

25-7054

IN THE SUPREME COURT OF THE UNITED STATES

U.S. No. \_\_\_\_\_

**FILED**  
JAN 11 2026  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**Kriston Price,**

*Petitioner,*

vs.

**State of Ohio,**

*Respondent.*

**ORIGINAL**

---

**On Petition for a Writ of Certiorari to the Court of Appeals of Ohio,  
Eighth Appellate District**

---

---

**PETITION FOR WRIT OF CERTIORARI**

---

**Mr. Kriston Price**  
Reg. No. A810224  
Trumbull Correctional Institution  
5701 Burnett Road  
Leavittsburg, Ohio 44430

**Kriston Price, pro-se**

**Office of the Ohio Solicitor General**  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215

**Counsel for Respondent**

**RECEIVED**  
JAN 29 2026  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**QUESTIONS PRESENTED**

1. Whether due process and the Sixth Amendment right to effective assistance of appellate counsel are violated where the state courts deny reopening under Ohio App. R. 26(B) despite a substantial, outcome-determinative claim that the jury instructions authorized conviction for voluntary manslaughter predicated upon elements the jury had already determined were not proven beyond a reasonable doubt, producing an internally irreconcilable verdict.
2. Whether due process is offended and appellate counsel is constitutionally ineffective when the state courts uphold a conviction following pervasive evidentiary errors in a close self-defense case—including speculative law-enforcement “sequence of shots” narration, inference-stacking through non-expert testimony, admission of custodial-jumpsuit videos without a limiting instruction, and exclusion of the decedent’s contemporaneous intent text—where those errors bore directly on the core issues and the intermediate court refused to reopen the appeal to address them.

**LIST OF PARTIES**

All Parties to the petition are listed on the cover page.

**TABLE OF CONTENTS**

QUESTIONS PRESENTED .....	2
TABLE OF AUTHORITIES .....	3
OPINIONS BELOW .....	3
JURISDICTION .....	3

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... 3

STATEMENT OF THE CASE AND FACTS .....

REASONS FOR GRANTING THE WRIT .....

CONCLUSION .....

CERTIFICATE OF SERVICE .....

INDEX OF APPENDICES ..... end

**TABLE OF AUTHORITIES**

*Francis v. Franklin*, 471 U.S. 307 (1985) .....

*Jackson v. Virginia*, 443 U.S. 307 (1979) .....

*Mullaney v. Wilbur*, 421 U.S. 684 (1975) .....

*Sandstrom v. Montana*, 442 U.S. 510 (1979) .....

**OPINIONS BELOW**

The decision affirming direct appeal issued November 27, 2024. See *Appendix A*.  
The decision denying his Ohio App. R. 26 (B) application to reopen issued on June 18, 2025.  
*Appendix B*. The Ohio Supreme Court declined review on October 14, 2025. *Appendix C*.

**JURISDICTION**

The judgment below was entered June 18, 2025. This petition is filed within ninety of that decision; rendering this Court’s jurisdiction proper under 28 U.S.C. § 1257(a).

**CONSTITUTIONAL AND FEDERAL AUTHORITY INVOLVED**

- U.S. Constitution, Amendment V (Due Process)
- U.S. Constitution, Amendment VI (Effective Assistance of Counsel)
- U.S. Constitution, Amendment XIV (Due Process).

## STATEMENT OF THE CASE AND FACTS

A Cuyahoga County jury acquitted Petitioner of aggravated murder, hung on purposeful murder, and—after receiving a contested “inferior-degree” instruction—convicted him of voluntary manslaughter with firearm specifications.

The trial court instructed: if the State failed to prove aggravated murder or murder beyond a reasonable doubt, the jury must acquit on those counts; but if the State did prove those elements and also proved sudden passion/fit of rage due to serious provocation, the jury must find him guilty of the inferior offense of voluntary manslaughter; the jury returned a not guilty verdict on the aggravated murder count, hung on the count of murder, and found Price guilty on the voluntary manslaughter charge.

Price received an aggregate indefinite sentence of 13 to 18 years, plus 5-years post-release control.

On direct appeal, petitioner challenged the submission of voluntary manslaughter and the weight of the evidence on self-defense; the court affirmed. The court upheld the voluntary manslaughter instruction and conviction and rejected the evidentiary challenge to a detective’s bullet-angle testimony.

