

No. \_\_\_\_\_

25-6228

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

NOV 13 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

James Anthony Hale — PETITIONER  
(Your Name)

vs.

Russ Rurka — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE MICHIGAN COURT OF APPEALS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

James Anthony Hale #182038  
(Your Name)

LAKELAND CORR. FACILITY, 141 FIRST ST.  
(Address)

COLDWATER, MICHIGAN 49036  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTIONS PRESENTED

ON March 30, 1987, Petitioner was arrested based upon a warrant issued ON March 26, 1987. ON April 4, 1987, Petitioner was denied the appointment of counsel during the initial arraignment proceeding. Petitioner presents the following question(s):

### I.

WHERE PETITIONER WAS DENIED HIS SIXTH AMENDMENT RIGHT TO COUNSEL DURING HIS INITIAL ARRAIGNMENT PROCEEDING, SHOULD THIS JURISDICTIONAL DEFECT DEPRIVE THE STATE COURT FROM PROCEEDING FORTH WITH THE CRIMINAL PROCEEDING?

### II.

WHETHER THE STATE OF MICHIGAN HAS FAILED TO UPHOLD BINDING PRECEDENT CONSISTENT WITH SIXTH AMENDMENT PROTECTIONS?

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## 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

- \* People v. Hale, 87-03654-01-FC, Wayne County Third Circuit Court, Detroit, Michigan. Judgment entered February 6, 2025.
- \* People v. Hale, 87-03654-01-FC, Michigan Court of Appeals. Judgment entered May 29, 2025.
- \* People v. Hale, 87-03654-01-FC, Michigan Supreme Court. Judgment entered September 26, 2025.

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By Scott Lewis Private Investigator, LLC.**

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the Wayne County Third Judicial Circuit court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ 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: \_\_\_\_\_, 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 Sept. 26, 2025.  
A copy of that decision appears at Appendix C.

☐ 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 have the Assistance of Counsel for his defence ..... 5, 7, 8, 9

Section 1 of the Fourteenth Amendment to the United States Constitution provides:

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 any person within its jurisdiction the equal protection of the laws ..... 9

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## STATEMENT OF THE CASE

Petitioner James A. Hale (hereinafter "Petitioner"), in pro se, filed a Motion for Relief from Judgment in the Third Judicial Circuit Court - Wayne County, Michigan. Petitioner pleaded in the motion that he was denied due process of law based upon the State of Michigan's failure to appoint him counsel at a critical stage of his proceedings, inter alia. The trial court did state that "the crux of Defendant's argument is that because the district court arraigned him without legal counsel, it did not obtain jurisdiction from an improper complaint and warrant and thus had no jurisdiction to conduct a criminal proceeding against him." See Third Circuit Court Order dismissing Defendant's Motion for Relief from Judgment in Appendix B, at page 2a.

The trial court concluded Petitioner's argument lacked a basis in law and dismissed the motion. *Op. id.*, at page 4a. Petitioner timely appealed the circuit court's erroneous ruling to the Michigan Court of Appeals. The court of appeals denied Petitioner's application for leave to appeal finding that he failed to establish that the trial court erred in denying the successive motion for relief from judgment. See Order denying leave in Appendix A.

Petitioner's application for leave to appeal to the Michigan Supreme Court was denied on September 26, 2025. See Appendix C. Petitioner now files this petition for writ of certiorari.

## REASONS FOR GRANTING THE PETITION

PETITIONER HALE WAS DENIED HIS SIXTH AMENDMENT RIGHT TO COUNSEL DURING HIS INITIAL ARRAIGNMENT PROCEEDING. SAID JURISDICTIONAL DEFECT PRECLUDED THE STATE COURT FROM PROCEEDING FORTH WITH THE CRIMINAL PROCEEDING.

The Sixth Amendment to the United States Constitution states in relevant part: "In all criminal prosecutions the accused shall enjoy the right"... "to have the assistance of counsel for his defense." In *Johnson v. Zerbst*, 304 U.S. 458 (1938), the Court clearly established that "since the Sixth Amendment constitutionally entitles one charged with crime to the assistance of counsel, compliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty." 304 U.S. at 467. The *Johnson* court went on to say "if the accused, however, is not represented by counsel and has not competently and intelligently waived his constitutional right, the Sixth Amendment stands as a jurisdictional bar to valid constitutional sentence depriving him of his life or his liberty. 304 U.S. at 468.

In *Pointer v. Texas*, 380 U.S. 400, 404 (1965), The Sixth Amendment is part of what is called our Bill of Rights. In *Gideon v. Wainwright*, 372 U.S. 335 (1963), in which this Court held that the Sixth Amendment's right to the assistance of counsel is obligatory upon the states, we did so on the ground that "a provision of the Bill of Rights which is 'fundamental and essential to a fair trial' is made obligatory upon all states by the Fourteenth Amendment." 372 U.S. 335, 342 (1963).

## PROCEDURAL HISTORY

On March 30, 1987, Petitioner was arrested based on a warrant issued on March 26, 1987. Petitioner was charged with committing first degree murder, criminal sexual conduct and assault with intent to murder. On April 4, 1987, Petitioner was taken before a judicial officer and informed of the serious offenses he faced and that he would not be entitled to bail. Petitioner was not provided with counsel to assist him during this proceeding. Petitioner was unfamiliar with the rules of evidence, and incapable of defending himself against the information and complaint filed against him. Petitioner was left without the aid of counsel, and went to trial without proper charges, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible.

