluntary intoxication is an issue for the jury. *State v. Kills Small*, 269 N.W.2d 771, 773 (S.D. 1978) (recognizing the judge should not weigh the testimony and holding that "while evidence of intoxication [was] not abundant, it [was] sufficiently present to justify defendant's request that the question of the intoxication defense be left to the jury") (citing *State v. Plenty Horse*,184 N.W.2d 654, 658 (1971) (holding level of intoxication is a question for the jury and because "[t]here was evidence defendant had been drinking at the time of the alleged offense and was 'slightly intoxicated[,]' the requested instruction . . . should have been given"). Whether the level of intoxication rises to the level as to negate the specific intent of the crime, an essential element, is one to be decided by the jury.

Meanwhile, other federal circuits have reached conclusions like those made by the Vermont Supreme Court. These courts have determined that to justify an intoxication instruction the defendant must show that the evidence negates the ability to form the specific intent required. In the Seventh Circuit, "[a] defendant seeking a voluntary intoxication instruction must demonstrate that their "mental faculties were so overcome by intoxicants that he was incapable of forming the intent" or "the intoxication was so extreme as to suspend entirely the power of reason." *United States v. Nacotee*, 159 F.3d 1073, 1076 (7th Cir. 1998). The Tenth Circuit has adopted the Seventh Circuit's application. *See United States v. Flynn*, 220 Fed. App'x 836, 837 (10th Cir. 2007) (citing *United States v. Boyles*, 57 F.3d 535, 542 (7th Cir. 1995)).

Similarly, other states that recognize the defense of voluntary intoxication minimize or fail to acknowledge the role of the jury in this determination. Instead, these state courts have determined that the judge decides whether the degree of intoxication rises to the level enough to negate the specific intent before the jury may even be instructed on the issue. For instance, in California, "[a] defendant is entitled to a jury instruction on voluntary intoxication only when there is *substantial* evidence both that the defendant was voluntarily intoxicated and that his intoxication 'affected [his] 'actual formation of specific intent.'" *People v. Serrano*, 292 Cal. Rptr. 3d 865, 878 (Cal. Ct. App. 2022) (quoting *People v. Williams*, 66 Cal. Rptr. 2d 573 (Cal. Ct. App. 1997) (emphasis added). In Massachusetts, "[a] jury instruction on voluntary intoxication is required only when there is evidence on

'debilitating intoxication'" *Commonwealth v. Lennon*, 977 N.E.2d 33, 36 (Mass. 2012). In Tennessee, "[a] voluntary intoxication instruction is required only if there is 'evidence that the intoxication deprived the accused of the mental capacity to form [the culpable mental state].'" *State v. Carter*, No. M2022-00769-CCA-R3-CD, 2023 WL 6178920, at *7 (Tenn. Crim. App. 2023) (quoting *State v. Hatcher*, 310 S.W.3d 788, 815 (Tenn. 2010). In Virginia, "the defendant must establish intoxication so great it rendered him incapable of [intent]." *Lawlor v. Commonwealth*, 738 S.E.2d 847, 871 (Va. 2013). And finally, in Vermont a voluntary intoxication instruction is warranted only when there is evidence sufficient to "negate the requisite criminal intent." App. *infra* at 5a.

II. The gatekeeping rules that the Vermont Supreme Court and other courts have developed for voluntary intoxication instructions requires the trial court to encroach upon the province of the jury and conflict with this Court's precedents setting forth the scope of the Sixth and Fourteenth Amendment rights to present a defense, a jury trial and due process

This Court has long held, "The guarantees of jury trial in the Federal and State Constitutions reflect a profound judgment about the way in which law should be enforced and justice administered." *Duncan v. Louisiana*, 391 U.S. 145, 155–56 (1968). "Those who wrote our constitutions knew from history and experience that it was necessary to protect against unfounded criminal charges brough to eliminate enemies and against judges too responsive to the voice of higher authority." *Id.* "[T]he constitutional responsibility [of a jury] is not merely to determine the facts,

but to apply the law to those facts and draw the ultimate conclusion." *United States v. Gaudin*, 515 U.S. 506, 514 (1995). "It has been settled throughout [the nation's] history that the Constitution protects every criminal defendant 'against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.'" *United States v. Booker*, 543 U.S. 220 (2005) (quoting *In re Winship*, 397 U.S. 358, 364 (1970)). "It is equally clear that the 'Constitution gives a criminal defendant the right to demand that a jury find him guilty of all the elements of the crime with which he is charged.'" *Id.* (quoting *United States v. Gaudin*, 515 U.S. 506, 511 (1995)).

