

No. _____

**IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA**

JARROD REESE SPICER

Petitioner,

v.

STATE OF TENNESSEE,

Respondent.

**On Petition for Writ of Certiorari to
THE SUPREME COURT OF TENNESSEE**

PETITION FOR WRIT OF CERTIORARI

Jarrold Reese Spicer # 154825 pro se
Hardeman County Correctional Facility
2520 Union Springs Road
P.O. Box 549
Whiteville, TN 38075

QUESTION PRESENTED FOR REVIEW

1. Was Petitioner's conviction in violation of United States Constitution Fifth (V) Amendment Double Jeopardy Guarantee which is made mandatory upon the States by the Due Process Clause of the 14th Amendment to the United States Constitution.
2. Did the lower Courts utilize standards that was incorrect and contrary to established law in reaching determination that Petitioner did not receive ineffective assistance of counsel in violation of the Sixth (VI) Amendment to the United States Constitution.

PARTIES

1. Jarrod Reese Spicer, TDOC #154825. Hardeman County Correctional Facility, 2520 Union Springs Road, P.O. Box 549 Whiteville, TN 38075-0549 (*Pro Se* Petitioner).
2. The State of Tennessee, represented by Herbert Harrison Slatery III, Attorney General for the State of Tennessee, 500 Charlotte Avenue, P.O. Box 20207, Nashville, TN 37202-0207 (Respondent).

TABLE OF CONTENTS

ITEM	PAGE
Question Presented For Review	2
Parties	2
Table of Contents	3
Index of Appendices	4
Table of Authorities – Cases	5
Table of Authorities – Statutes	6
Table of Authorities – Other Authorities	6
Opinions Below	7
Jurisdiction	7
Constitutional Provision Involved in the Case	8
Statement of the Case	8
Argument	11
Conclusion	20
Relief Requested	20
Proof of Service/Timely Filing	21
Oath	21

INDEX OF APPENDICES

- Appendix I: Jarrod Reese Spicer v. State of Tennessee
No. W2016-02160-SC-R11-PC
T.R.A.P. Rule 11 Application to Tennessee Supreme Court
Application Denied
Filed: September 22, 2017
- Appendix II: Jarrod Reese Spicer v. State of Tennessee
2017 Tenn. Crim. App. Lexis 392
No. W2016-02160-CCA-R3-PC
Post-Conviction Relief
Filed: May 16, 2017
- Appendix III: State of Tennessee v. Jarrod Reese Spicer
Supreme Court of Tennessee at Jackson
2016 Tenn. Lexis 44
No. W2014-01817-SC-R11-CD
Filed: January 14, 2016
- Appendix IV: State of Tennessee v. Jarrod Reese Spicer
2015 Tenn. Crim. App. Lexis 715
No. W2014-01817-CCA-R3-CD
Appeal of Right
Filed August 31, 2015

TABLE OF AUTHORITIES – CASES

CASE	PAGE
Ashe V. Swenson, 397 U.S. 436 (1970)	13,15
Benton v. Maryland, 384 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969)	14
Davidson v. State, 453 S.W.3d 386 (citing Strickland v. Washington, 446 U.S. 668)	17
Felts v. State, 354 S.W.3d 322 (Tenn. 2011)	17,18
Green v. United States, 384 U.S. 184,187-188, 78 S.Ct. 221 (1957)	14,16
In Re: Winship, 397 U.S. 358, 25 L. Ed. 2D 368	19
Hinton v. Alabama, __U.S. ___, 134 S.Ct. 1081, 2014 U.S. Lexis 1012	19
Nix v. Whiteside, 475 U.S. 157	19
North Carolina v. Pearce, 395 U.S. 711, 717	16
State v. Thompson, 285 S.W.3d 840, (Tenn. 2009) at 847 (Citing United States v. Oppenheimer, 242 U.S. 84, 87, 37 S. Ct. 68 (1916)	13,15
Strickland v. Washington, 446 U.S. 668, 687 (1984)	17,18,19
Turner v. Arkansas, 407 U.S. 366	13,14
United States v. Cronin, 466 U.S. 648	19,20
United States v. Morrison, 449 U.S. 361	19

