ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

24-5349

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

RYAN MONROE ALLEN
Petitioner

Case No._____

vs.

THE SUPREME COURT OF EAST TENNESSEE
"et al"
DIVISION III KNOX COUNTY CRIMINAL COURT
Respondent

PETITION RYAN MONROE ALLEN FOR WRIT OF CERTIORARI

Respectfully submitted,

Ryan Allen
pro-se

RYAN ALLEN

Pro Se, Defendant

SCCF

555 Forest Avenue

Clifton,Tennessee 38425-0279

_____ 2024

QUESTIONS PRESENTED

I. HAVE THE TENNESSEE CRIMINAL COURT OF APPEALS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THE UNITED STATES SUPREME COURT BY DECIDING THAT A FARETTA COMPLIANT COLLOQUY DOES NOT HAVE TO BE GIVEN AND CAN BE HELD IN ABEYANCE FOR SEVERAL MONTHS AND THEN THIS FARETTA COMPLIANT COLLOQUY CAN BE DENIED WITHOUT ANY DIALOGUE WITH THE PETITIONER WHEN THE PETITIONER RE-IMPLEMENTS THE MOTION TO PROCEED PRO SE THE DAY BEFORE TRIAL? ARE THE TENNESSEE CRIMINAL APPEALS COURT IN VIOLATION OF FEDERAL LAW BY DENYING THE PETITIONER THE OPPORTUNITY TO RENEW HIS REQUEST TO PROCEED PRO SE THE DAY BEFORE TRIAL?
DOES PETIONER CASE CALL FOR A REVERSAL IF THE TRIAL COURT FAILED TO PROMPTLY ADDRESS THE PETITIONER'S REQUEST TO PROCEED PRO SE AND DURING THIS PERIOD OF DELAY THE PETITIONER AND HIS COUNSEL CONFLICTS ON QUESTIONS OF STRATEGY WERE NOT RESOLVED? HAVE 1st,6th,14th,AMENDMENT RIGHTS OF THE PETITIONER BEEN VIOLATED WHEN THE TRIAL JUDGE REFUSED THE PETITIONER TO ADDRESS PROCEEDING PRO SE OR EXPLAIN WHAT THE CONFLICT WAS BETWEEN THE PETITIONER AND APPOINTED COUNSEL BEFORE MAKING A RULING?

II. HAVE THE CRIMINAL APPEALS COURT OF TENNESSEE APPLIED A PROCEDURAL BAR THAT IS NON-EXISTENT IN TENNESSEE RULES OR CODES BY STATING A PETITIONER IS NOT ALLOWED TO PROCEED PRO SE THE DAY BEFORE TRIAL EVEN IF THEY INVOKE THIS RIGHT PRIOR TO TRIAL AND VOIRE DIRE WHEN NO STATE LAW OR PROCEDURAL RULE EXISTS THAT DEFINES WHEN YOU MUST MOTION TO PROCEED PRO SE? HAS PETIONER SATISFIED ANY TIMING ELEMENT OF PROCEEDING PRO SE BY HAVING A WRITTEN WAIVER OF COUNSEL ON RECORD SEVERAL MONTHS BEFORE TRIAL?

III. JALEN WALKERS RECANTING STATEMENT AND VIDEO WAS CORRECT FOR THE MOTION FOR NEW TRIAL HEARING AND THAT THE TRIAL COURTS RULING THAT IT WAS A WRIT OF ERROR CORAM NOBIS PETITION WAS INCORRECT AS A MATTER OF LAW (Appeals Judgment, Appendix D, p.62). WHEN THE TRIAL COURTS LAW DETERMINATION WAS INCORRECT AS POINTED OUT IN THE APPEALS JUDGMENT. DOES THIS NOT SUPPORT THE DETERMINATION TO ALLOW ANOTHER MOTION FOR NEW TRIAL OR TRIAL? THE APPEALS COURT POINTED OUT THAT THE TRIAL COURT IS WHERE THIS EVIDENCE WAS SUPPOSED TO BE RULED ON AND IF THE PETITIONER WAS DENIED TO PROPERLY PRESENT ALL EVIDENCE ON THIS MATTER BECAUSE THE TRIAL COURT WRONGFULLY DIRECTED THE PETITIONER THAT THIS ISSUE WAS A CORAM NOBIS HEARING AND THE TRIAL COURT COULD NOT RULE ON THIS. HOW CAN THE APPEALS COURT MAKE A RULING ON THIS MATTER WHEN THE TRIAL COURT WAS SUPPOSE TO BE THE COURT MAKING THE JUDGMENT AND ALL EVIDENCE WAS NOT PROPERLY PRESENTED BECAUSE OF THIS UNLAWFUL RULING AS POINTED OUT BY THE APPEALS COURT? IS THIS A PROCEDURAL DEFAULT? WAS PERJURED TESTIMONY THE SOLE PURPOSE FOR PETITIONER'S CONVICTION?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cove pate

[X] 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 I the subject of this petition is as follows:

1) **SUPREME COURT OF TENNESSEE AT KNOXVILLE**
2) **COURT OF CRIMINAL APPEALS OF EAST TENNESEE**
3) **DIVISION III CRIMINAL COURT, KNOX COUNTY TENNESSEE**

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WIT OF CERTIORARI

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

OPINIONS BELOW

[X] For cases from State Courts:

The opinion of the highest State Court to review the merits appear at APPENDIX I To the petition and is;

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.

The opinion of the Tennessee Criminal Court Of Appeals appears at APPENDIX C to the petition and is:

[X] reported at APPENDIX C

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

JURISDICTION

[X] For cases from State Courts:

The date on which the highest sate Court decided my case was February 12th,2024

A copy of that decision appears at Appendix I_____.

[ ] A timely petition for rehearing was thereafter denied on the following date:

and a copy of the order denying rehearing appears at

[ ] 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).

CONCLUSION

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Ryan Allen

, pro-se

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Review of Division III, Knox County Criminal Court and The Criminal Appeals Courts of East Tennessee are sought because they are in violation of the Constitution and Federal Law by denying the Petitioner his opportunity to renew his request again to proceed pro se **the day before trial** as set fourth by the ruling in ***Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc)**"*An opportunity to renew his request was available as late as the hearing the day before trial, or perhaps even on the first day of trial.*" Petitioner's right to Due Process was violated by the trial court ruling motion denied before giving the Petitioner an opportunity to explain why he wanted to proceed pro se and explain what the conflicts between himself and appointed counsel still were.

To begin, the Supreme Court of Tennessee and Criminal Appeals Court never expressly addressed and adjudicated Petitioner Allen never receiving a ***Faretta-compliant colloquy*** several times when the Petitioner had motioned to proceed pro se first, several months before trial and the day before trial. **The Tennessee courts applied a procedural bar that does not exist in Tennessee Rules or law by ruling a pro se motion as untimely (Rule 11 App., p.7)(Appendix C,p.35)**

Petitioner Allen had given an early indication of proceeding pro se with the motion to proceed pro se Held In Abeyance. This motion was made January 12th,2018, (TECH, VOL I, p.27-29), months before trial, where the Petitioner had cited to his two college degrees and wanted to proceed pro se and wanted the removal of appointed counsel Keith Lowe. Petitioner made the court aware he was familiar with court proceedings and would abide by such. This motion was temporarily withdrawn on March 23rd,2018 (TECH, VOL I, p.48) This is all a matter of technical record. The trial was two months later on June 26th,2018. **The trial judge did foreclose Allen's opportunity to raise the issue again by ruling motion denied beforehand the day before trial.**

The 6th and 14th Amendment of Petitioner Allen have been violated by denying him the right to proceed pro se several times before trial. Petitioner right to proceed pro se was Held In Abeyance several months before trial and the Petitioner was denied a ***Faretta Compliant Colloquy*** at that time and Petitioner was denied a ***Faretta Compliant Colloquy*** again when he re-implemented his motion to proceed pro se the day before trial. To withhold a ***Faretta Compliant Colloquy*** when a firm clear and unequivocal motion is made to proceed pro se is a violation of the Constitution and Federal Law as set in ***Raulerson v Wainwright,*** **469 U.S. 966, 970, 105 S. Ct. 366, 83 L. Ed. 2d 302(1984).**

> *"Delay in addressing a defendant's unequivocal and timely request to proceed pro se can erode the right to self-representation in at least two ways: (1) it may "forc[e] the accused to proceed with counsel in whom he has no confidence and whom he may distrust"; and (2)* ***"[i]t encourages courts to leave a Faretta motion pending, in the hope that the request will eventually be construed as ambiguous," and therefore reasonably ignored or brushed aside.***

The Petitioner raised this argument in his Motion for New Trial, Appeals and Rule 11 application. Petitioner claims he was never given an opportunity to address proceeding pro se before it was denied. Petitioner argued in all appeal stages that his right to proceed pro se was denied,(before the Petitioner even spoke), by the trial Judge. The State has never argued that Petitioner's motion to proceed pro se was not clear and unequivocal.

