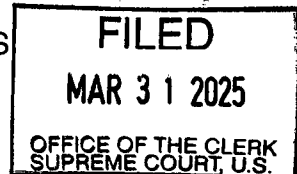


No. **24-7173**

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Terrell Perkins — PETITIONER
(Your Name)

vs.

Gregory Hancock — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Terrell Perkins #1150296

(Your Name)

Southeast Correctional Center
300 East Pedro Simmons Drive

(Address)

Charleston, MO 63834

(City, State, Zip Code)

(Phone Number) i

QUESTION(S) PRESENTED

In *Maryland v. Craig*, 497 U.S. 836 (1990), this Court held that a child witness may be permitted to testify at trial in the absence of -face-to-face confrontation with the defendant, if the State makes an adequate showing of necessity. The trial court must find that the child witness would be traumatized, not by the courtroom generally, but by the presence of the defendant. The court must also find that the emotional distress suffered by the child witness in the presence of the defendant is more than de minimis. 497 U.S. at 855-56. The question presented in this petition is:

1. Whether a defendant's confrontation rights under Craig, are violated when a court permits a minor child witness to testify outside the defendant's presence, in court, behind a shield, without adequate proof that the emotional distress to the child would suffer by testifying in court would be caused by the defendant's presence.

LIST OF PARTIES

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

RELATED CASES

State v. Perkins, No. ED108035, Missouri Court of Appeals,
Eastern District. Judgment entered December 12, 2017

Perkins v. State, No. ED 108035, Missouri Court of Appeals,
Eastern District. Judgment entered June 30, 2020

Perkins v. Stange, No. 1:20-CV-00235 SEP, U.S. District Court
for the Eastern District of Missouri. Judgment entered
March 18, 2024

Perkins v. Stange, No. 24-2080, U.S. Court of Appeals for the
Eighth Circuit. Judgment entered November 6, 2024

Perkins v. Stange, No. 24-2080, U.S. Court of Appeals for the
Eighth Circuit. Judgment entered January 10, 2024

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	8

INDEX TO APPENDICES

- APPENDIX A - U.S. Court of Appeals opinion denying COA
- APPENDIX B - U.S. District Court opinion denying habeas relief
- APPENDIX C - U.S. District Court Memorandum and Order denying
habeas relief
- APPENDIX D - U.S. Court of Appeals opinion denying petition
for rehearing
- APPENDIX E - State court opinion affirming conviction and
sentence, not available
- APPENDIX F - State court opinion denying post-conviction appeal.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Coy v. Iowa, 487 U.S. 1012 (1988)	5
Maryland v. Craig, 497 U.S. 836 (1990)	4, 5, 6, 7
Ohio v. Roberts, 448 U.S. 56 (1980)	5, 6
United States v. Carrier, 9 F.3d 867 (10th Cir. 1993)	7
United States v. Moses, 137 F.3d 894 (6th Cir. 1998)	7
United States v. Quintero, 21 F.3d 885 (9th Cir. 1994)	7
United States v. Turning Bear, 357 F.3d 730 (8th Cir. 2004)	7
United States v. Yates, 438 F.3d 1307 (11th Cir. 2006)	7

STATUTES AND RULES

18 U.S.C. § 3509(b)(1)(B)(i), (ii)	7
RSMo. § 491.068-075	5

OTHER

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 6, 2024.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 10, 2025, and a copy of the order denying rehearing appears at Appendix _____.

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with witnesses against him"

STATEMENT OF THE CASE

In Maryland v. Craig, 497 U.S. 836 (1990), the Court held that a defendant's Sixth Amendment right to confront accusatory witnesses may be satisfied absent a physical face-to-face confrontation at trial only where denial of such confrontation is necessary to further an important policy and only where the reliability of the testimony is otherwise assured. 497 U.S. at 850.

At issue is whether a Missouri procedure, by which a judge would permit the testimony of a child witness A.M. by means of a shield blocking Mr. Perkins view of her. A.M. was alleged to be a victim in Mr. Perkins case.

Mr. Perkins asserts that the procedure could only be utilized if the judge first determines that the testimony by A.M. in the courtroom would result in her suffering serious emotional distress such that she could not reasonably communicate.

The United States Supreme Court has repeatedly held that the State's interest in the well-being of a child witness may be sufficiently important to outweigh, "at least in some cases, a defendant's right to face his or her accusers in court. 497 U.S. at 853.

The trial court must hear evidence and determine whether a shield blocking A.M.'s view of Mr. Perkins was necessary to protect the welfare of the particular child who seeks to testify." Second, the "trial court must also find that A.M. would be traumatized, not by the courtroom generally, but by the presence of Mr. Perkins. 497 U.S. at 856.

This petition ask this Court to resolve whether Mr. Perkins Confrontation rights may be abridged under a Craig - type procedure even if the State fails to offer evidence that Mr. Perkins presence in the courtroom would cause A.M. to have trauma from testifying in his presence. This petition also ask this court to reexamine this case in light of its decision in Coy v, Iowa, 487 U.S. 1012 (1988).

