No. ____

# In the Supreme Court of the United States

Philmon Chambers,

*Petitioner,*

v.

United States of America,

*Respondent.*

On Petition for a Writ of Certiorari to the
United States Court of Appeals
For the Eleventh Circuit

## PETITION FOR A WRIT OF CERTIORARI

Byron L. Conway, Jr.
Federal Public Defender

Ezra Addison Gantt
Assistant Federal Public Defender
*Counsel of Record*
440 Martin Luther King Jr. Blvd.
Suite 400
Macon, Georgia 31202
478-743-4747
addison_gantt@fd.org

*Counsel for Petitioner*

March 17, 2026

## QUESTIONS PRESENTED

This Court recognizes that the right to counsel is "necessary to insure fundamental human rights of life and liberty." *Johnson v. Zerbst*, 304 U.S. 458, 462 (1938). It also recognizes that the Sixth Amendment includes a right to self-representation. *Faretta v. California*, 422 U.S. 806, 819–820 (1975). It has not outlined baseline requirements for standby representation, nor hast it established a standard to evaluate attorney effectiveness when standby counsel is forced into a case with inadequate preparation time. Therefore, the questions presented are:

**(1)** If a court utilizes standby counsel, does the Sixth Amendment require that the court give standby counsel adequate time to prepare so they may try the case, if needed?

**(2)** Does a court violate the Sixth Amendment when it replaces standby counsel and forces replacement standby counsel to take over the representation without adequate time to prepare?

## PARTIES TO THE PROCEEDING

This case began with a five-defendant indictment in the Middle District of Georgia ("the Middle District"). Three defendants appealed. The parties to the proceedings are:

**(1) Andrea Paige Browner**, a defendant in the Middle District and an appellant in the Eleventh Circuit.

**(2) Lesley Chappell Green**, a defendant in the Middle District and an appellant in the Eleventh Circuit.

**(3) Philmon Chambers**, Petitioner in this Court, a defendant in the Middle District, and an appellant in the Eleventh Circuit.

**(4) Robert Maurice Carlisle**, a defendant in the Middle District.

**(5) Shabazz Larry Guidry** was a defendant in the Middle District.

**(6)** The **United States of America**, Respondent in this Court, the plaintiff in the Middle District, and the appellant in the Eleventh Circuit.

**(7) D. John Sauer**, Solicitor General of the United States.

## RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Philmon Chambers*, No. 24-11301 (11th Cir. Dec. 22, 2025) (denying petition for rehearing and petition for rehearing en banc).
- *United States v. Philmon Chambers*, 158 F.4th 1347 (11th Cir. Oct. 23, 2025) (affirming district court's judgment).
- *United States v. Philmon Chambers*, No. 3:22-CR-00014-MTT-CHW-1 (M. Dist. of Ga. Apr. 3, 2024) (imposing two life sentences and 120 months' imprisonment).

There are no other "proceedings in state and federal trial and appellate courts, including proceedings in this Court, that are directly related to" this case.

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

### Cases

**Statutes**



**Constitutional Provisions**



**Other Authorities**

# In the Supreme Court of the United States

---

Philmon Chambers,

*Petitioner,*

v.

United States of America,

*Respondent.*

---

On Petition for a Writ of Certiorari to the
United States Court of Appeals
For the Eleventh Circuit

---

**PETITION FOR A WRIT OF CERTIORARI**

---

Petitioner, Philmon Chambers, requests a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

## OPINIONS BELOW

The opinion from the Eleventh Circuit Court of Appeals is available at 158 F.4th 1347 (11th Cir. Oct. 23, 2025) and Pet. App. B. Its order denying rehearing is available at Pet. App. A.

## JURISDICTION

The court of appeals entered its judgment on October 23, 2025, and it denied rehearing December 22, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL PROVISIONS INVOLVED

"In all criminal prosecutions, the accused shall enjoy the right . . . to the Assistance of Counsel for his defence." U.S. Const. amend. VI.

"No person shall be . . . deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

## STATEMENT

This case is an ideal vehicle to resolve unanswered questions about the right to counsel and the role of standby counsel. Trial courts around the country have inconsistent requirements that govern the role of standby counsel in criminal cases. Through this case, this Court can establish consistent, nationwide requirements and outline necessary standards for evaluating attorney effectiveness when standby counsel is forced into a case without adequate preparation time.