In the Petitioner's **Motion for New Trial,** Petitioner argued he was denied the right to self-representation the day before trial without allowing the Petitioner to even address this right. The State made absolutely no argument in the Motion for New Trial why the Petitioner should had been denied the right to proceed pro se for trial. Division III Judge, G. Scott Green stated *"But my recollection is is that this court was told in your presence before we started picking a jury that you were comfortable and that you wanted Mr. Lowe to represent you."*(TR, VOL. XIII., p.27). Petitioner told the trial judge several times that was not in the transcript and that he, the trial judge, never allowed me to speak on the

matter or explain what the Petitioner's determination was on the conflict of interest. The trial judge stated: "*Well I'm very confident that I would not have forced you to trial if that representation was not made to me. I don't know why it is not in the transcript*"(TR, VOL. XIII., p.28). The Appeals Court Opinion stated "*that something similar in nature happened because the motion had been withdrawn a couple months before trial.*" Petitioner sought a rehearing on the matter but was denied(Appendix D,E)

Petitioner argued in his Rule 11(Rule 11 App., p.17,18) "*that by the judges own words that this was told in my presence before we started picking a jury* ***can not and should not be referenced*** *to a hearing several months earlier because you don't pick a jury several months before trial.*" This argument was never addressed by the Supreme Court of Tennessee. The State again offered no argument in the Motion for New Trial pertaining to what the conflict was or why the Petitioner was denied self-representation and in Direct Appeal the Petitioner argued that the State offered no argument in the Motion for New Trial and it is a Procedural Default by the State to argue these matters after the Motion for New Trial when they were first argued. The State made no denial of this.

In Direct Appeal the Petitioner in his Reply Brief responded to the States argument for denying self-representation. The Petitioner addressed every case the State cited for its denial of self-representation(Appendix B) and proved that there was absolutely no correlation to the Petitioners case when compared to all the States cases. In every case the State used the Defendants were engaged in a dialogue and were given an explanation before being denied self-representation. Petitioner clearly distinguished that he had a motion to proceed pro se on record several months before trial. The trial court violated Federal Law by withholding a ***Faretta Compliant Colloquy*** at that time and held the motion in Abeyance which is a violation of Federal Law as set fourth in ***Brown v. Wainwright*****, 665 F.2d 607, 612 (5th Cir. 1982) (en banc)**

[Our decision here should not be read to imply that a trial court may unduly defer a ruling on a firm request by defendant to represent himself in the hopes the defendant may change

his mind. A defendant is entitled to conduct his own defense even if the court doubts his legal expertise or ability, so long as the request is intelligently and clearly{1982 U.S. App. LEXIS 13}made. See Faretta, 422 U.S. at 835, 95 S. Ct. at 2541. *Neither should it be read to indicate that a defendant, to avoid waiver,* ***must continually renew his request to represent himself even after it is conclusively denied by the trial court.*** *After a clear denial of the request, a defendant need not make fruitless motions or forego cooperation with defense counsel in order to preserve the issue on appeal.*]

The trial judge was made aware several times by a firm "clear and unequivocal assertion of a desire to represent himself." The Petitioner was denied this right with no explanation or dialogue between himself and the trial judge. **This ruling will affect thousands of our country's educated citizens and will force them to trial with conflicted counsel and deny them the right to defend themselves and The United States Supreme Court is the only thing that can Conserve our Constitution and protect their Due Process Rights.**

The Trial Judge violated the 1st Amendment Right to free speech of the Petitioner when Petitioner's appointed counsel directed the trial court, the day before trial, that the Petitioner would need to address the grounds for proceeding pro se and the trial judge stated "*No*" (TR,VOL IV, p.2), The Petitioner's 1st Amendment Right to free speech was again violated when the trial judge was made aware, several times the day before trial, by appointed counsel, that there was a conflict between him and the Petitioner and the Petitioner would need to address the conflict (TR, VOL IV, p.3,4). The trial judge never allowed the Petitioner to address the conflict and instead ruled *motion denied, were going to trial, DRESS HIM OUT,* (TR,VOL IV, p.5) and then the Defendant had to force an interjection after the ruling which clearly substantiates the Petitioner right to free speech being denied. This argument has been presented in all stages of the Appeal process.

The Appeals Court of East Tennessee has determined that **after** the trial court had made it's

ruling, denying the right to proceed pro se, that the "*HE (Petitioner) did not offer any other reason for Defense Counsel's removal when he interjected to speak with the trial court*" (Appendix C, p.36). The Appeals Court made the determination from this statement that the Petitioner was manipulating the judicial process. The Petitioner again cites to the ruling in ***Brown v. Wainwright, "After a clear denial of the request, a defendant need not make fruitless motions or forego cooperation with defense counsel in order to preserve the issue on appeal."*** The Petitioner being college educated and previously represented himself in a criminal trial in Tennessee understood that once a trial judge makes a ruling there would be no need to continue making fruitless motions or to continue arguing a matter already ruled in order to preserve the issue on appeal. The Tennessee Appeals Courts are wrong to determine an interjected statement made after the trial court ruling was addressing proceeding pro se.

Petitioner pointed out all the above mentioned in a rehearing motion(Appendix D) but the rehearing was denied. Petitioner then re-argued in his **Rule 11; First**: The trial judge had already ruled **motion denied,** with no inquiry or dialogue with the Petitioner pertaining to proceeding pro se. **Second**: The Petitioner claims he should not have to offer any reason for defense counsels removal besides the right to self-representation and for the Appeals Court to make that determination is a violation of Due Process. **Third**: The interjected statement made by the Petitioner **was made after the trial judge ruled motion denied** and can not be determined as a meaningful opportunity to address a ruling that had already been made and to suggest that it does is a wrongful determination and a violation of Federal Law as pointed out earlier. The Petitioner argued in his **Rule 11 application** that after the trial judge had ruled motion denied he addressed a separate issue because the trial judge had already made a ruling. This issue addressed was the issue of never seeing any discovery in his case.

The Appeals Court of Tennessee has ruled the Petitioner was denied self-representation because it was untimely, tactic for delay and manipulation of the judicial process(Appendix C). In Petitioner's Rule 11 App. The Petitioner pointed out that this Appeals Court Ruling can only be substantiated from

speculation and inferences especially when the Petitioner was never allowed to address proceeding pro se or give Petitioner's determination of the true nature of the conflict between himself and appointed counsel were.

Any reasonable jurist would agree what happened to the Petitioner is weaponizing of the judicial process because clearly the judicial process is being manipulated by the judicial authority of the Division III Trial Court, Appeals Court and Supreme Court of Tennessee by allowing this substantial injustice when they all have knowledge of the injustice and do nothing to correct this injustice or violation of Federal Law. No person of sound mind in the United States should be accused of tactic for delay or manipulation of the judicial process when the day before trial the transcript record proves, beyond any doubt, that the Petitioner was never allowed to speak and the trial judge never stated any reason why he would not engage the Petitioner in a dialogue pertaining to why the Petitioner could not proceed pro se. Both trial and Motion for New Trial transcripts prove the violations of Federal Law and violations of Constitutional Due Process.