TABLE OF AUTHORITIES – STATUTES

<u>STATUTES</u>	<u>PAGE</u>
28 U.S.C. § 1257	7
28 U.S.C. § 1746	21
28 U.S.C. § 2101 (c)	7

TABLE OF AUTHORITIES - OTHER AUTHORITIES

AUTHORITY	PAGE
Supreme Court Rule 29.....	21
T.R.A.P. 11	7,10
<i>T.R.A.P.</i> 3	7
<i>U.S.C.A.</i> 5	2, 14
<i>U.S.C.A.</i> 6	2,17,19
<i>U.S.C.A.</i> 14	2,8,17
Tennessee Constitution Article I Sec. 9	17
Tennessee Constitution Article I Sec. 10	14

OPINIONS BELOW

State of Tennessee v. Jarrod Reese Spicer, 2017 Tenn. Lexis _____ Case No. W2016-02160-SC-R11-PC, Application for Tennessee Supreme Court Review Denied, Filed September 22, 2017. (Appendix I)

Jarrod Reese Spicer v. State of Tennessee, 2017 Tenn. Crim. App. Lexis 392, Case No. W2016-02160-CCA-R3-PC. Appeal of Right- Judgment of Circuit Court Affirmed May 16, 2017. (Appendix II)

State of Tennessee v. Jarrod Reese Spicer, 2016 Tenn. Lexis 44, Case No. 2014-01817-SC-R11-CD, Application for Tennessee Supreme Court Review Denied, Filed January 14, 2016. (Appendix III)

State of Tennessee v. Jarrod Reese Spicer, 2015 Tenn. Crim. App. Lexis 715, Case No. W2014-01817-CCA-R3-CD. Judgment of Circuit Court Affirmed. Filed August 31, 2015. (Appendix IV)

JURISDICTION

The Tennessee Supreme Court denied the Petitioner's *T.R.A.P. II* Application for Permission to Appeal on September 22, 2017. The Petitioner did not file a Motion for Rehearing by the Court. The Petitioner's *T.R.A.P. 3* appeal as of right was denied on May 16, 2017. This Honorable Court has jurisdiction to hear this petition under *28 U.S.C. § 1257* and *28 U.S.C. § 2101(c)*.

CONSTITUTIONAL PROVISION INVOLVED IN THE CASE

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

U.S.C.A. 14, Section 1.

STATEMENT OF THE CASE

Petitioner was indicted by the Obion County Tennessee Grand Jury on October 7, 2013 for one count of Felony Murder – Robbery (count 1), one count of Felony Murder- Theft (count 2), one count of Premeditated First Degree Murder (count 3), one Count of Aggravated Robbery (count 4) and one count of Theft of Property valued at \$500 or Less (count 5). Theft of Property valued at \$500 or less is a misdemeanor. All of these charges resulted from the death of a single victim, John Thomas Hood, who was discovered laying on his kitchen floor, dead, on March 3, 2008.

The Obion County Tennessee medical examiner, Dr. Fowler, was called to the scene. Dr. Fowler examined the body and determined that John Thomas Hood possibly died of heart failure. The body was released to White Ranson Funeral Home where the body was embalmed.

On March 4, 2008 the body was transported to the Regional Forensic Center in Memphis, Tennessee for an autopsy to determine cause of death. Dr. Marco Ross, Deputy Chief Medical

Examiner of the Shelby County Medical Examiner's Office in Memphis performed an autopsy on the body of John Thomas Hood on March 5, 2008. Dr. Ross could not determine the immediate cause of John Thomas Hood's death.

John Thomas Hood's body had been embalmed prior to the autopsy, so Dr. Ross could not test his blood for intoxicants. However, Dr. Ross did find some alcohol in the fluid of Mr. Hood's eyes. Dr. Ross also tested Mr. Hood's urine and detected hydrocodone and a breakdown product of hydrocodone.

Petitioner went to trial in Obion County Circuit Court on June 23-25, 2014 before a jury. Under Count 1, the jury returned a verdict of NOT GUILTY on Felony Murder-Robbery, then went on to consider the lesser included offense of 2nd degree murder. The Jury returned a verdict of NOT GUILTY on 2nd degree murder; The jury then went on to consider the lesser included offense of voluntary manslaughter. The jury returned a verdict of GUILTY on the lesser included offense of voluntary manslaughter.

Under count 2, the jury returned a verdict of NOT GUILTY on Felony Murder-Theft, then went onto consider the lesser included offense of 2nd degree murder. The jury returned a verdict of GUILTY of 2nd degree murder.

Under count 3, the jury returned a verdict of NOT GUILTY on Premeditated Murder.

