

No. 25-6778 **ORIGINAL**

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Jasim Mohammed Hassi Ramadan — PETITIONER
(Your Name)

vs.

The State of Colorado — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Colorado Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Jasim Mohammed Hassi Ramadan, #165008

(Your Name)

Colorado State Penitentiary
P.O. Box #777

(Address)

Canon City, CO. 81215-0777

(City, State, Zip Code)

None (incarcerated)

(Phone Number)

QUESTION(S) PRESENTED

1. When a defendant is prevented from testifying due to counsels' coercive actions, does structural error occur?
2. Was Mr. Ramadan's constitutional right to receive effective assistance of counsel violated by counsel's coercive actions that prevented him from testifying at trial?

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. Ramadan, 2013 CO 68, 314 P.3d 836, 2013 WL 6408594

People v. Ramadan, Colo. App. No. 14CA1047 (Dec. 14, 2017); 2017 Colo. App. Lexis 1819

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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☐ is unpublished.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☐ is unpublished.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☒ is unpublished.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 Colorado Supreme Court denying certiorari 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 Oct. 7, 2025.
A copy of that decision appears at Appendix B.

☐ 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

U.S. Const., Amend. V:

"No person...shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law..."

U.S. Const., Amend. VI:

"In all criminal prosecutions, the accused shall enjoy the right to... have the compulsory process for obtaining witnesses in his favor..."

U.S. Const., Amend. XIV:

"1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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 nay 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."

STATEMENT OF THE CASE

In 2012, Mr. Ramadan was arrested along with three others and charged with several counts of sexual assault, unlawful sexual contact and first degree assault all stemming from a single incident that the victim could not recall in any detail. Mr. Ramadan, who worked with U.S. troops in Iraq and who was brought to the U.S. by one of his handlers following Mr. Ramadan's family being killed due to his cooperation (see People v. Ramadan, 2013 CO 68, para. 8 & n.1 (citing "A Soldier's Promise" by First Sgt. Daniel Hendrex)) was initially questioned by the police. However, his responses were suppressed in relevant part due to police misconduct. See Ramadan supra.

Mr. Ramadan maintained that he did not participate in the sexual assault and he had gone to sleep because he'd been drinking, only to then awake, finding the victim injured, after which he took her home at the behest of the others. Mr. Ramadan walked the victim up to what he thought was her home's door, but in reality was the neighbor's. He knocked on the door and the neighbor took the victim in tow, guiding her home. At no time did Mr. Ramadan attempt to hide his identification from the neighbor or victim.

The others who had been arrested collectively said that they did not commit any sexual assault and instead only Mr. Ramadan did. D.N.A. evidence did not implicate any of those charged. However, a D.N.A. analyst testified that only Mr. Ramadan couldn't be excluded.

Counsel was appointed to represent Mr. Ramadan. Both attorneys were in over their heads and had never tried a D.N.A. or sexual assault against an adult charge, i.e., one where the question was who had actually assaulted the victim. Adding insult to injury, neither counsel had ever tried a case where their client had testified. As a result, not only did counsels not investigate and obtain their D.N.A. expert; but they were also adamant from the outset that Mr. Ramadan would not be testifying despite his desire to do so. Counsels instead adopted a defense

that the other three defendants, whom had all entered pleas to lesser charges implicated Mr. Ramadan because he was an outcast due to his cooperation with U.S. forces in Iraq. A defense, sadly, which was likely to fail without additional expert testimony as the State's expert would testify that Mr. Ramadan couldn't be excluded from the D.N.A. gathered from the victim's clothing following the assault.

During the course of trial Mr. Ramadan continued to insist he wanted to testify, however, counsels told him they wouldn't be able to represent him if he did. This led Mr. Ramadan to believe he would be forced to try the remaining part of his trial himself. Based upon this belief, Mr. Ramadan acquiesced to counsels' threats and answered affirmatively to the trial courts inquiries as to whether he wanted to waive his right to testify. (It should be noted that not only did the trial attorneys threaten to withdraw, but that immediately prior to and during the trial court's inquiry as to whether he wished to testify, counsels threatened Mr. Ramadan with physical harm if he chose to testify and had a death grip on one of his arms during the trial court's questioning, all of which is supported by the collateral attack evidentiary hearing transcripts.)

Cutting to the chase, the record reflects Mr. Ramadan's waiver of his right to testify, but as noted, the postconviction evidentiary hearing transcripts reflect that he was threatened into waiving said. Nonetheless, the trial court ruled the waiver voluntary. An appeal followed and the Colorado Court of Appeals agreed. See Appendix A. Also of importance is the fact that Mr. Ramadan suffers from two separate traumatic brain injuries, as well as post-traumatic stress disorder (T.B.I. and P.T.S.D. (respectively)). Certiorari to the Colorado Supreme Court was denied. See Appendix B. Appendix C shows proof of the T.B.I./P.T.S.D.