Petitioner argues that the United States Constitution has been redefined without an input from The United States Supreme Court by the 6th Circuit ruling *Faretta* as a case that sets a timing element to when one must motion to proceed pro se. *Faretta* was a monumental landmark case that allowed self-representation and should not be allowed as a case that denies self-representation in today's era. **Citing from the record on *Faretta v. California*:**

> *("This is an integral part of our history going all the way back to George Washington. To begin with, the fundamental place of §1654 in our scheme of justice is illustrated by the history of that statute. The precursor of § 1654 was enacted by the First Congress as section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92. It was passed in the context of colonial tribunals composed largely of laymen. Section 35 was enacted by the Congress and signed by President Washington one day before the sixth amendment was proposed., guaranteed in the federal*

*courts the right of all parties to "plead and manage their own causes personally or by the assistance of... counsel."1 Stat 92. See 28 USC § 1654[28 USCS § 1654]. At the time James Madison drafted the Sixth Amendment, some state constitutions guaranteed an accused the right to be heard "**by himself**" and by counsel; others provided that an accused was to be "allowed" counsel. The various state proposals for the Bill of Rights had similar variations in terminology.* ***No State or Colony had ever forced counsel upon an accused; no spokesman had ever suggested that such a practice would be tolerable, much less advisable. If anyone <*pg. 580> had thought that the Sixth Amendment, as drafted, failed to protect the long-respected right of self-representation, there would undoubtedly have been some debate or comment on the issue. But there was none. In sum, there is no evidence that the colonists and the Framers ever doubted the right of self-representation, or imagined that this right might be considered inferior to the right of assistance of counsel. To the contrary, the colonists and the Framers, as well as their English ancestors, always conceived of the right to counsel as an "assistance" for the accused, to be used at his option, in defending himself. The Framers selected in the Sixth Amendment a form of words that necessarily implies the right of self-representation. That conclusion is supported by centuries of consistent history").***

This last sentence has great conservative value in it and the Petitioner preys that this Honorable United States Supreme Court keep supporting the ***centuries of consistent history*** and not allow the 6th Circuit to redefine these ***centuries of consistent history.*** The wording in *Faretta* was adamantly clear that this case was one that supports self-representation not a case to be used for denying that right.

Faretta in its ruling was very clear about how important the history of self-representation was. It was very clear that the assistance of an attorney was to assist one to represent themselves and to be able to confront witnesses against them and to have a defense they want to put fourth. If not then the word assistance would not had been in the wording. Until the 6th Amendment is redefined where it

states you only have the right to counsel then an unwanted counsel should not be forced upon educated persons who clearly motion to represent themselves as Allen had, several times, months before trial and the day before trial. Petitioner Allen had established a past practice of proceeding pro se in a criminal trial the day of trial in the State of Tennessee before and no rule or law in the State has been invoked since that trial that disallows proceeding pro se the day before trial.

Allen has represented himself, since trial, beginning with the motion for new trial and argued that he had met all three prerequisites for proceeding pro se before trial: 1) timely manner 2) request was clear and unequivocal 3) Petitioner knowingly and intelligently waived his right to counsel. The State has never argued, in Motion for New Trial or Direct Appeal, that these prerequisites were not met, but it has been ruled as untimely by the (Appendix C, Appeal's Judgment,p.35). This in itself is a procedural default by the State. **Petitioner Allen has also claimed that in his motion for new trial he never had to make a written waiver to proceed pro se and there is no written waiver of counsel on record except to proceed pro se in his appeals thus Rule 44(a) of Tennessee Court Rules is not followed stringently.**

The 6th Circuit should not be allowed to determine Federal Law on all pro se rulings and this is where the Honorable United States Supreme Court is needed when two conflicting Federal Court Rulings exist between the 5th Circuit and the 6th Circuit. The 6th Circuit has determined that *Faretta* set a pro se timing element made in 1975, but the 5th Circuit ruled in 1977 that ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)** was overturned because he should had been allowed to proceed pro se the day of trial because he had made it known to the trial court before voire dire and trial had began. Fast forward to 2015, *Hill v. Curtin* the 6th Circuit ruled that "*there had been no early indication that Hill wanted to represent himself*" and "*the trial court did not foreclose Hill's opportunity to raise the issue again after jury selection.*" Petitioner Allen had given an early indication of proceeding pro se with the motion to proceed pro se held in Abeyance.

Petitioner Allen references the ruling in ***Moore v. Haviland*, 531 F.3d at 403**. The defendant in *Moore* raised his self-representation request as soon as his "grounds for dissatisfaction with counsel's representation arose and he then acted swiftly." ***Moore*, 531 F.3d at 403**. Petitioner Allen acted swiftly when it became apparent, the week before trial, that the conflicts between him and appointed counsel could not be resolved. Petitioner Allen then reinstated his motion to proceed pro se, which was already on file, and was only temporarily withdrawn. **The issue that was never addressed by the Criminal Appeals Court is that these conflicts were addressed to the trial court by appointed attorney and not the Petitioner.**

The Petitioner was never engaged in any dialogue pertaining to the conflicts and the **Criminal Appeals Court** never addressed the trial court not engaging the Petitioner in a dialogue concerning the conflict and **determined what the conflict was from the appointed counsels determination** was, even though appointed counsel had advised the trial court several times he did not know what the conflict was that the Petitioner would need to address this.

First, Petitioner Allen had an actual conflict with his attorney and the trial court at this time, the day before trial and voire dire, was directed to address the conflict with the Petitioner (TR,Vol. IV,p.**3,4**)

Page 3: Appointed Counsel Lowe: "*And I think he believes we have a conflict, your honor, but I guess I'll let him speak as to whether or not he thinks we have a conflict.*"

The Petitioner is never allowed to address the conflict and defense counsel continued explaining what he believed was the conflict and then appointed counsel requested a continuance. Then the trial judge again asked the Defense counsel what his interpretation of the conflict was.

Appointed Counsel Lowe again directs the trial court to address this with the Petitioner and states

Page 4: Appointed Counsel Lowe: "*I don't know if there is one , your honor, I will have to let him speak to that.*"

The technical record in Petitioner Allen's case is very clear that the Petitioner had a conflict with appointed counsel and wanted to re-implement his motion to proceed pro se, already on record, the day before trial. To force an unwanted defense upon a Petitioner is a 6th Amendment violation. Another violation of the 6th Amendment stems by forcing the Petitioner to accept a conflicted counsel.

STATEMENT OF THE CASE

The United States Supreme Court is needed here to guide the lower courts Division III, Knox County Criminal Court and The Criminal Appeals Courts of East Tennessee **because now these lower courts are implying that if you temporarily withdraw the motion to proceed pro se you can not re-implement it again the day before trial.** The Appeals Court of Tennessee does not address the issue of the trial court holding the motion to proceed pro se Held In Abeyance and never allowing a ***Faretta Compliant Colloquy*** when the motion was originally made months before trial(TECH VOL 1, p.27). **Petitioner Allen only wanted to proceed pro se and had never requested or argued for another attorney so no manipulation of the judicial system can be inferred as the Appeals Court has ruled (Appendix C). The Technical Record supports this.**

The United States Supreme Court is needed in Petitioner Allen's case to guide the Tennessee lower courts and also conflicting decisions between the 5th and 6th Circuit on the Constitutional Right of Self-Representation into decisions of uniformity. The 5th Circuit has made a ruling in ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)** that clearly gives a Petitioner the right to proceed pro se the day of trial prior to voire dire. The Conservative 5th Circuit has also ruled in ***Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc)** that if a Petitioner had previously motioned to proceed pro se and withdrawn it the Petitioner still had "*An opportunity to renew his request was available as late as the hearing the day before trial, or perhaps even on the first day of trial.*" **Petitioner Allen had satisfied this requirement.**

The 6th Circuit in ***Hill v. Curtin*792 F.3d 670; 2015 U.S. App. LEXIS 11811; 2015 FED App. 0142P(6th Cir.)** and ***Jones v. Bell*, 801 F.3d 556; 2015 U.S. App. LEXIS 16075; 2015 FED App. 0226P(6th Cir.)** has made the determination that a Petitioner can not motion to proceed pro se the day of trial and have used the ruling in ***Faretta v. California*, 422 U.S. 806, 835, (1975)** to fashion a timing requirement for proceeding pro se and also making the determination in *Jones v. Bell* that,"*the self-*

representation claim failed on the merits because the state courts' decisions were not contrary to or an unreasonable application of federal law, given that the prisoner did not ask to represent himself until the first day of trial." This ruling basically states that federal law does not allow self-representation the day of trial. This determination has been made by the 6th Circuit while no ruling has been made by the U.S. Supreme Court and using *Faretta,* as the foundation for this ruling, while *Faretta* was a landmark case that supported self-representation.