Under count 4, the jury returned a verdict of GUILTY of Aggravated Robbery.

Under Count 5, the jury returned a verdict of GUILTY to Theft under \$500, which is a misdemeanor.

On July 25, 2014, Petitioner appeared before the Honorable William B. Acree, Jr. for sentencing. The Court merged conviction in Count 1, Voluntary Manslaughter in the conviction

in Count 2, 2nd Degree Murder, and the conviction in Count 5, Theft under \$500 (a misdemeanor) into the conviction in Count 4 of Aggravated Robbery.

The Court imposed a sentence on Count 2, 2nd Degree Murder of 25 years incarceration; And on Count 4, Aggravated Robbery of 12 years incarceration to be served concurrently with the 25 year sentence imposed on Count 2.

Petitioner's Motion for New Trial was denied by the Trial Court on August 29, 2014. Petitioner filed a timely notice of Direct Appeal. The Tennessee Court of Criminal Appeals affirmed the Trial Court decision on August 31, 2015.

Petitioner filed an application for review with the Tennessee Supreme Court pursuant to Tennessee Rules Appellate Procedure Rule 11. Petitioner's Application was denied on January 14, 2016.

Petitioner sought Post-Conviction Relief from the trial court. Petitioner's Post-Conviction Relief Petition was denied by the trial court on September 21, 2016. Petitioner filed a direct appeal of that decision with the Tennessee Court of Criminal Appeals. The Court of Criminal Appeals affirmed the trial court denial on May 16, 2017.

Petitioner filed an application for review with the Tennessee Supreme Court pursuant to Tennessee Rules Appellate Procedure Rule 11. Petitioner's Application was denied on September 22, 2017.

ARGUMENT

1. Was Petitioner's conviction in violation of United States Constitution Fifth (V) Amendment Double Jeopardy Guarantee which is made mandatory upon the States by the Due Process Clause of the 14th Amendment to the United States Constitution.

In the case now before the Court, there was only a single victim involved and only one single death that occurred.

Petitioner was accused under a five (5) count indictment charging in Count 1 the offense of Felony Murder in the perpetration of a Robbery of John Thomas Hood which occurred on March 3, 2008; In Count 2 the offense of Felony Murder in the perpetration of a Theft of John Thomas Hood which occurred on March 3, 2008; In Count 3 the offense of Premeditated Murder of John Thomas Hood which occurred on March 3, 2008; In Count 4 the offense of Aggravated Robbery of John Thomas Hood which occurred on March 3, 2008; and in Count 5 the offense of Theft under \$500 from John Thomas Hood which occurred on March 3, 2008 (Theft under \$500 is a misdemeanor).

The trial court, in the preliminary jury instructions, instructed the jury: (Transcript of Evidence, Vol. 1, page 26):

Mr. Spicer is charged in count 1 of the indictment with the crime of first degree murder in the perpetration or attempted perpetration of and while attempting to commit robbery. Any person who commits first degree murder is guilty of a crime. For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements: (1) the defendant unlawfully killed the alleged victim; (2) that the killing was committed in

the perpetration of or the attempt to perpetrate the alleged robbery; that is, the killing was closely connected to the alleged robbery and was not a separate, distinct and independent event; and, (3) the defendant intended to commit the alleged robbery.

(Transcript of Evidence, Vol. 1, Page 27)

Should you find Mr. Spicer not guilty of first degree murder in the perpetration of or attempted perpetration of and while attempting to commit robbery, then your verdict will be not guilty, as to that offense and you shall then proceed to determine his guilt or innocence of the lesser included offense of second degree murder, a class A felony.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements: (1) the defendant unlawfully killed the alleged victim, (2) the defendant acted knowingly.

(Transcript of Evidence, Vol. 1, Page 28)

Should you have a reasonable doubt as to the defendant's guilt of second degree murder, a class A felony, as charged in the indictment, you must determine his guilt or innocence of the lesser included offense of voluntary manslaughter, a class C felony.

It is presumed that the jury will follow the instructions given by the trial court in their deliberations and considerations.

Therefore, the jury, during its deliberations on Count 1, First Degree Murder in perpetration of Robbery determined that Mr. Spicer was not guilty of First Degree Murder in perpetration of Robbery, it is presumed that the jury determined with the Not Guilty verdict that the state failed to prove one or more of the essential elements of: (1) the defendant unlawfully killed the alleged victim; (2) that the killing was committed in the perpetration of or the attempt to perpetrate the alleged robbery; and (3) the defendant intended to commit the alleged robbery.