REASONS FOR GRANTING THE PETITION

1. When a defendant is prevented from testifying due to counsels' coercive actions, does structural error occur?

This Court has defined structural error as being error that "affects the framework within which the trial proceeds," rather than being 'simply an error in the trial process itself.'" Weaver v. Massachusetts, 582 U.S. 286, 295, 137 S. Ct. 1899, 198 L. Ed. 2d 420 (2017). This Court went on to go on to say:

"an error has been deemed structural in some instances if the right at issue is not designed to protect the defendant from erroneous conviction but instead protects some other interest. This is true of the of the defendant's right to conduct his own defense, which, when exercised, 'usually increases the likelihood of a trial outcome unfavorable to the defendant.' McKaskie v. Wiggins, 465 U.S. 168, 177 n. 9, 104 S. Ct. 944, 79 L. Ed. 2d 122 (1984). That right is based upon the fundamental legal principle that a defendant must be allowed to make his own choices about the proper way to protect his own liberty. See Faretta v. California, 422 U.S. 806, 834, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975). Because harm is irrelevant to the basis underlying the right, the Court has deemed a violation of that right structural error. See United States v. Gonzalez-Lopez, 548 U.S. 140, 149 n. 4, 126 S. Ct. 2557, 165 L. Ed. 2d. 409 (2006)."

In Gonzalez-Lopez, this Court deemed denial of counsel of choice to be structural error. Id. More recently, in McCoy v. Louisiana, 584 U.S. 414, 422, 138 L. Ed. 2d. 821 (2018), this Court found not only does a defendant have an autonomous right to determined the objectives of his or her defense; but also that denial of this right was structural error. Id., 584 U.S. at 422, 427. This is due to the fact that there is a "'fundamental legal principle that a defendant must be allowed to make his own choices about the proper way to protect his own liberty.'" Id. at 427 (quoting Weaver supra, 582 U.S. at 295.

This Court has also long held that a criminal defendant has a fundamental right to testify in his or her own defense. See Rock v. Arkansas, 483 U.S. 44, 49, 107 S. Ct. 2704, 97 L. Ed. 2d 37 (1987). This right stems from the Fifth, Sixth and Fourteenth Amendments of the United States Constitution's guarantees against

compelled testimony; compulsory process; and due process. U.S. Const., amends. V; VI; XIV (respectively); see also, Rock supra, 483 U.S. at 51-53.

Mr. Ramadan cannot find a case within which this Court has found that structural error occurs if a defendant is deprived of his right to testify due to coercive conduct of counsel, despite such a right being fundamental. This said, Mr. Ramadan respectfully submits, like in McCoy, the decision as to whether to testify is synonymous to controlling the aspects of one's defense. Consequently, when counsels, through threats and intimidation, lies and deceit, as well as their own incompetence deprive a defendant of that aspect or fundamental right of his defense, structural error occurs. He this moves this Court to grant certiorari on this claim and set controlling precedent.

Supporting this request, as noted in the Statement of the Case, (see id), the record of Mr. Ramadan's postconviction evidentiary hearing supports the fact that he was threatened, contrary to the assertions of the Colorado Court of Appeals. See Appendix A, para. 13-26; cf., Crim.P. 35(c) evidentiary hearing of Dec. 19, 2022, pp. 141-143, 171. Mr. Ramadan does not have the ability to copy and provide these transcripts to this Court and thus moves this Court most respectfully to call for them. Summarizing the contents of said, counsel Mary Hostetler testified that both she and her co-counsel, Kimberly Chalmers: 1) hounded Mr. Ramadan at every meeting between he and them that he would not be testifying; 2) they would not represent him, i.e., withdraw if he attempted to do so; 3) they were to busy with other clients to invest the time necessary for Mr. Ramadan to testify; 4) had Mr. Ramadan testified the outcome of the trial would have been different; and 5) "Q. (By Mr. Chastain to Mary Hostetler) You indicated that you never felt like you threatened Mr. Ramadan when it came to his decision not to testify? A. Oh, I think I threatened him. Q. You believe you threatened a client -- A. Yes. Q. -- on a constitutional decision? A. I did not threaten to physically harm him, but I did threaten that I would walk away from the case. Whether I actually would or notm I did not tell him that part. He knew nothing of me. Q. Now, that conversation prior to the Curtis advisement? A. Sure, multiple times." Id, pp. 171.

See People v. Curtis, 681 P.2d 504 (Colo. 1984)(establishing a procedure by which a defendant is advised of his right to testify, potential consequences thereof and/or waiver thereof).