Petitioner had motioned to proceed pro se the day before trial and months earlier so his case is different than *Jones v. Bell or Hill v. Curtin*, but the Criminal Appeals Court Judgment does not recognize **Petitioner Allen's request being made the day before trial (06/25/2018) and in error stated that his last motion to proceed pro se was made the day of trial(06/26/2018) which is incorrect and not supported by the technical record.**

The issue that affects citizens of our great country is that the Tennessee Criminal Appeals Court erroneously reached the legal conclusions that the Petitioner had to offer a reason for his attorney's removal, above and beyond Petitioner's own desire to exercise his right to self representation. Petitioner argued this in his Direct Appeal rehearing motion(Appendix D). This conclusion reached by the State court implies you do not have a right to self-representation unless you can give a reason and that goes against ***centuries of consistent history*** of allowing self-representation.

Petitioner claims he was not allowed to explain what the reasons were for proceeeding pro se because the trial judge made a ruling denying the motion before having any dialogue with the Petitoner, but Petitioner also claims he does not have to explain or give reason for proceeding pro se because he is competent to represent himself and it is a Constituional Right that all citizens have the right to exercise. This has been argued in every stage of appeals.

Furthermore, compiled with the fact that the trial court was made aware that conflicts existed between the Petitioner and appointed counsel. The trial court never allowed the Petitioner to address

these conflicts after being told by appointed counsel, several times, that the Petitioner would have to address the conflicts personally and not through him, appointed counsel.

The Tennessee Criminal Appeals Court also reached an erroneous conclusion by stating *"that the petitioner offered no other reason for counsels removal when he interjected to speak"*(Appendix C). **This interjection came after the ruling**, but why should any Petitioner have to offer any reason beyond the desire to represent himself. This implies you don't have a right to self-representation unless you can appease the court that had already ruled motion denied and never engaged the Petitioner in any dialogue before making the ruling. This in itself is nonsensical and endangers the right to self-representation altogether and **destroys *centuries of consistent history.***

The State of Tennessee has never argued *Faretta* as a ruling to support the denial of proceeding pro se. Petitioner claims he had satisfied the parameters of the timing element as set fourth by the 6th Circuit's interpretation of *Faretta* to proceed pro se. Petitioner had a written waiver on file and only re-implemented proceeding pro se the day before trial because of conflicts between appointed attorney and himself could not be resolved. The 5th Circuit application of Federal Law has agreed that once a Petitioner had previously motioned to proceed pro se, **even it was withdrawn**, the Petitioner still has *"An opportunity to renew his request was available as late as the hearing the day before trial, or perhaps even on the first day of trial."* **(*Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc))**. Petitioner Allen renewed his request the day before trial and was denied with no explanation or dialogue. **Petitioner argues that if *Brown* still had the opportunity to renew his request then the Petitioner still had the opportunity and exercised it, but was denied, thus Division III, Knox County Criminal Court and The Criminal Appeals Courts of East Tennessee are violating a clear application of Federal Law.**

Petitioner argues that he was denied a ***Faretta-compliant colloquy*** when he motioned to proceed pro se several months before trial on January 12th, 2018, (TECH, VOL. I, p.27) and instead of

holding a ***Faretta-compliant colloquy*** the trial court held the motion in Abeyance and forced the Petitioner to proceed with a conflicted counsel that he had no confidence in and an unwanted defense. Petitioner, Ryan Allen, was only seeking his right to self-representation and was following the rules and case law applicable in the state of Tennessee for that precedent. When courts get wary to create incentives for self-representation then the courts may apply barriers for allowing persons with true intent and desire to represent themselves, thus creating an imbalance of the judicial process. The trial court truly applied a barrier when the motion to proceed pro se was made, months before trial, and the trial court did not hold a ***Faretta-compliant colloquy*** and instead held the motion in abeyance for months. **Tennessee has no procedural rules guiding the timing of self-representation.**

Faretta is a landmark case about courts holding a ***Faretta compliant colloquy*** when a Petitioner seeks to proceed pro se. No United States Supreme Court Federal Law states when you must motion to proceed pro se but the 6th Circuit has interpreted *Faretta* as a reasonable ruling of Federal Law for the determination of a timing element *when no Supreme Court case exist that defines this*. No State Law or Procedural Rule in Tennessee defines a timing requirement when you must motion to proceed pro se either. The Petitioner had established a past practice of being allowed, in the State of Tennessee, to represent himself the day of trial in a criminal court.

The U.S. Supreme Court should not allow the 6th Circuit to split hairs in deciding an appropriate time when a citizen has to motion to proceed pro se when the 5th Circuit already ruled in *Chapman* that if the Petitioner is prepared to proceed to trial, prior to voire dire and trial, just as Allen was, they should be allowed to proceed pro se. The lower courts concern should be the *Faretta colloquy* being made with the Petitioner not what day he motioned to proceed pro se.

Faretta was also engaged in a dialogue with the trial court concerning proceeding pro se. In every case the State of Tennessee argued for denying the Petitioner self-representation those Defendants were engaged in a dialogue by the trial court before being denied. Petitioner was never

engaged in a dialogue or given any explanation before being denied by the trial court. This violation should be of great concern of this United State Supreme Court because the Framers would never intended this to be perpetrated upon its country's citizens and this should not be an accepted practice ever.

REASONS FOR GRANTING THE WRIT

It is a reasonable application of Federal Law to assert that once a Petitioner has made a written waiver of counsel, and even if the trial court failed the Petitioner in receiving a ***Faretta Colloquy,*** that Petitioner should still have the opportunity to motion to proceed pro se the day before trial and up to the day of trial as made applicable through (***Brown v. Wainwright,* 665 F.2d 607, 612 (5th Cir. 1982) (en banc))**"*An opportunity to renew his request was available as late as the hearing the day before trial, or perhaps even on the first day of trial.*" Any statements the Petitioner made to the trial court, **after the trial courts ruling denying proceeding pro se,** can and should not be deemed as a meaningful opportunity to address proceeding pro se because a ruling had already been made and applied. **Petitioner properly presented the motion again the day before trial.**

The Honorable United States Supreme Court is being asked to not allow a lower court to redefine the U.S. Constitution with no input from the U.S. Supreme Court. The Public Interest of protecting the Constitutional right to self-representation, during this crucial time in our nation, is where this Honorable U.S. Supreme Court is desperately needed and appreciated in protecting their country's educated citizens the right of self-representation and allowing its citizens be allowed to put fourth the defense they want put fourth and not have conflicted counsel and an unwanted defense forced upon them, thus violating the spirit of the 6th Amendment and going against what The Framers true intent of The United States Constitution was for.

It is imperative that this Honorable United States Supreme Court take this case up for consideration because our great country was founded upon "We the people" have a right to be heard and have a fair trial and Due Process. This case defines if "We the people" will be allowed to ever represent our self as the United States Constitution firmly supports. If this case is not taken up then the lower courts can continue to weaponize the judicial system against citizens and adversely use cases that

allowed self-representation as a anopposite reading to continue denying educated persons the right to proceed pro se. Just as the Colorado Court tried to ban President Donald Trump from their ballot the Criminal Appeals Court of Tennessee is trying to ban educated citizens, who had previously represented themselves before in the state, from being able to represent themselves again without ever engaging them in any dialogue, when the motion is made several times, before ruling motion denied. *Faretta* never made a motion to proceed pro se in writing as the Petitioner had.

Petitioner believes that any reasonable jurist would agree that the *Faretta* ruling was about a defendant having a colloquy about the perils and pitfalls of self-representation and knowingly and intelligently waiving the assistance of counsel. Now the lower courts seemed unconcerned about this part of the *Faretta* ruling and only want to apply a timing element to the *Faretta* ruling or imply a procedural rule that the state does not have in place. Undermining a monumental landmark case that supported the right to self-representation should not be allowed.

No 6th Circuit ruling ever addressed the fact that the *Chapman* ruling, allowing self-representation the day of trial, was made after the *Faretta* ruling. Petitioner has argued in all stages of appeal the ruling in ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)** supports his case and **the criminal court and appeals court have never addressed this argument.** In 1975 the *Faretta* ruling was always known for the *centuries of consistent history history of self-representation not to be denied*, but in 2015 the 6th Circuit has redefined *Faretta* as a case to support denying the right to self-representation and this represents redefining the U.S. Constitution and going against ***centuries of consistent history*** without a United States Supreme Court Input and that should be unacceptable when the United States Supreme Court had already defined *Faretta* as a case that allows self-representation.