In regards to instructions to the jury, this Court held:

> It is well settled that the defendant has a right to a full statement of the law from the court, and that a neglect to give such full statement, when the jury consequently fall into error, is sufficient reason for reversal. . . . The chief object contemplated in the charge of the judge is to explain the law of the case, to point out the essentials to be proved on the one side and the other, and to bring into view the relations of the particular evidence adduced to the particular issues involved.

Bird v. United States, 180 U.S. 356, 361–362 (1901).

That there is conflicting evidence before the jury is of no matter. "At any rate, it was the duty of the court to tell the jury by what principles of law they should be guided, in the event they found the facts to be as stated by the accused." *Beard v. United States*, 158 U.S. 550, 554 (1895). "[T]aken as a whole, the instructions [must] correctly convey the concept of reasonable doubt to the jury." *Victor v. Nebraska*, 511 U.S. 1, 5 (1994). "[W]e explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he charged." In re Winship, 397

U.S. 358, 364 (1970). "The right of an accused in a criminal trial to due process is, in essence, the right to a fair opportunity to defend against the State's accusations." *Chambers v. Mississippi*, 410 U.S. 284, 294 (1973).

The Court has yet to directly address whether a trial court's denial of a defendant's request for a jury instruction on a defense theory that is supported by the evidence and that may provide reasonable doubt violates due process and the right to a jury trial. This Court's precedent supports such a ruling. As the Court has held, "[A]n unconstitutional jury instruction on an element of the crime can never constitute harmless error." *Sandstrom v. Montana*, 442 U.S. 510, 526 (1979). Meanwhile, the Court has recognized that when "the wrong entity judged the defendant guilty," the defendant is denied a trial by trial." *Rose v. Clark*, 478 U.S. 570, 578 (1986).

In 1988, this Court recognized that "as a general proposition a defendant is entitled to an instruction as to any recognized defense for which there exists evidence sufficient for a reasonable jury to find in his favor." *Mathews v. United States*, 485 U.S. 58, 63 (1988) (citing *Stevenson v. United States*, 162 U.S. 313 (1896)). In that case, the Court reversed the defendant's convictions holding that a defendant may assert inconsistent affirmative defenses. *Id.* at 64. But the Court left open the question as to what amount of "evidence at trial" is sufficient "to support an instruction." *Id.* (noting only that "evidence that Government agents afforded an opportunity or facilities for the commission of the crime would be insufficient to

warrant [an entrapment] instruction"). The Court has yet to answer it, nor did the Court in *Mathews* consider the constitutional right to a jury instruction on a valid theory of defense.

The Court has addressed what amount of evidence is necessary to entitle a defendant to a lesser-included offense instruction. As early as 1896, this Court, in *Stevenson v. United States*, held:

> The question is whether the court erred in refusing [to instruct the jury on the manslaughter charge]. The evidence as to manslaughter need not be uncontradicted or in any way conclusive upon the question; so long as there is some evidence upon the subject, *the proper weight to be given it is for the jury to determine.* If there were *any evidence* which tended to show such a state of facts as might bring the crime within the grade of manslaughter, it then became a proper question for the jury to say whether the evidence were true and whether it showed that the crime was manslaughter instead of murder.

Stevenson, 162 U.S. at 314 (emphasis added) The Court went on to recognize:

> The evidence might appear to the court to be simply overwhelming to show that the killing was in fact murder, and not manslaughter or an act performed in self defence, and yet, *so long as there was some evidence relevant to the issue of manslaughter, the credibility and force of such evidence must be for the jury, and cannot be matter of law for the decision of the court.*

Id. at 315 (emphasis added). "It is the province of the jury to determine from all the evidence what the condition of mind was[.]" *Id.* at 323.