REASONS FOR GRANTING THE PETITION

1. The Missouri Court of Appeals, Eastern District and the United States District Court for the Eastern District of Missouri erred in interpreting and applying the Craig, requirement that a departure from the right to confront one's accusers be made on a case by case basis, upon specific findings that Mr. Perkins presence is the cause of the trauma the State seeks to alleviate.

The Court's decision permits the denial of face-to-face confrontation without the requisite finding that the defendant's presence is the cause of the trauma.

As noted, under RSMo. §§ 491.068-075, Missouri requires that the emotional or psychological trauma of a child witness be established by expert testimony.

The Confrontation Clause was traditionally understood to guarantee the accused "a face-to-face meeting with witnesses appearing before the trier of fact." Coy v. Iowa, 487 U.S. 1012, 1016 (1988).

In Coy, the Court addressed whether a state statute which permitted a child witness to testify via closed-circuit television or with a screen shielding the witness from the defendant, and which created a presumption of trauma, violated the right to confrontation.

The State argued that the confrontation interest at stake was outweighed by the necessity of protecting victims of sexual abuse. The Court noted that in prior cases, the rights conferred by the Confrontation Clause were not absolute, as rights that are implicit in the Clause had given way "to other important interests." 487 U.S. at 1020.

However, the Court did not resolve "the question whether any exceptions exist. Whatever they may be, they would surely be allowed only when necessary to further an important public policy." 487 U.S. at 1021, citing, in part, Ohio v. Roberts, 448 U.S. 56 (1980).

Because the trial court in Mr. Perkins case had not made any individualized findings that the child witness needed special protection, the procedures violated Mr. Perkins right to face-to-face

confrontation. See, 487 U.S. at 1021, 1022

Also, in Roberts, the Court addressed the tension between the Confrontation Clause and the hearsay rule with its exceptions. The Court suggested that the right to confrontation may give way to considerations of public policy. 448 U.S. at 64. Thus, the existence of "indicia of reliability" may be sufficient to permit the admission of an out-of-court statement "though there is no confrontation of the declarant." 448 U.S. at 65.

In Craig, the Court concluded that Coy and Roberts, provided a narrow basis for limiting the right to confront one's accusers. The right to confrontation may be satisfied when absent a physical face-to-face confrontation at trial "only where denial of such confrontation is necessary to further an important public policy and only where the reliability of the testimony is otherwise assured." Craig, 497 U.S. 850, citing Coy and Roberts.

Craig mandates that if the State asserts an interest in protecting a child witness from the trauma of testifying in court, the court must hold an evidentiary hearing. The Court must make specific findings that the denial of face-to-face confrontation is necessary. Specifically, the court must find "that the child witness would be traumatized, not by the courtroom generally, but by the presence of the defendant." 497 U.S. at 856.

"Denial of face-to-face confrontation is not needed to further the interest of protecting the child from trauma "unless it is the presence of the defendant that causes the trauma."

If the State interest is to protect the child witness from courtroom trauma generally, denial of the right to face-to-face confrontation is unnecessary, as the child could be permitted to testify in less intimidating surroundings, with the accused present.

In response to Craig, Congress enacted the Child Victims' and Child Witnesses Right statute. 18 U.S.C. §§ 3509. Under this statute, a child witness may testify by means of two-way closed circuit television. However, the trial court must make findings that the child is unable to testify in open court in the presence of the defendant, for reason that "the child is unable to testify because of fear," or "there is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying." 18 U.S.C. § 3509(b)(1)(B)(i),(ii).

Circuit Courts have consistently held that §3509(b)(1)(B)(i) requires a case specific findings that a child witness would suffer substantial fear or trauma and be unable to testify or communicate reasonably because of the physical presence of the defendant. A general fear of the courtroom is insufficient. See, United States v. Yates, 438 F.3d 1307 (11th. 2006); United States v. Turning Bear, 357 F.3d 730, 737 (8th Cir. 2004); United States v. Moses, 137 F.3d 894, 897-98 (6th Cir. 1998); United States v. Quintero, 21 F.3d 885, 892 (9th Cir. 1994); United States v. Carrier, 9 F.3d 867 (10th Cir. 1993).

Here, the trial court in Mr. Perkins case found that the child witness A.M. could not testify in open court in part because of fear of Mr. Perkins. The trial court's decision was based on findings that simply appearing in the courtroom would cause A.M. emotional distress.

In other words, it was just as likely that A.M. might have suffered trauma simply from testifying in open court, as it was that her trauma would be caused by being in Mr. Perkins presence.

The district court and the Eighth Circuit Court of Appeals upheld the findings of the state court which failed to properly apply the Craig, requirements, and Mr. Perkins Sixth Amendment right to confront his accuser was violated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Terrell Perkins

Date: March 30, 2025