The United States was founded upon a Constitution that afforded its citizens certain unalienable rights which include the right to Due Process which has clearly been taken from the Petitioner and the technical record clearly proves these Constitutional violations. The Supreme Court is needed to protect

our country's citizens by defining the timeliness of a pro se request. A pro se motion should not be denied with no inquiry, while a motion was on record and had only been withdrawn, thus not needing to file another motion. Rulings from a monumental case of *Faretta* was designed to make sure a ***Faretta colloquy*** was made with a Defendant before the person would be allowed to proceed pro se. Now courts are being rewarded for not holding a ***Faretta Compliant Colloquy*** and then holding a pro se motion in Abeyance and forcing Defendants to continue with conflicted counsel and an unwanted defense which has clearly been done to Petitioner Allen.

When the courts become aware a Petitioner motions to proceed pro se and seeks the removal of appointed counsel, as Petitioner Allen did (Tech, VOL I,p.27-29). The trial court should hold a ***Faretta Compliant Colloquy*** at that time **and not delay it.** *Chapman* out of the 5th Circuit was deemed as a case that set fourth the timing element of proceeding pro se should be allowed to proceed pro se if made known prior to trial and voire dire. Educated citizens should not be disallowed from proceeding pro se if they have a motion on record and have met the States requirement for self-representation and have also represented themselves in the state in a criminal case and were allowed to proceed pro se the day of trial. The lower court have made rulings that have created a barrier for self-representation by applying a procedural timing element standard to representing oneself, when no procedural timing requirement is a rule or law in Tennessee. **Courts are not allowed to announce a procedural rule that is non existent.**

Therefore, making it nearly impossible to proceed pro se because the trial court can simply rule a self-representation motion untimely because there is no State Procedural Rule or Supreme Court Ruling that clearly defines when a person must motion to proceed pro se and that is why the Supreme Court should not allow a lower court to redefine the U.S. Constitution with no input from the United States Supreme Court.

The 6th Circuit's interpretation of *Faretta* does not conserve the Constitutional Right to Self-

Representation and sets up a standard that will deny all persons the right to proceed pro se the day before trial. Not all issues between client and counsel can be worked out and sometimes that can only become clear right before trial so to fashion a timeliness requirement must take that into consideration or citizens may be forced to trial with conflicted counsel and not even given the chance to address the matter with the trial court based off a misinterpretation of *Faretta.*

This Honorable United States Supreme Court knows that courts are unaccustomed to persons wanting to represent themselves and this Petitioner has no desire to create an incentive for persons to represent themselves. When any Petitioner motions to proceed pro se what is important to know is: Was this motion made before voire dire and trial? The pertinent question should be: Would the Petitioner be ready to proceed to trial? When these questions are not asked by the trial court then that should be considered a violation of due process and no other inference can be determined without the trial court making the determination if the Petitioner would be ready to proceed to trial.

In the same context though this Petitioner seeks the protection of the U.S. Constitution for himself and thousands of our country's citizens to be self-represented. When citizens want to put fourth the defense they want and they have several conflicts with appointed counsel who refuses to put fourth the defense they want they should be allowed to represent themselves. Petitioner's case clearly had conflicts with his appointed counsel and had a motion to proceed pro se on file and was forced to hold the motion in Abeyance instead of having a *Faretta inquiry* when the motion was made.

The U.S. Supreme Court is asked to uphold the ruling in ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)**or at the very least make a rule that states if a person has made a written waiver then the timing requirement has been established because setting a timing element in the essence of days or weeks can overlook conflicts and force an unwanted defense upon persons. Also a dialogue with a person moving to proceed pro se should always be had and if not then it is asked this to be a Constitutional Due Process violation.

Citizens should not be haled into court and have unwanted counsel forced upon them and then the state offer 12 years probation, to a violent offender, if he would offer incriminating evidence about the Petitioner. The State cares less that the evidence is false and does not match their own Medical Examiners testimony because the State uses the guise that the Petitioner said these substantial prejudicial statements to their witness. Then when the Petitioner gets convicted this person recants but the trial judge makes an unlawful ruling, in the motion for new trial, saying the evidence was a writ of error coram nobis petition and he could not rule on it(TR, VOL XIII, p.66). This unlawful ruling denies the Petitioner a fair motion for new trial, but the Appeals Court does not address that.

The Petitioner has always claimed that Gary Mullins was the perpetrator of this crime and wanted a defense that sought after him. Petitioner had never seen any of his discovery either and advised the trial court of this. This included voluminous audio and video recordings the trial judge was made aware of this(TR, VOL IV, p.5,6), The Petitioner unwanted counsel at the start of trial moved for a mistrial over an identification testimony that was withheld and stated that there was no way he could provide an effective defense (TR, VOL IV, p.140), but the trial judge made the Petitioner continue with trial with conflicted counsel who admitted he could not provide an effective defense. The issue here is the State had always made a past practice of turning over identification testimony before trial but in this instance withheld it.

The Petitioner has proven that the Lead TBI Investigator Nicolas Brown perjured himself on the stand when he stated a man Petitioner Allen was calling was a drug dealer named Benjamin Ringle who never had any arrest for drug activity of any type. The Appeals Judgment tried to state that this was a "*bare assertion*" and act like they don't have Mr. Ringle's criminal record (Appendix H, Rule 11 Addendum, p.12) that in itself is obstructionist behavior. The Petitioner had made Benjamin Ringle's criminal record part of this record in his Rule 11 Application, but to no avail to have it addressed. Petitioner had proven also that this transgender or gay Murder Suspect Gary Mullins perjured on the

stand several times especially when he falsely stated he worked (the day of the supposed crime) somewhere different than where he actually worked(Technical Record Video, **In Car Video**, KPD Officer Krigger, Officer Green, Rule 11 Addendum,p.6)) and that the courts or police did nothing to investigate him or her. Conservative values of educated citizens having the right to self-representation and have a fair trial have been extremely violated. This case concerns the public interest in a very serious manner.

GROUNDS FOR RELIEF

GROUND ONE:PETITIONER NEVER RECEIVED A FARETTA COMPLIANT COLLOQUY (SEVERAL TIMES) WHEN HE MOTIONED TO PROCEED PRO SE. PETITIONER MOTIONED TO PROCEED PRO SE SEVERAL MONTHS BEFORE TRIAL AND THE DAY BEFORE TRIAL AND NEVER RECEIVED A FARETTA COMPLIANT COLLOQUY EITHER TIME

ARGUMENT

Petitioner previously had represented himself in a criminal trial in Tennessee before and was allowed to proceed pro se the day of trial. Petitioner has never been disruptive in the court or sought to have another attorney appointed to his case and is college educated with two degrees. The Tennessee Criminal Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of the United States Supreme Court by deciding that a ***Faretta Compliant Colloquy*** does not have to be given and can be Held In Abeyance and also can be denied without any dialogue with the Petitioner when he makes the motion to proceed pro se the day before trial. This ruling against the Petitioner goes against the ruling upheld in ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)and *Faretta v. California*, 422 U.S. 806, 835, (1975) and *Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc) and *Raulerson v Wainwright*, 469 U.S. 966, 970, 105 S. Ct. 366, 83 L. Ed. 2d 302(1984)**

This Honorable U.S. Supreme Court is needed to help guide the lower courts from continuing to deteriorate the Constitution and ***centuries of consistent history***, by enforcing rulings that are not supported by the Constitution Federal Law. Petitioner argues no person will ever be afforded the right

to represent themselves and can be merely ruled a tactic for delay or manipulation of the judicial process, supported mostly from cases of mentally challenged individuals who were frustrating the judicial system, if this Honorable U.S. Supreme Court does not help conserve the right to self-representation. Rulings from lower courts are being used against clear minded educated individuals, like the Petitioner, to deny them their right to defend themselves and this Conservative Constitutional Value is to be free to present a defense you want and not have conflicted counsel forced upon you when you properly implement the right to proceed pro se as the Petitioner claims he has.