Despite the Court in *Mathews* citing to *Stevenson* for the applicable standard to apply when assessing whether there was evidence in the record to support the requested jury instruction on a defendant's theory of defense, lower courts, including

Vermont, do not uniformly apply this standard to a defendant's diminished capacity defense. Only some courts recognize the role of the jury in assessing the weight of the evidence.

Meanwhile, in the Court's split decision in *Montana v. Eglehoff*, 518 U.S. 37 (1996), the Court determined that the Due Process Clause is not violated if a state legislature eliminates voluntary intoxication as a valid theory of defense for criminal prosecutions or excludes evidence of voluntary intoxication from criminal trials. *Id.* The question presented here does not require the Court to reconsider the judgment reached in *Eglehoff*. However, lower courts have extended the Court's decision to mean that there is no due process right to a jury instruction on voluntary intoxication in jurisdictions where the defense is recognized and baseline evidence was admitted to support it. Because these lower courts have determined that due process concerns are not implicated (or diminished), appellate courts have rejected arguments that due process violations occurred when a lower court failed to instruct on the application of a defendant's voluntary intoxication defense even when the admitted evidence supported it, the defense was relevant to the case, and the instruction was requested. In *Cagle v. Branker*, "[D]efendant argue[d] that the North Carolina standard is so exacting as to violate his due process rights-for getting the ,instruction requires proving a higher level of drunkenness than a reasonable juror would need to reject premeditation and deliberation, thus effectively shifting the burden of proof as to mens rea from the state to the defendant." 520 F.3d 320, 328–29 (4th Cir. 2008). The Fourth Circuit rejected this argument because "[t]he plurality in *Egelhoff* held that

there is no right under the Due Process Clause to present evidence of voluntary intoxication in order to rebut mens rea." *Id.* (citing *Eglehoff*, 518 U.S. at 43). The Fourth Circuit reasoned that because "North Carolina has obviously determined that before intoxication can reduce a defendant's responsibility for his actions, the defendant must be very intoxicated," it determined it within the state legislature's authority to do so and rejected the defendant's due process claim.

By contrast, other lower courts have held that a trial court's refusal to grant an appropriately stated jury instruction on the defense's theory of defense is a per se violation of a defendant's right to a fair trial. "An erroneous refusal of a theory of a defense instruction is 'reversible error per se.'" *Black v. State*, 2020 WY 65, ¶ 22, 464 P.3d 574, 579 (Wyo. 2020) (quoting *Swartz v. Stat*, 971 P.2d 137, 139 (Wyo. 1998) (citing *United States v. Ortiz*, 804 F.2d 1161, 1663–64 (10th Cir. 1986) ("This right is so important that the failure to allow a defendant to present a theory of defense which is supported by sufficient evidence is reversible error.")).

III. The question presented is an important and recurring one and this case is an ideal vehicle for answering it.

The question presented in this case are recurring issues in federal and state jurisdictions that recognize the voluntary intoxication defense. Without clear guidance from this Court that these federal constitutional provisions apply every time a trial judge denies a defendant's request for an instruction to the jury that is supported by the evidence and permitted as a matter of law in the jurisdiction, prosecutors and trial courts will continue to undermine the fundamental role of the jurors and the presumption of innocence.

This case presents an ideal vehicle for answering the question presented. It comes from a direct appeal of a judgment of conviction providing the Court with the broadest standard of review of the issues raised. Additionally, the federal constitutional issues were squarely raised before the Vermont Supreme Court and are properly preserved for this Court's review.

The Vermont Supreme Court's refusal to recognize the applicability of these constitutional provisions provides an opportunity for this Court to weigh in and resolve the confusion and division among the lower courts as to the scope of the Sixth Amendment and Due Process Clause protections to ensure a defendant's rights to a jury trial, present a defense, and a fair trial are not violated.

CONCLUSION

For these reasons, Petitioner respectfully requests this Court grant certiorari in this case.

Respectfully submitted on this 6th day of June 2024.

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