After the jury acquitted Mr. Spicer of First Degree Murder while perpetration of Robbery, it is presumed the jury proceeded to consider Mr. Spicer's guilt or innocence of the lesser included offense of Second Degree Murder.

It is presumed the jury, by finding Mr. Spicer guilty of Voluntary Manslaughter, which is a lesser included offense of First Degree Murder and Second Degree Murder, determined that Mr. Spicer was Not Guilty of Second Degree Murder in the death of John Thomas Hood on March 3, 2008. With the jury verdict of guilty to Voluntary Manslaughter, it is presumed the jury determined the state had failed to prove, beyond a reasonable doubt, one or more of the essential elements of Second Degree Murder: (1) the defendant unlawfully killed the alleged victim; and (2) the defendant acted knowingly.

When the jury went to consider Count 2 of the indictment, First Degree Murder in perpetrating Theft, in the death of John Thomas Hood on March 3, 2008, the jury determined that Mr. Spicer was Not Guilty of First Degree Murder in perpetrating Theft in the death of John Thomas Hood on March 3, 2008. Interesting fact is that the Theft petitioner was indicted for was a theft under \$500, which is a misdemeanor.

The jury then went to consider the guilt or innocence of Mr. Spicer in the death of John Thomas Hood on the lesser included offense of Second Degree Murder. At this point the jury convicted Mr. Spicer of Second Degree Murder in the death of John Thomas Hood on March 3, 2008 under Count 2.

This conviction of Mr. Spicer on Second Degree Murder in the death of John Thomas Hood violated the principle of Double Jeopardy and Issue Preclusion in violation of Article 1 §10 of Tennessee Constitution, and United States Constitution Amendment V and Fourteen, by the jury's verdict of acquittal in Count 1 of the lesser included offense of Second Degree

Murder in the death of John Thomas Hood on March 3, 2008, (See: *State of Tennessee v. Thompson*, 285 S.W.3d 840, 2009 Tenn. Lexis 309; *Ashe V. Swenson*, 397 U.S. 436; *Turner v. Arkansas*, 407 U.S. 366).

In the same context, petitioner's convictions in Court 4 (Aggravated Robbery) and Count 5 (Theft under \$500) are in violation of double jeopardy and issue preclusion principals inasmuch as petitioner was determined not guilty of First Degree Murder while in perpetration of Robbery of John Thomas Hood on March 3, 2008 in Count 1, and First Degree Murder while in perpetration of Theft off John Thomas Hood on March 3, 2008 in Count 2. (See: *Turner v. Arkansas*, 407 U.S. 366).

The double jeopardy clause of the United States Constitution provides that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb". U.S. Const. Amend. V. The Fifth Amendment protection against double jeopardy is enforceable against the States by way of the Due Process Clause of the Fourteenth Amendment. *Id.* (*Benton v. Maryland*, 384 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969)). Article I, Sec. X of the Tennessee Constitution provides that "no person shall, for the same offense, be twice put in jeopardy of life or limb".

The fundamental nature of the guarantee against double jeopardy can hardly be doubted. *Benton* at 795. Its origins can be traced to Greek and Roman times, and it became established in the common law of England long before this Nation's independence⁴. *Id.*

Three fundamental protections are encompassed in the principle of double jeopardy: "(1) protection against a second prosecution after an acquittal; (2) protection against a second prosecution after conviction; and (3) protection against multiple punishments for the same offense".

The policy underlying double jeopardy is that the State, with all of its resources, should not be able "to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety

and insecurity, as well as enhancing the possibility that even [when] innocent he may be found guilty”. Green v. United States, 355 U.S. 184, 187-188, 78 S.Ct. 221, 2 L.Ed.2d 199 (1957).

Collateral estoppel became a part of the federal criminal law in 1916: “the safeguards of the person, so often and so rightly mentioned with solemn reverence, [cannot be] less than those that protect from a liability in debt”. State v. Thompson, 285 S.W.3d 840 (Tenn. 2009) at 847 Citing United States v. Oppenheimer, 242 U.S. 84, 87, 37 S.Ct. 68, 61 L.Ed. 161 (1916).