The Petitioner is humbly requesting that the Highest Court in our land, The United States Supreme Court, take up his case to make a ruling on, so it will clearly define the parameters of when a person has the right to self-representation. "*There is no Supreme Court Case that clearly defines when a person must motion to proceed pro se.*" There are two conflicting rulings between the 5th and 6th Circuit about the timing of when you must motion to proceed pro se. The 5th Circuit has ruled in ***Chapman v. United States*, 553 F.2d 886 (5th Cir. 1977)** that a Petitioner could proceed pro se the day of trial prior to voire dire.

Just as Conservatives argue lawfare in the case of *N.Y. v. Trump* the same was done to Petitioner Allen by denying a firm motion for self-representation and by the withholding of a ***Faretta Compliant Colloquy.*** This was all done to obtain prosecution rates well over 98% in the State of Tennessee Division III Criminal Court. It is not a stretch to understand that innocent educated people who have defended themselves in a criminal trial and won would probably lose if they will be forced to trial with a conflicted counsel and an unwanted defense. Now the courts want to argue that they don't want to create a subterfuge for persons to proceed pro se as if this was a overwhelming travesty the lower courts are dealing with. The truth is far different because courts rarely have persons wanting to proceed pro se, but the thousands or hundreds who do want to represent themselves who are educated and familiar with practicing criminal law should be allowed to represent themselves as the Framers truly

desired in the Framing of our Constitution. Federal Law and the Constitution have been violated and the only recourse is this Great United States Supreme Court correcting the lower courts into uniformity.

Petitioner Allen had a motion to proceed pro se on record several months before trial and instead of holding a ***Faretta-compliant colloquy*** at the time the motion was made, the trial court held the motion in Abeyance for several months until the Petitioner had withdrawn it a couple months before trial (TECH,**VOL. I, p.27-29**). There is no procedural rule or law in Tennessee that makes it illegal to proceed pro se **the day before trial.** There is a Tennessee Court Rule 44(a)(Statute and Rules, p.32) that requires a written waiver of counsel be in writing, which the Petitioner had done.

Petitioner had never, at any time, sought to have another counsel appointed **and the technical record supports this**. If Petitioner's motion to proceed pro se, that was on record for trial, was accepted for the Motion for New Trial it should had been accepted for trial. Tennessee Court of Criminal Appeals and the Tennessee Supreme Court fails to address this argument in Direct Appeals and Rule 11 Application. Petitioner Allen also argues he had previously represented himself in a Criminal Trial in the state of Tennessee in Monroe County and was allowed to proceed pro se the day of trial with no written waiver required.

Petitioner agrees with the dissenting opinion in *Hill v. Curtin "Accordingly, state courts are free to fashion procedural requirements that defendants assert*{2015 U.S. App. LEXIS 67} *their right to counsel at a certain time provided those rules strike the appropriate balance with the defendant's autonomy and liberty interest in a fair defense."* The new Standard set fourth in Petitioners case for denying the right to self-representation should be deemed unacceptable and a violation of the 1st, 6th and 14th Amendment. Any reasonable jurist would conclude that the Petitioner's right to have a ***Faretta-compliant colloquy*** was denied him and the Petitioner's 1st Amendment right to be heard on this matter was denied and any reasonable jurist would conclude the Petitioner was denied addressing what the conflict was with the trial court which further prejudiced him and forced an unwanted counsel and

thrust an unwanted defense upon him, violating the 6th Amendment.

This critical time in our nations history when the justice system has the appearance of being used as weaponized against individuals can now be proven wrong by correcting the Petitioner's case as this Honorable Court did in allowing President Trump to remain on the Colorado Ballot. The Tennessee Criminal Appeals Court implies that the trial court does not need to address Petitioner Allen's pro se motion the day before trial because it was addressed when the Petitioner had withdrawn it two months before trial. That ruling is in direct conflict with the application of Federal Law as set in ***Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc).**

Important Facts: Petitioner was ready to proceed to trial and the trial court failed to inquire as to if Petitioner was ready. The trial court failed to explain why the Petitioner would not be allowed to proceed pro se or explain why he wasn't going to allow the Petitioner to proceed pro se and **ruled** motion denied(TR, VOL IV, p.5) without an explanation or inquiry. **Anything stated after the ruling motion denied can not be applied to the reasoning why the trial court never gave any explanation or inquiry(All supported by Federal Law). After the trial judge was made aware the Petitioner motions to proceed pro se and has a conflict with appointed counsel and needs to address this with the trial court. The trial court at that time has the express duty to inquire with the Petitioner (All supported by Federal Law).**

It should be an unacceptable practice to withhold a ***Faretta Compliant Colloquy*** because then if the Petitioner withdraws the motion and re-implements the motion again the Petitioner is not even allowed to address the matter, but the trial court is allowed to withhold a ***Faretta Compliant Colloquy*** and force a Petitioner to continue to trial with a lawyer he has several conflicts with and no confidence in. This dual standard is what the Constitution was designed to protect it's citizens against. A ***Faretta Compliant Colloquy*** should never be allowed to be held in Abeyance and if it is then even if a Petitioner withdraws his motion to proceed pro se he can still re-implement up until trial as upheld in

Brown v. Wainwright. This is the Standard Petitioner Allen seeks this Highest Court in our land to enforce and protect if the lower courts are going to be allowed to withhold a ***Faretta Compliant Colloquy.***

Petitioner Allen asserts the reason he withdrew his motion to proceed pro se centers around the belief he had satisfied making a written waiver of counsel and if conflicts between himself and counsel could not be resolved the Petitioner could continue pro se as he had done previously in the State of Tennessee. Petitioner should not be punished for trying to put fourth the defense he wanted. The trial court the day before trial never gave the Petitioner any reason, explanation, or dialogue pertaining to why the Petitioner could not proceed pro se. The trial court should not be rewarded for withholding a ***Faretta Compliant Colloquy*** and the Petitioner be punished for withdrawing the motion to proceed pro se and then re-implementing it when it became apparent that conflicts between himself and appointed counsel could not be resolved. The Petitioner should had been allowed to address these matters before the trial court ruled motion denied **especially in a first-degree murder trial.**

The Tennessee Criminal Appeal's court states "*we like the Hester court are wary of creating incentives for Defendant's use a request for self-representation as a subterfuge when they lack the genuine desire or intent to represent themselves*"(**Appendix C, p.36**). The Petitioner claims, beginning with the Motion for New Trial and Direct Appeal, that he had a real desire and intent to represent himself (**Appendix B, Reply Brief, p.5**). When there is no state law or procedural rule that denies self-representation on **the day before trial** then self-representation can not be merely ruled untimely or manipulation of the judicial process especially when the Petitioner had a motion to proceed on record and the trial court never allowed a ***Faretta-compliant colloquy*** and deliberately held the motion in Abeyance for months when a ***Faretta-compliant colloquy*** should had been held immediately when the motion was made. **The Petitioner had adhered to the Tenn. Court Rules and when no rule or procedure exist that refrains a Petitioner from re-implementing the motion to proceeding pro se**

the day before trial then the State can not imply a rule exist that does not. Trial Courts are not being bombarded by last minute request to proceed pro se and the Petitioner is not trying to create an incentive for that. *"The fact is trial courts rarely have persons seeking self-representation and are not accustomed to such"* as **BERNICE BOUIE DONALD**, 6th Circuit Judge, had pointed out in her dissenting opinion in *Hill v. Curtin*

The case out of the 5th Circuit, Petitioner request to be considered, addressed a Petitioner having motioned to proceed pro se then withdrawing it before trial. This is the case of ***Brown v. Wainwright*, 665 F.2d 607, 612 (5th Cir. 1982) (en banc)** (stating that a trial court may not "*unduly defer a ruling on a firm request by defendant to represent himself*"). The Petitioner *Brown* in this case the day before trial **did not** re-implement his motion to proceed pro se the ruling pointed out. Petitioner Allen points out that the day before his trial **he tried to re-implement his motion to proceed pro se but was denied without any dialogue** between him and the trial judge. The part of this ruling that should apply to the Petitioner is where the courts ruled that: "*An opportunity to renew his request was available as late as the hearing the day before trial, or perhaps even on the first day of trial.*" **If this opportunity was still available to Petitioner *Brown* then it should have still been available to Petitioner Allen** and Petitioner Allen exercised his right the day before trial to re-implement his motion to proceed pro se and was denied with no dialogue.