Petitioner Price timely sought reopening under Ohio App. R. 26(B), asserting ineffective assistance of appellate counsel (IAAC) for omitting (among other issues) the internally inconsistent voluntary-manslaughter instruction/verdict problem; mistrial denial following improper sequence-of-shots narration by a crime-scene agent; improper non-expert/inference-stacking testimony; custodial-jumpsuit videos without a limiting instruction; exclusion of the decedent’s contemporaneous text about impending violence;

failure to request lesser mental-state instructions; and deficiencies in self-defense instructions. The Eighth District denied reopening, concluding there was no colorable IAAC claim on any proposed ground. *Appendix B*. Price filed a timely Memorandum in Support of Jurisdiction in the Supreme Court of Ohio, which declined review. *Appendix C*.<sup>1</sup>

### REASONS FOR GRANTING THE WRIT

I. The case presents an important federal question: whether due process permits a conviction built on an internally inconsistent jury instruction that predicates guilt on elements the jury already rejected, and whether failure to raise that claim constitutes ineffective assistance of appellate counsel.

**A. The instruction produced an illogical, self-contradictory pathway to conviction, undermining the beyond-a-reasonable-doubt guarantee.**

The jury was told both that if the State failed to prove aggravated murder or murder beyond a reasonable doubt, it must acquit those counts, and if the State proved those same elements, with provocation, it must convict on voluntary manslaughter. The jury found Petitioner Price not guilty of aggravated murder and guilty on voluntary manslaughter.

The court tied the voluntary manslaughter charge to a finding that the State proved the death “in accordance with the law as provided in counts 1 and/or 2,” (which charged aggravated murder), while the verdicts reflected an acquittal on aggravated murder and a finding of guilty on the voluntary manslaughter charge.

---

<sup>1</sup> The petition for certiorari related to the direct appeal judgment remains pending. *State of Ohio v. Kriston Price*, U.S. No. 25-6378.

This structure authorized a legal impossibility: a manslaughter conviction predicated on elements the jury had just determined were **not** proven beyond a reasonable doubt (as to aggravated murder) and could not unanimously find (as to murder). The court's instruction allowing this verdict contradicting a long line of precedent. *Francis v. Franklin*, 471 U.S. 307 (1985) (condemning internally inconsistent instructions that destroy the reasonable doubt guarantee); *Sandstrom v. Montana*, 442 U.S. 510 (1979) (holding due process to forbid jury instructions that create a logically coercive or contradictory path to guilt); *Jackson v. Virginia*, 443 U.S. 307 (1979) (holding due process to require verdict reliability and rational fact-finding).

The Eighth District's view that voluntary manslaughter is merely "contained within" murder/aggravated murder, not "identical," misses the due-process flaw: the charge expressly required the jury to find the greater offense's elements beyond a reasonable doubt as the predicate for convicting on the inferior offense, while the jury's acquittal/hung posture negated those predicates.

This Court's precedents safeguard the integrity of the reasonable-doubt standard, the right to a fair trial, and verdict reliability. The instruction created an irrational route to guilt that is incompatible with those guarantees.

The state court's refusal to reopen the appeal to press this dispositive issue conflicts with the Sixth Amendment's promise of effective appellate advocacy on the strongest issues.

**B. Appellate counsel's omission was objectively unreasonable and prejudicial.**

*Strickland v. Washington*, 466 U.S. 668 (1984), governs claims of ineffective assistance of appellate counsel. This issue was outcome-determinative and apparent from the record: the instruction's text, the acquittal on aggravated murder, the hung count on purposeful murder, and the mandatory linkage to the greater-offense elements for manslaughter.

The record contains the instruction and the verdicts sequence; defense objected to inclusion of voluntary manslaughter; the court later corrected and repeated the tie between manslaughter and the greater-offense elements before deliberations resumed. *See Appendix D*. A competent appellate advocate would have prioritized this claim; there is at least a reasonable probability of a different result on appeal had it been presented.

Denying reopening under Ohio App. R. 26 (B) thus violated due process and the Sixth Amendment.

**II. The petition presents recurring and nationally important questions about IAAC where multiple, trial-critical evidentiary errors in a close self-defense case were left unreviewed.**

**A. Improper sequence-of-shots narration from a crime-scene agent tainted the core justification question; denying mistrial was not cured by a generic instruction.**

BCI Agent Boerner narrated that the shooting "starts in the bedroom," the victim "flees," and "collapses inside the doorway," prompting immediate defense objection,

motion to strike, curative instruction request, and mistrial motion; the court struck the answer and instructed the jury to disregard it but denied mistrial.

The State's theory hinged on the last two shots as unjustified "execution"-type shots in the back during incapacity; a law-enforcement witness supplying the narrative sequence carried substantial prejudicial weight. The court of appeals' blanket presumption that a curative instruction sufficed—without engaging prejudice in the context of a credibility-driven self-defense case—ignored the risk of indelible harm.

