NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2025

ANGEL L. MARTINEZ,
Petitioner,

v.

SUPERINTENDENT FORREST SCI;
PENNSYLVANIA ATTORNEY GENERAL'S OFFICE,
Respondent

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit

PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

SALVATORE C. ADAMO
Attorney at Law
1866 Leithsville Road, 3306
Hellertown, PA 18055
Tel: 215-751-1735
scadamo11@aol.com

Attorney for Petitioner
Angel L. Martinez

QUESTION PRESENTED

1. Was the District Court's decision that Petitioner received effective assistance of counsel, contrary to or involve an unreasonable application of clearly established Federal law?

PARTIES TO THE PROCEEDING

The petitioner is:

Angel L. Martinez

The respondent is:

Superintendent Forrest SCI;

Pennsylvania Attorney General's Office

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Sources

OPINIONS BELOW

The United States Court of Appeals for the Third Circuit affirmed Petitioner Angel L. Martinez's Denial of a Writ of Habeas Corpus rendered by the United States District Court for the Middle District of Pennsylvania. App. 1-6.

STATEMENT OF JURISDICTION

Angel L. Martinez seeks review of the June 5, 2025, Order of the United States Court of Appeals for the Third Circuit. Jurisdiction of this Court to review the judgment of the Sixth Circuit is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 6 of the United States Constitution, which provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

STATEMENT OF THE CASE

Petitioner was convicted of sex offenses and received a sentence of 81 ½ to 163 years imprisonment. Prior to trial, the Petitioner, defense attorney, and ADA Murphy appeared before the court. ADA Murphy told the court that the Commonwealth made two plea offers. They were 20 years to 40 years and 15 years to 50 years. There was no further discussion of the plea offers. Trial counsel never said on the record that he conveyed the plea offers to Petitioner and he rejected them.

In denying Petitioner's Writ of Habeas Corpus, the district court concluded that he was made aware of the plea agreements.

On appeal, the Superior Court addressed Petitioner's claim as follows:

> Next, Appellant insists trial counsel was ineffective for failure to inform him his sentence could be imposed consecutively while advising him regarding a plea offer. At the beginning of Petitioner's jury trial, the Commonwealth informed the trial court that it made two offers to Appellant, "20 years to 40 years and 15 years to 50 years." There was no further discussion of the plea offers. Nevertheless, during the PCRA hearing, Petitioner testified that trial counsel never informed him his sentences could be imposed consecutively, and never told him about a plea offer. However, he acknowledged he was not planning on pleading guilty.

REASONS FOR GRANTING THE WRIT

THE DISTRICT COURT'S DECISION THAT PETITIONER RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL WAS CONTRARY TO OR INVOLVED AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW.

28 U.S.C. § 2254 permits a federal court to entertain a petition for writ of habeas corpus on behalf of a person in state custody, pursuant to the judgment of a state court, "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a).

With respect to any claim adjudicated on the merits by a state court, the writ shall not issue unless the adjudication of the claim:

> (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d).

A state court decision is "contrary to" Supreme Court precedent "if the state court applies a rule that contradicts the governing law set forth in [Supreme Court] cases," or "if the state court confronts a set of facts that are materially indistin-

guishable from a decision of th[e] Court and nevertheless arrives at a result different from [the Court's] precedent." *Williams v. Taylor*, 529 U.S. 362, 405-06 (2000).

"[A] state-court decision is an unreasonable application of clearly established [Supreme Court] precedent if it correctly identifies the governing legal rule but applies that rule unreasonably to the facts of a particular prisoner's case." *White v. Woodall*, 134 S.Ct. 1697, 1706, *reh'g denied*, 134 S.Ct. 2835 (2014). There is a presumption that the state court's factual findings are correct unless Petitioner has rebutted the presumption by clear and convincing evidence. 28 U.S.C. § 2254(e)(1).

Claims of ineffective assistance of counsel are governed by the two-prong test set forth in the Supreme Court's opinion in *Strickland v. Washington*, 466 U.S. 668 (1984). To make out such a claim under *Strickland*, a petition first "must show that counsel's performance was deficient. This requires [the petitioner to show] that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed by the Sixth Amendment." *Id.* at 687; *see also, United States v. Shedrick*, 493 F.3d 292, 299 (3d Cir. 2007). Second, a petitioner must additionally demonstrate that counsel's allegedly deficient performance prejudiced his

defense such that the petitioner was "deprive[d] of a fair trial . . . whose result is reliable." *Strickland*, 466 U.S. at 687; *Shedrick*, 493 F.3d at 299.