In Ashe v. Swenson, the Supreme Court considered the issue of collateral estoppel in the context of successive trials. Ashe v. Swenson, 397 U.S. 436 (1970). In Ashe, the defendant was charged with a robbery and theft involving six victims playing poker. Id. At 438. Ashe was tried twice, each trial involving a single victim. Id. At 438. Four of the victims testified at the first trial regarding the circumstances of the of the robbery. Id. Ashe was acquitted. Id.

Six weeks later Ashe was tried again, this time for the robbery of a different victim of the poker game. Id. At 439. Ashe filed a motion to dismiss based upon his previous acquittal, which was denied. Id. Ashe was tried again and convicted. Id. At 447. The Court held that:

“Where a previous judgment of acquittal was based upon a general verdict, as is usually the case, this approach requires a court to “examine the record of a prior proceeding, taking into account the pleadings, evidence, charge, and other relevant matter, and conclude whether a rational jury could have grounded its verdict upon an issue other than that which the defendant seeks to foreclose from consideration”. Id. At 444

The Court held that “the record is utterly devoid of any indication that the first jury could rationally have found that an armed robbery had not occurred, or that [the first victim] had not been a victim of that robbery”. Id. At 445. The Court further explained that, “[t]he single rationally conceivable issue in dispute before the jury was whether the petitioner had been one of the robbers...the jury by its verdict found that he had not”. Id. At 445.

The Court held that “this established rule of federal law is embodied in the Fifth Amendment guarantee against double jeopardy”. *Id.* At 445. The Court noted that “[f]or whatever else that constitutional guarantee may embrace, North Carolina v. Pearce, 395 U.S. 711, 717, it surely protects a man who has been acquitted from having to run the “gantlet” a second time”. *Id.* (citing Green v. United States, 354 U.S. 184, 190 (1957). The burden is on the party asserting collateral estoppel to demonstrate that a specific point at issue has been previously and finally decided.

Petitioner was acquitted by the jury of the primary offenses. As explained below, a review of the pleadings and the evidence presented, shows that the jury's acquittal covered all of Petitioner's conduct alleged in the indictment.

After the jury had acquitted the petitioner, in Count 1, of First Degree Murder while perpetrating Robbery, and also of the lesser included offense of Second Degree Murder in the death of John Thomas Hood on March 3, 2008, the state could not have brought him to trial again upon that charge. Once a jury had determined that there was at least a reasonable doubt that the petitioner had committed First Degree Murder while perpetrating Robbery and also the lesser included offense of Second Degree Murder in the death of John Thomas Hood on March 3, 2008, in one count of the indictment, the state could present the same or different evidence in a second count of the same indictment under another theory of the same circumstances. This is precisely what the constitutional guarantee of double jeopardy forbids.

2. Did the lower Courts utilize standards that was incorrect and contrary to established law in reaching determination that Petitioner did not receive ineffective assistance of counsel in violation of the Sixth (VI) Amendment to the United States Constitution.

United States Constitution Amendment VI, made applicable to the states through U.S. Const. Amend. XIV, and Tennessee Constitution Article 1, §9 both require that criminal defendants receive effective assistance of counsel.

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction has two components. Strickland v. Washington, 446 U.S. 668, 687 (1984). A petitioner must prove both that counsel's performance was deficient and that the deficient performance prejudiced the defense. Davidson v. State, 453 S.W. 3D 386, 392 (Tenn. 2014, citing Strickland v. Washington, 446 U.S. 668, 687; Felts v. State, 354 S.W. 3D 266, 276 (Tenn. 2011) Deficient performance means that “counsel's representation fell below an objective standard of reasonableness”. Id. Citing Strickland at 688)quotations in original).

If the petitioner shows that counsel's representation fell below a reasonable standard, then he must satisfy the prejudice prong of the *Strickland* Test by demonstrating “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different”. Id. Citing Strickland, 446 U.S. At 694 (quotations in original).