Appellate counsel's failure to raise this preserved error was unreasonable and prejudicial.

**B. Inference-stacking and non-expert opinion from a trace-evidence supervisor amplified the State's back-shots theory.**

The State elicited from Curtiss Jones—qualified in trace evidence—that his "understanding" of entrance/exit correspondences on clothing overlaid the medical examiner's wound determinations, thereby layering conclusions atop residue findings. The appellate court dismissed prejudice because Price admitted two back shots and characterized Jones's overlay as duplicative of the medical examiner. But the number, sequence, and condition of the decedent when shot were central to disproving self-defense.

Appellate counsel's failure to challenge the inference-stacking and lack of personal knowledge/expertise forfeited a strong issue.

**C. Playing custodial-jumpsuit videos without a limiting instruction undermined the presumption of innocence.**

The State introduced custodial interview videos showing petitioner in an orange jumpsuit, and photographs taken in custody after his clothing was seized as evidence; no limiting instruction was given before playing the videos. The intermediate court distinguished in-court compulsion from video depictions and speculated harmlessness. In a close case with a partial acquittal/hung verdict pattern, a simple instruction would have mitigated prejudice; failing to request or seek relief on appeal was deficient and prejudicial.

**D. Excluding the decedent's contemporaneous intent text deprived the jury of critical state-of-mind evidence bearing on self-defense.**

The court excluded the decedent's text to a third party—"some shit about to be going down in Shaker"—offered to show his then-existing intent under Evid. R. 803(3), deeming it vague and cumulative and noting no proof Price saw it. Self-defense turns on reasonableness of perceived threat; the decedent's contemporaneous plan corroborated the context of aggression. The appellate court's refusal to reopen to consider this error ignored its probative value and the low incremental burden of admitting it for state-of-mind.

Appellate counsel's omission was unreasonable and prejudicial.

**III. This is an ideal vehicle.**

The claims are preserved, record-based, and case-dispositive. The denial of reopening squarely presents the federal IAAC and due-process questions and the instruction inconsistency.

The Eighth District addressed each proposed assignment and rejected reopening across the board, expressly analyzing the voluntary-manslaughter instruction relationship to the greater counts and the evidentiary issues.

### **CONCLUSION**

A verdict of acquittal must be held to preclude a verdict of guilty on a charge that requires consideration of the same exact elements, plus a mitigating circumstance. This happened here. Therefore, this petition should be granted.

Alternatively, the Court should grant, vacate, and remand for further consideration in light of the federal constitutional concerns identified in *Francis*, *Sandstrom*, and *Jackson, supra*.

Respectfully submitted,

**Mr. Kriston Price**  
Reg. No. A810224  
Trumbull Correctional Institution  
5701 Burnett Road  
Leavittsburg, Ohio 44430

**Kriston Price, pro-se**

---

### **Index of Appendices**

*Appendix A.* Eighth District Judgment Denying Direct Appeal

*Appendix B.* Eighth District Judgment Entry Denying Application to Reopen under Ohio App. R. 26 (B).

*Appendix C.* Ohio Supreme Court Judgment Declining Discretionary Review.

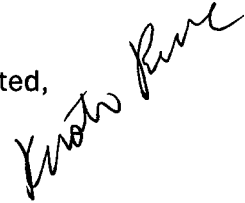
*Appendix D.* Jury charge excerpt

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and complete copy of the foregoing was served on the respondent by delivering the same to the proper prison officials for mailing purposes, first class-postage prepaid, this 11<sup>th</sup> day of January, 2026.

Respectfully submitted,

**Mr. Kriston Price**  
Reg. No. A810224  
Trumbull Correctional Institution  
5701 Burnett Road  
Leavittsburg, Ohio 44430

A handwritten signature in black ink, appearing to read "Kriston Price", written diagonally over the typed name and address.

**Kriston Price, pro-se**

# The Supreme Court of Ohio

State of Ohio

Case No. 2025-1004

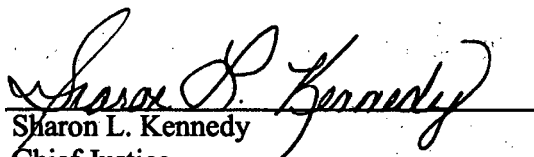
v.

ENTRY

Kriston Price

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to Rule 7.08(B)(4).

(Cuyahoga County Court of Appeals; No. 113540)

  
Sharon L. Kennedy  
Chief Justice