The court stated that Petitioner's "contention that he was unrepresented at the arraignment and thus the Court lacks subject-matter jurisdiction does not have a basis in law", Order, Ex. B, at p. 4e. That legal determination is clearly erroneous. In *Rothgery v. Gillespi*, 554 U.S. 191 (2008), the court long ago held that the right to counsel attaches at the initial appearance before a judicial officer at which a defendant is told of the formal accusations against him and restrictions are imposed on his liberty. 554 U.S., at 199, citing to *Michigan v. Jackson*, 475 U.S. 625, 699 & n. 3 (1986) and *Brewer v. Williams*, 430 U.S. 387, 398-399 (1977). The *Rothgery* court stated "this represents a 'critical stage' at which the Sixth Amendment applies." *Id.*

## DISCUSSION

The Michigan Supreme Court recognizes the jurisdictional ramification resulting from a Sixth and Fourteenth Amendment violation. Providing in *People*

v. Carpentier, 446 Mich. 19 (1994), that "like the federal courts, Michigan has recognized the unique import of a defendant's constitutional right to counsel.... The exceptional nature of this constitutional protection counsels for similar atypical protection. For this reason, we align ourselves with, and hold that an alleged Gideon violation constitutes a jurisdictional defect." Id. at 29-30.

However, while the Michigan Supreme Court acknowledged that a Gideon violation constitutes a jurisdictional defect, all of the State courts erroneously concluded that Petitioner's motion for relief from judgment was barred by MCR 6.502(G). To the contrary MCR 6.508(D)(3) carves out an exception to the "good cause" and "actual prejudice" prerequisite where Petitioner has alleged a jurisdictional defect in a prior proceeding that resulted in conviction and sentence. See People v. Carpentier, 446 Mich. 19, 27 (1994)(RILEY, J CONCURRING OPINION).

Petitioner has shown herein that the trial court clearly erred by determining counsel was present on April 4, 1987, at the initial arraignment proceeding in violation of Petitioner's Sixth Amendment right to counsel during a "critical stage." Rothgery, supra. See Register of Actions in Appendix D. Which clearly contravened express legal requirements at the time of Petitioner's initial appearance before the district court officer. Petitioner did retain counsel on April 15, 1987. Petitioner was unable to locate through his research any Michigan cases which applied the Rothgery decision standards and respectfully request of this Supreme Court to permit this Sixth Amendment jurisdictional issue to be argued before the Court and determinations to be made as to the standards for when a state court fails to uphold Sixth Amendment jurisprudence. Petitioner asks of the Court to appoint him counsel to make oral argument before the Court and to supplement his pleadings in a more

professional manner.

In closing, Petitioner states that he never competently and intelligently waived his constitutional right to representation of counsel. During the initial arraignment proceeding Petitioner was held to stand mute while a district court magistrate informed him of the charges he faced, entered a plea of not guilty on Petitioner's behalf while he was without counsel to assist him. Petitioner was not given an opportunity to request bail or informed that such discussion was allowed. See Register of Actions in Appendix D. In addition, defendants are not given their statutory right to make statements regarding any questions during the same proceeding. See MCL 764.26.

Petitioner was deprived the opportunity to request counsel on April 4, 1987, at the initial arraignment proceeding. And no record of the initial arraignment proceeding has been preserved to permit review because the Wayne County Prosecutors Officer (hereinafter "WCPO") ordered the destruction of "all pre-1995 records" prior to the filing of Petitioner's original post-conviction motion. See WCPO Response to F.O.I.A. Request at Appendix E, at page 7a.

Where the Register of Actions clearly established that Petitioner was not afforded counsel during a critical stage of his initial arraignment proceeding, this Supreme Court should conclude the state court's factual finding was erroneous and that Petitioner has shown by clear and convincing evidence that the state court's adjudication of his Sixth Amendment claim was unreasonable. And take notice that Michigan v. Jackson was the prevailing law at the time of Petitioner's initial arraignment proceeding in 1987.

Several decades since Petitioner's initial arraignment proceeding, Michigan officials have failed to adhere to Supreme Court precedent which provides protection against state officials infringing upon a person's

constitutional rights. Out of respect to comity, Michigan officials have neglected their constitutional duties to afford persons counsel when charged with criminal offenses, when bail is considered, and request the assistance of counsel at a critical stage. In *Smith v. Murray*, 477 U.S. 527 (1986), this Court stated that "[in] appropriate cases," the principles of comity and finality that inform the concepts of cause and prejudice "must yield to the imperative of correcting a fundamentally unjust incarceration." *Id.* at 537.

Petitioner was denied due process of law during his state court proceedings and this Supreme Court should find the State of Michigan deprived Petitioner of his right to counsel under the Sixth Amendment, U.S. Constitution Amendment XIV.

--- This Supreme Court should be compelled to address this constitutional --- violation and remand Petitioner's case back to the State of Michigan with instructions to vacate his convictions and sentences and release him immediately. In the alternative, grant this petition and appoint him counsel, allow oral argument and briefing on the issues raised in this petition.

Petitioner respectfully request of the Court to review his petition in a less stringent standard than those pleadings drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972).

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

James A. Hale

Date: November 12, 2025