While some federal courts have determined that under Weaver and McCoy, violation of a defendant's right to testify is likely structural error, those same courts have yet to require automatic reversal and instead consider said under the standard set by this Court in Strickland v. Washington, 466 U.S. 668, 687-694, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)(requiring a showing of deficient performance, prejudice as a result thereof and a showing that but for counsel's errors there is a reasonable probability that the result of the proceeding would have been different). See e.g., Williams v. United States, 2018 WL 4656231, at ** 14-15 (D. Conn. 2018)(agreeing that structural error likely occurs from a violation of a right to testify, but no authority set by this Court yet says that); cf., Carter v. Clark, 667 F. Supp. 3d 163, 201 (W.D. Va. 2023)(finding structural error when counsel failed to inform defendant of right to testify and not allowing him to testify despite clearly expressed desire to do so).

In conclusion of this issue, Mr. Ramadan submits that he will show, given the opportunity, that he was extremely vulnerable to counsels' coercive tactics because he suffers from two separate traumatic brain injuries (TBI) and post-traumatic stress disorder (PTSD) given injuries during his service to the United States military during the Iraq war. See People v. Ramadan, 2013 CO 68, 314 P.3d 836, 2013 WL 6408594; see also Appendix C (affidavit of treating physician attesting to said).

Mr. Ramadan submits that not only should federal law be enforced uniformly and that a split between circuits as to whether structural error occurs should not be allowed; but also that this issue is one of paramount importance requiring the setting of precedent on this legal principle by this Court. As such Mr. Ramadan respectfully moves this Court to grant certiorari on this issue.

2. Was Mr. Ramadan's constitutional right to receive effective assistance of counsel violated by counsel's coercive actions that prevented him from testifying at trial?

This Court has repeatedly deemed that the very foundation of our criminal justice adversarial system is based upon the bedrock principle that all defendants have a Sixth Amendment guarantee of effective assistance of counsel at every critical stage of the proceedings against them. See Martinez v. Ryan, 566 U.S. 1, 12, 132 S. Ct. 1309, 182 L. Ed. 2d 272 (2012)(citing Gideon v. Wainwright, 372 U.S. 335, 344, 83 S. Ct. 792, 9 L. Ed. 2d 799 (1963)); see also, Strickland supra, 466 U.S. at 686.

Any defendant claiming a Sixth Amendment violation due to ineffective assistance of counsel must show: 1) as assessed under the prevailing professional norms expected of criminal attorneys, counsel's performance was deficient; and 2) that this deficient performance prejudiced the defendant, resulting in an unfair or unreliable outcome of the proceeding. Strickland, 466 U.S. at 687. In a limited number of cases, however, Strickland's prejudice component may be presumed. See Garza v. Idaho, 586 U.S. 232, 237, 139 S. Ct. 738, 203 L. Ed. 2d. 77 (2019)(and cases therein, discussing various scenarios where a presumption of prejudice may be presumed.)

The facts of this case, including relevant references to counsels' testimony at Mr. Ramadan's postconviction evidentiary hearing of Dec. 19, 2022 (see supra Claim One) all of which clearly show that not only was Mr. Ramadan prevented from testifying by counsels' coercion; but also, trial counsels' assessments were that the outcome of the trial would have been different had Mr. Ramadan testified. Id. This said, Mr. Ramadan respectfully submits that the Colorado Court of Appeals decision affirming the trial court's denial of this claim was incorrect, as clearly counsels' performance was constitutionally deficient.

The Colorado Court of Appeals (see Appendix A, para. 33-41, page 21-24) ~~found~~ that Mr. Ramadons' attorneys has sound, strategic reasons for not wanting Mr. Ramadan to testify, including his criminal history. See Appendix A, para. 27, page 23. Problem with this is that Mr. Ramadan doesn't have any criminal history, i.e., no prior convictions. This fact completely undermines the reliability of the decisions of both the trial and appellate court.

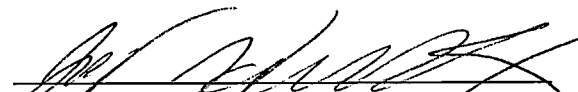
Again Mr. Ramadan moves this Court to call for the record so it may determine the facts of this case itself. Moreover, he would respectfully submit that when counsel coerces a defendant such as himself sufficiently so as to deprive him of a fundamental right, that it is no longer necessary to prove Strickland's prejudice component. In other words, in such situations as Mr. Ramadan's Strickland's prejudice component may be presumed, as such coercion is tantamount to the constructive denial of assistance of counsel altogether.

Mr. Ramadan respectfully moves this Court to grant certiorari on this issue, ultimately reversing his conviction and allowing for a new trial, this time where he is allowed to testify. This, as well as all available relief is respectfully requested.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Jasim M.H. Ramadan, #165008

Date: 12/30/25