In both ***Raulerson v Wainwright*** and ***Brown v. Wainwright*** the Petitioner's were found to be disruptive in the courtroom and would had never been allowed to proceed pro se. **Petitioner Allen has never been disruptive in the courtroom and is college educated, and has also represented himself previously in a criminal trial in Monroe County Tennessee and had won.** Petitioner has represented himself in every stage since trial also.

The United States Supreme Court is needed here in guiding the lower courts into the correct Standard of the U.S. Constitution supporting self-representation. **The reading in *Brown v. Wainwright*,**

supports Petitioner Allen's stance that if you had previously motioned to proceed pro se and withdrawn it you should still be allowed to proceed pro se the day before trial up to the day of trial.

The case Petitioner request this Honorable United States Supreme Court to consider to be applied to Petitioner Allen's case comes from the 6th Circuit is ***United States v. Jones,* 489 F.3d 243, 249 (6th Cir. 2007),** *the Sixth Circuit indicated that if a trial court fails to promptly address a defendant's request to proceed pro se and, during this period of delay, the defendant and his counsel "conflict[] on questions of strategy, for example, reversal may [be] warranted."* **Reversal in Petitioner Allen's case is warranted because conflicts of strategy and being forced to continue with a lawyer Petitioner had no confidence in is proven by trial transcripts the day before trial.** The extreme failure by the trial judge, on the day before trial, when he was directed again several times to address the conflicts with Petitioner Allen and instead of allowing a dialogue with the Petitioner the trial judge ruled motion denied, dress him out, we are having a trial. The trial was not until the next day but the judge had made a ruling therefore closing any opportunity for the Petitioner to address these matters before making a ruling.

There is no "Standard of Review" that states after a ruling has been made the defendant was given a meaningful opportunity to explain after the ruling was made that affected the ruling made beforehand. Simply put, a ruling was made, then the Defendant addressed another issue while being removed from the court. The trial court had made its ruling denying the Petitioner the right to self-representation. Once the ruling was made the Petitioner addressed a separate issue because the trial court had made its ruling.

Petitioner: "Your Honor, I have not reviewed several of the recordings and video and audio."
Trial Court : "Your attorney has."
Petitioner : "and I have not reviewed none of this voluminous discovery. None of it."
Trial Court : "Your attorney has said he is ready. Dress him out. Were going to try."
The Petitioner makes one last interjection before being removed from the court.

Petitioner: "How are you going to force me to trial when I have not looked at none of the discovery? I want that on record"(TR, Vol. IV,p.5,6).

Nowhere does the trial court address the conflict issue or proceeding pro se issue with the Petitioner and only rules motion denied. **No case ever cited for "Standard of Review" support the trial judge from not addressing the conflict or pro se motion with a Defendant when the trial court is directed to do such several times**. This should be an unacceptable standard and ruled as a violation of due process the Petitioner request this court to consider along with a violation of the 1st Amendment.

If trial courts were being overrun by Defendant's seeking self-representation then there would be a clear cut procedure or rule that the State would require Defendants to meet and that standard would be clearly defined and known by Defendants so they would have clear knowledge as to when they will, or will not, be allowed to proceed pro se. "*No Supreme Court case has directly addressed the timing of a request for self-representation*" to define a clear standard for review. Petitioner had just acquired two college degrees from Indiana University in 2014 before being incarcerated and used the kiosk provided by the county jail to study law cases and rules of evidence and court proceeding requirements.

The Petitioner has represented himself, ever since trial, beginning with the Motion for New Trial. If justice is to be done impartially then we must adhere to the true meaning of the Constitution from its inception to allow a person the right of self-representation until a United States Supreme Court rules different or the 6th Amendment is redefined, which it has not. No ***Faretta-compliant colloquy*** with the Petitioner was ever made by the trial court when the motion to proceed pro se was first made several months before trial. No *Faretta inquiry* was made when the motion to proceed pro se was re-implemented **the day before trial**. Petitioner has never been disruptive to courtroom proceedings.

No explanation for denying the right to proceed pro se was given and can not be ruled as

untimely if the trial court never addressed the issue with the Petitioner, on the day before trial. No case ever cited or "Standard of Review" by the State relieves a trial judge from explaining why he will not allow a Petitioner to proceed pro se. It is clear that by avoiding this matter with using the argument that this is a delay tactic or manipulation of the judicial process sets up a dangerous "Standard of Review" where any person henceforth will be denied the right to proceed pro se and does not have to be given any explanation or inquiry about the matter. No dialogue with the Petitioner's will have to be given either. No *Faretta Colloquy* will be required either.

The ruling in *Raulerson* clearly supports that is not an accepted standard. Unlike ***Raulerson v Wainwright,* 469 U.S. 966, 970, 105 S. Ct. 366, 83 L. Ed. 2d 302** Petitioner Allen had never been disruptive in courtroom proceedings and had represented himself in a criminal trial in the state of Tennessee before and won. In this trial, in Monroe County Tennessee, the Petitioner motioned to proceed pro se the day of trial and was allowed. No procedural rule in Tennessee has been implemented since this trial either that requires a Defendant to motion to proceed by a certain time or the Defendant would not be allowed to proceed pro se.

The reason there is no state law or rule makes it easy to deny self-representation altogether on the merits of timeliness or rule manipulation of the judicial process or tactic for delay with no proof. The real issue is far deeper though. Because there is no Supreme Court case or State law or rule that defines when you must motion to proceed pro se you can mechanistically be ruled untimely. The Appeals Court ruled that the Petitioner's request to proceed pro se was untimely and manipulation of the judicial process and inferred the Petitioner was seeking another attorney, but the technical record supports that the Petitioner at no time ever sought to have another counsel appointed so the Criminal Appeals Courts judgment is derided from speculation and inferences. The Petitioner had only sought standby counsel and recusal of conflicted appointed counsel to proceed to trial with. **The trial judge never stated any reason why he was not going to allow the Petitioner to proceed pro se so**

manipulation of the judicial process is a mere speculative assessment with no concrete evidence to support this assessment.

This is where the Honorable United States Supreme Court is needed to help guide the lower courts into a decision of uniformity. Educated Citizens should be given a meaningful opportunity to address proceeding pro se before denying it or at least engaged in a dialogue with the magistrate. Citizens should always be given an explanation why they will not be allowed to proceed pro se when they motion to do so. The Petitioner has argued since the Motion for New Trial and Direct Appeal that he did not receive an inquiry or explanation before his motion to proceed pro se was denied. The Petitioner request that this Honorable Supreme Court rule that an explanation should be the minimum requirement and without that due process is denied. This standard is acceptable until the Supreme Court makes an absolute ruling on this matter or until the State of Tennessee implements a procedural bar or rule that defines when a Defendant must assert the right to self-representation.

GROUND THREE: III. THE APPEALS COURT RULED THAT JALEN WALKERS RECANTING STATEMENT AND VIDEO WAS CORRECT FOR THE MOTION FOR NEW TRIAL HEARING AND THAT THE TRIAL COURTS RULING THAT IT WAS A WRIT OF ERROR CORAM NOBIS PETITION WAS INCORRECT AS A MATTER OF LAW (Appeals Judgment, Appendix D, p.62). THE TRIAL COURTS LAW DETERMINATION WAS INCORRECT. DOES THIS NOT SUPPORT THE DETERMINATION TO ALLOW ANOTHER MOTION FOR NEW TRIAL OR TRIAL? THE PETITIONER WAS DENIED TO PROPERLY PRESENT ALL EVIDENCE ON THIS MATTER BECAUSE THE TRIAL COURT WRONGFULLY DIRECTED THE PETITIONER THAT THIS ISSUE WAS A CORAM NOBIS HEARING AND THE TRIAL COURT COULD NOT RULE ON THIS. DOES WALKER'S TESTIMONY EQUAL A FALSE CONFESSION AND SHOULD BE DETERMINED AS SUCH?