“A reasonable probability is a probability sufficient to undermine confidence in the outcome”. Id. Citing Strickland at 694 (quotations in original). In other words, “a petitioner must establish that

the deficiency of counsel was of such a degree that it deprived the (petitioner) of a fair trial and called into question the reliability of the outcome”. That is, “the evidence stemming from the failure to prepare a sound defense or {to} present witnesses must be significant but it does not necessarily follow that the trial would have otherwise resulted in an acquittal”. “A reasonable probability of being found guilty of a lesser charge, or a shorter sentence satisfies the second prong in Strickland. Strategic choices made after “thorough investigation of law and facts relevant to plausible options are virtually unchangeable and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation”. Strickland v. Washington, 466 U.S. 690, 691 (1984). Counsel's duty is “to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary”. Felts v. State, 354 S.W. 3D 266, 277 (Tenn. 2011),

Doctor Marco Ross, Deputy Chief Medical Examiner for Shelby County, Memphis Tennessee who performed the autopsy on John Thomas Hood testified at trial: (Trans. Of Evidence Vol. II, page 150)

Q: Were you able to determine the cause of death?

A: Not specifically in terms of what directly or immediately caused it. Primarily because he had this area of necrotic bowel that was so severely necrosed, that that independently, in and of itself, could have caused – could have been the primary cause of death.

Dr. Ross went on to further state on page 151:

Q: What caused the death of John Thomas Hood?

A: I cannot definitively determine what the cause of death specifically was in this case.

Page 153:

Q: And this chronic bowel condition that he had, that could have been the cause of death in and of itself?

A: It could have been, yes.

Page 154:

Q: Could the fracture to the thyroid cartilage, in and of itself, have caused Mr. Hood's death?

A: The fracture, in and of itself, could not have caused his death.

Clearly, thru the testimony of the medical examiner who performed the autopsy on the victim, the cause of death could not be determined to be a homicide. Instead, the cause of death could have been the intestinal necrosis.

Trial counsel's failure to challenge the lack of a determination of a homicide cause of death during the trial and in the motion for new trial was deficient performance. Counsel's failure to obtain expert witness testimony to bolster the medical possibility that the victim died from a necrotic bowel and was not in fact a homicide victim was clearly deficient performance and was prejudicial to petitioner. (*Hinton v. Alabama*, 571 US ___, 134 S Ct ___, 188 L Ed 2d 1, 2014 US LEXIS 1012)

Counsel provided further deficient assistance in the failure to challenge the verdict of the jury in acquitting petitioner of Second Degree Murder in Count 1 and then convicting petitioner of Second Degree Murder in Count 2 of the indictment that pertained to the same victim, John Thomas Hood.

Counsel knew or should have known that each element of a criminal offense must be proven beyond a reasonable doubt to sustain a conviction. (*In Re: Winship*, 397 US 358, 25 L Ed 2d 368)

This Court's decisions have emphasized that the Sixth Amendment right to counsel exists "in order to protect the fundamental right to a fair trial." (*Strickland v Washington*, *supra*, at 684, 80 L Ed 2d 674, 104 S Ct 2052; *Nix v Whiteside*, 475 US 157, 175, 89 L Ed 2d 123, 106 S Ct 988 (1986) (noting that under *Strickland*, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding"); *United States v Cronin*, 466 US 648, 653, 80 L Ed 2d 657, 104 S Ct 2039 (1984) ("Without counsel, the right to a trial itself would be of little avail") (internal quotation marks and footnote omitted); *United States v Morrison*, 449 US 361, 364, 66 L Ed 2d

564, 101 S Ct 665 (1981) (the right to counsel "is meant to assure fairness in the adversary criminal process"). Thus, "the right to the effective assistance of counsel is recognized not for its own sake, but because of the effect it has on the ability of the accused to <*pg. 189> receive a fair trial." Absent some effect of challenged conduct on the reliability of the trial process, the Sixth Amendment guarantee is generally not implicated." *United States v Cronin*, *supra*, at 658, 80 L Ed 2d 657, 104 S Ct 2039.)

CONCLUSION

In light of the facts stated above, this Honorable Court should **GRANT** the *Pro Se* Petitioner's request for a Writ of Certiorari.

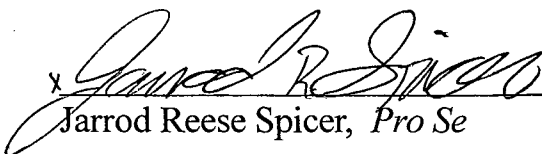
RELIEF REQUESTED

The Petitioner prays this Honorable Court to:

- 1) **GRANT** the Petition for Writ of Certiorari, and
- 2) **REMAND** the case back to the Tennessee Supreme Court with directions, and/or
- 3) **PROVIDE** any and all other relief this Honorable Court finds necessary and just.

It is prayed.

Respectfully submitted,

x 
Jarrod Reese Spicer, *Pro Se*