With respect to evaluating whether counsel's performance was deficient under *Strickland*, the "proper standard . . . is that of 'reasonably effective assistance.'" *Jacobs v. Horn*, 395 F.3d 92, 102 (3d Cir. 2005). A petitioner asserting ineffective assistance must therefore show that counsel's representation "fell below an objective standard of reasonableness" under the circumstances. *Id.* The reasonableness of counsel's representation must be determined based on the particular facts of a petitioner's case, viewed as of the time of the challenged conduct of counsel. *Id.* In scrutinizing counsel's performance, courts "must be highly deferential [and] must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Strickland*, 466 U.S. at 689. The habeas petitioner "bears the burden of proving that counsel's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." *Kimmelman v. Morrison*, 477 U.S. 365, 381 (1986) (citing *Strickland*, 466 U.S. at 688-689).

Under *Strickland*, a habeas petitioner must also affirmatively demonstrate that counsel's deficient performance prejudiced his defense. *Strickland* at 692-93. "It is not enough for the [petitioner] to show that the errors had some conceivable

effect on the outcome of the proceeding." *Id.* at 693. A petitioner must instead demonstrate that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland* at 694; *see also, Shedrick*, 493 F.3d at 299.

In addition, "[w]hen a federal habeas petition under § 2254 is based upon an ineffective assistance of counsel claim, '[t]he pivotal question is whether the state court's application of the *Strickland* standard was unreasonable,' which 'is different from asking whether defense counsel's performance fell below *Strickland's* standard.'" *Grant v. Lockett*, 709 F.3d 224, 232 (3d Cir. 2013) (quoting *Harrington v. Richter*, 562 U.S. 86, 101 (2011)). "Federal habeas review of ineffective assistance of counsel claims is thus 'doubly deferential.'" *Id.* (quoting *Cullen v. Pinholster*, 563 U.S. 170, 190 (2011)).

Petitioner contends that trial counsel was ineffective in failing to convey two plea offers to him prior to trial. A defense counsel has a duty to communicate formal offers from the prosecution, and failure to do so may constitute constitutionally deficient performance by counsel. *Missouri v. Frye*, 566 U.S. 134, 147 (2021). To demonstrate *Strickland* prejudice as a result of such failure, the defendant "must show that but for the ineffective advice of counsel there is a

reasonable probability that the plea offer would have been accepted by the defendant the court and the Commonwealth would not have withdrawn it in light of intervening circumstances, and that the conviction under the offered terms would have been less severe than under the judgement and sentence that in fact were imposed." *Lafler v. Cooper*, 566 U.S. 156, 164 (2012).

The district court incorrectly concludes that Petitioner was aware of the plea deals when Attorney Murphy placed on the record that there were two offers, 20 to 40 years and 15 to 50 years. Further, the district court cites Petitioner's PCRA testimony that he was not planning on pleading guilty to support the position that Petitioner suffered no prejudice.

Trial counsel did not state for the record that both plea offers were communicated to Petitioner and that on two separate occasions Petitioner rejected the offer and wanted to proceed to trial. The district court jumped to the conclusion that, since Petitioner was made aware of the plea offers at trial defense counsel met his obligation as required under *Missouri v. Frye, supra.* Further, defense counsel, in conveying the plea offer, must provide the defendant with the advantages and disadvantages of going to trial or pleading guilty. There is no record at the PCRA hearing of defense counsel testifying to refute Petitioner's claim that defense counsel did not communicate the two plea offers and did not discuss the

pros and cons of accepting or rejecting the plea offer. Petitioner's testimony on cross examination at the PCRA hearing that he did not plan to accept a plea offer was taken out of context by the district court. Petitioner's testimony reflected the lack of communication he experienced with trial counsel. According to Petitioner, since no plea offer was made and no advice from trial counsel was given as to whether to plead guilty or go to trial, Petitioner was not going to plea open and chose to take his chances at trial.

In *Perry v. Overmyer*, 2019 U.S. Distr. Lexis, petitioner's appellate counsel failed to testify at the PCRA hearing. Perry was requesting that his appellate rights be reinstated. The PCRA court reinstated his appellate rights but on appeal by the Commonwealth, the Superior Court reversed. The Superior Court ruled that since the Petitioner's counsel was not present at the PCRA hearing, the trial court had to speculate as to whether counsel was ineffective, and because of that, *Perry* could not prevail on his claim.

Perry filed a Federal Habeas Corpus Petition and the Habeas Court held that since Appellate counsel did not testify at the PCRS trial, the record before it is undeveloped as to this issue of ineffective assistance of counsel and remanded his case back to the state court.

This case is similar to *Perry*. Petitioner's state record is undeveloped since trial counsel never testified that he advised the Petitioner of the two plea offers and Petitioner's rejection of those offers. Without trial counsel's testimony, the Habeas Court is speculating as to trial counsel's testimony.

Therefore, Petitioner respectfully requests that his case be remanded to the State Court for an evidentiary hearing.

CONCLUSION

For the reasons stated in this petition, Mr. Martinez respectfully requests that a writ of certiorari be issued to review the decision below.

Respectfully submitted,

/s/ Salvatore C. Adamo

SALVATORE C. ADAMO
Attorney for Angel L. Martinez
1866 Leithsville Road, # 306
Hellertown, PA 18055
(215) 751-1735
scadamo11@aol.com

Dated: June 6, 2025