ARGUMENT

Petitioner claims that his sole conviction is based off perjured testimony from Murder Suspect Gary Mullins, TBI Agent Nicolas Brown, Recanted witness Jalen Anotnio Walker. Petitioner in his motion for new trial quit submitting all the evidence pertaining to Jalen Walker's recanting when the trial court wrongly directed the Petitioner that that was a Writ of Error Coram Nobis Petition. The Criminal Appeals Court ruled that

" The trial court told the Defendant at the hearing that his allegation regarding the recanted testimony amounted to a claim of newly discovered evidence, which could not be considered upon a motion for new trial, but was instead, was a proper subject for a writ of error of coram nobis petition. However for the reasons that follow, ***this statement of law by the trial court is incorrect.*** *"*

"Defendant's claim was known and properly presented during the motion for new trial"(Appendix C, p.62). The Criminal Appeals Court stated that "***A new trial may be granted because of recanted testimony when (1) the trial judge is reasonably well-satisfied that the testimony given by a material witness was false and the new testimony is true (2) the defendant was reasonably diligent in discovering the new evidence, was surprised by false testimony, or was unable to know of the falsity until after the trial: and (3) the jury might have reached a different conclusion had the truth been told***"(Appendix C, p.63).

The Appeals Judgment also addressed that there should be supporting affidavits also (Appendix C, p.63). **The issue is the trial judge was supposed to make this judgment and not the Appeals Court and that is where the Petitioner was highly prejudiced and is claiming this to be a procedural default.**

In the Petitioner's Rule 11 he addressed this matter and also claimed that since the trial judge was in error by telling the Petitioner he could not rule on the matter the Petitioner quit submitting all the evidence and did not call Mr. Walker to the stand because the trial court had advised the Petitioner in error. Petitioner also in his Rule 11 submitted an affidavit from Mr. Robert Hoover who witnessed this recanting (Rule 11 Addendum, Appendix H p, 51,52). The Petitioner received no opinion on any matter from the Supreme Court in Tennessee and preys the Honorable Supreme Court Correct this ruling because the trial court made an unlawful ruling as pointed out by the Appeals Court. The Criminal Appeals Court Stated the trial judge is the correct judiciary to make a ruling on this matter as

the Criminal Appeals Court had pointed out. The Petitioner request another motion for new trial or trial because he was denied a fair motion for new trial by the trial judge making an incorrect ruling as a matter of law (Appendix C, p.62).

There was also a video of Walker recanting and the Appeals Judgment stated, once again, that it was the Defendant's bare assertion this video contains exculpatory evidence(Appendix C, p.64). The Petitioner had motioned at the end of his motion for new trial that anything not brought up that was pertained in the motion for new trial during the motion for new trial hearing was not waived and protected. The trial judge agreed. (TR, VOL. XIII, p.65). This recantation video of Jalen Walker was proper for the motion for new trial but when the trial judge made an unlawful ruling, as the Appeals Court has pointed out, the Petitioner was prejudiced from having a full fair hearing at his motion for new trial.

Jalen Walker was the only witness that provided direct evidence against the Petitioner and this evidence was highly prejudicial and painted the Petitioner as a person with no dignity for human life because Walker testified that **the Petitioner told him** he strangled the victim and dissected them and they were doing elicit drugs together. Even though the States M.E. testified the victim was not cut on or was doing drugs or was strangled. The issue is this perjured testimony was heavily relied on throughout the trial and was the only direct evidence used throughout the trial against the Petitioner and inflamed the passions of the jury to making the possibility of having a fair trial impracticably impossible.

Murder Suspect Mullins told the police on the day of the suspected crime he worked at First Tennessee bank in Maryville Tennessee. In trial, Mullins testified he worked at Summit Medical Group on the day of the suspected crime(TR,VOL V, p.108). In Direct Appeal Petitioner argued that Mullins lied on the stand about where he was working the day of the suspected crime and the State never argued back but, once again, the Criminal Appeals Judgment stated that the Petitioner offered nothing more than his "*bare assertion*"(Appendix C,p.61). In Petitioner's Rule 11 he produced the excerpts of

Mullins interview (the day of the supposed crime) where Mullins told two different KPD Officers he worked at First Tenn. Bank in Maryville Tenn. and that a woman went through his chest of drawers (TECH, In Car Video, Rule 11 Addendum, p.6). Agent Brown perjured when he testified a man the Petitioner was calling, that night of the supposed crime, was a known drug dealer and this information was deduced from criminal records. Once again the State never made any argument back but the Appeals Judgment stated that it was Petitioner's "*bare assertion that criminal activity was lacked in Benjamin Ringles Criminal Record*" (Appendix C,p.61). Petitioner's Direct Appeal and Rule 11 pointed out Benjamin Ringle has never been arrested for any type of drug related offenses (Rule 11 Addendum, p.12,13). Agent Brown's testimony being perjured inflamed the passions of the jury.

Perjured testimony was the sole purpose for the Petitioner's conviction and has been argued in every stage of Appeal. The United States Supreme Court is needed in our great country to protect the public from perjured testimony and false confessions and to protect being able to represent oneself against these violations of great magnitude.

The 6th Circuit, by its own words, have defined self-representation the day of trial as a violation of Federal Law but the United States Supreme Court has never made a ruling defining this, thus the 6th Circuit has undermined *centuries of consistent history.*

This is where *Chapman* is a "just" ruling because if clear minded persons exercise self-representation prior to trial and will be ready to proceed to trial that is very important. Why should there be an amount of time set to when the motion to proceed pro se is done? Motions are made the day of trial all the time and there are no rulings requiring when any and all motions can be made as there should not be a timing element to proceeding pro se. Since the 6th Circuit has determined that *Faretta* is now a Federal Law that establishes the timing of self-representation that makes it essential for this Honorable United States Supreme Court to correct and guide this lower court ruling and set a reasonable standard that is supported by the Constitution. The 6th Circuit, Petitioner argues, has

undermined the Constitution by denying the Constitutionally protected right to self-representation because this denial is a structural defect of a Constitutional error that affects the framework of the trial and this is a clearly established "Standard for Review."

Justice is to always be impartial and when Justice become weary to create incentives for self-representation then Justice may become partial and create barriers for self-representation as the 6th Circuit has by stating its a violation of Federal Law to proceed pro se the day of trial thus applying a conflicting overruling of *Chapman*. The Constitution Conservative Values can only be protected by the Highest Court in the land which is this Honorable United States Supreme Court and when the lower courts deems a new Federal law to be in place then this High Court is Deeply needed to protect its citizens Constitutionally Protected Right to Self-Representation. The ruling by the 6th Circuit goes against many "Standard for Review" cases and implements a new standard that violated the very inception of the right to self-representation.

Petitioner request this Highest Court to read his Rule 11 Application and will clearly understand that he is innocent and if he would had been allowed to represent himself and put fourth the Defense he wanted to put fourth he would have fared far better than appointed counsel.

Petitioner **has never been arrested previously** for physical violence toward anyone ever. Petitioner's Rule 11 gives his theory of what happened the suspected day of the crime. Petitioner seeks a new trial to represent himself, to prove the truth. Petitioner raised his daughter by himself and is College Educated and saved many lives working in hospitals. Just as President Biden has banned any Christian symbols on Easter eggs at the white house but implemented a trans-visibility day and basically denied Christian values. The same is being done to the Constitution by denying *centuries of consistent history* of allowing self-representation to infer self-representation is manipulation of the judicial process with no evidence to support this argument except speculation and inferences.

Petitioner argues that he was being tried for first-degree murder and that his counsel never went over any Discovery, but despite that mostly the Petitioner wanted to proceed self-represented, because there were conflicts of strategy and the conflict where appointed counsel had represented the victims son. The Petitioner tried to address these matters several times with the trial court but was never allowed to speak on them and trial transcripts prove this(TR, VOL IV, p.3,4) and also Petitioner's Rule 11 Application (APPENDIX G) proves that appointed counsel had previously represented, the victim in Petitioner's case, son. No dialogue or explanation was ever given to the Petitioner before the trial judge ruled motion denied. Never giving the Petitioner an opportunity to address the conflict or proceeding pro se.

CONCLUSION

For the foregoing reasons, Petitioner Allen asks this Court to issue the Writ, vacating the convictions and sentences, and order that Allen be afforded a new trial within one-hundred and twenty (120) days, or be immediately released from custody.

The Writ of Certiorari should be Granted, 07/01/2024

Respectfully submitted,

Ryan Allen

, pro-se