In the decision below, the Eleventh Circuit acknowledged defense "counsel had little time to prepare." (Pet. App. B at 15a.) That lack of preparation time was due to "a conflict of interest" that required the district court to appoint "new stand-by counsel for Chambers" just before trial. (*Id.* at 7a.) The Eleventh Circuit did not factor that reason for the lack of preparation time into its analysis, however, requiring Petitioner's unprepared counsel to show "specific, substantial prejudice" and a reason to believe the outcome would have been different. (*Id.* at 15a.) In effect, the Eleventh Circuit ignored the impact of counsel's previous status as standby counsel. Instead, the court's opinion placed the blame at Petitioner's feet because he exercised his right to *pro se*

representation and made sovereign citizen style arguments. (*Ibid.*) That analysis illustrates some of the problems with the Eleventh Circuit's approach, because it was impossible for Petitioner's standby counsel to make a prejudice showing given the lack of adequate preparation time.

It also highlights the need for this Court to take this case, because various courts have instituted inconsistent approaches for appointing standby counsel, and appellate courts, lacking clear guidance, have not coalesced around any singular approach. Both questions presented by this case are of utmost importance.

**The reason counsel was unprepared.**

From the day he was indicted and up until the start of jury selection, Petitioner represented himself, but he had standby counsel. (Docs. 57, 71, 74.)[1] Right before trial, however, a co-defendant amended his witness list, adding a witness represented by Petitioner's then-standby counsel. (Doc. 466 at 98:12–100:15.) As a result, new standby counsel was appointed the Wednesday before trial. (Doc. 306.) But the

[1] Citations to the record on appeal that are available from CM/ECF are cited as *Doc.* __, using the document number from the district court's docket and, where available, paragraph and page numbers.)

government's discovery had five terabytes of information.[2] (Doc. 466 at 104:16–17.) Thus, when new standby counsel was appointed, that attorney asked for time to prepare. (Doc. 357 at 76:7–13.) That request was denied, because the district court believed "that a *pro se* defendant" has no right "to allow his stand-by counsel time to prepare." (*Id.* at 77:6–15.)

Shortly before opening statements, Chambers requested representation, and new standby counsel was placed into the case. (Doc. 358 at 17:5–18:3, 25:5–6.) Counsel again made clear that he needed time to adequately prepare. (*Id.* at 25:13–18.) The court, however, chose to start trial immediately, recognizing that stand-by counsel was "put in the breach" and as a result, may be ineffective. (*Id.* at 30:19–31:9.)

[2] One terabyte is the equivalent of "200,000 5-minute songs; 310,000 pictures; or 500 hours worth of movies." Brady Gavin, *How Big Are Gigabytes, Terabytes, and Petabytes*, How to Geek (May 25, 2018), https://www.howtogeek.com/353116/how-big-are-gigabytes-terabytes-and-petabytes/.

## REASONS FOR GRANTING THE PETITION

**This Court has acknowledged the benefits of standby counsel in *pro se* cases, but the role of standby counsel is ill-defined, and lower courts have differing standards. Through this case, this Court can establish a unform, workable standard.**

With this petition, and through this case, this Court can fill in gaps that exist in current Sixth Amendment jurisprudence, eliminating inconsistent trial court practices. It can clarify the proper role of standby counsel and ensure a uniform standard to evaluate cases in which standby counsel are promoted to trial counsel.

Through *Faretta v. California*, this Court established a clear rule: Every person accused of a crime has the right to represent themselves, regardless of how wise that decision may be. 422 U.S. 806, 817 (1975). That "right to self-representation plainly encompasses certain specific rights," including the right to "control the organization and conduct of his own defense, to make motions, to argue points of law, . . . and to address the court and the jury at appropriate points in the trial." *McKaskle v. Wiggins*, 465 U.S. 168 at 168 (1984). Unanswered from *Faretta* was whether a *pro se* defendant has "a constitutional right to assistance of standby counsel." *Faretta*, 422 U.S. at 852 (Blackmun, J.

Dissenting). Nonetheless, this Court encouraged the use of standby counsel, acknowledging that judges can remove disruptive *pro se* defendants and force them to accept court-appointed counsel. *See Illinois v. Allen*, 397 U.S. 337, 341–345 (1970); *Faretta*, 422 U.S. at 835 n.46 (citing *United States v. Dougherty*, 473 F.2d 1113, 1124–25 (D.C. Cir. 1972)). Thereafter, it appears this Court was never confronted with a case requiring it to decide whether there is a constitutional right to standby counsel, likely because most courts utilize the practice.

Appointing standby is appealing because it kills two birds with one stone. First, it can alleviate a judge's burden of explaining rules and protocol and otherwise assisting a *pro se* "defendant in overcoming routine obstacles." *United States v. Bertoli*, 9947 F.2d 1002, 1017 (3rd Cir. 1993). Second, it can facilitate *pro se* representation by helping defendants execute their intended litigation plans or defenses. *Ibid.* Thus, it is unsurprising this Court has never addressed whether there is a constitutional right to standby counsel because courts understand the appeal and have, since *Faretta*, consistently utilized the procedure. The way they do so, however, varies.

Therefore, it is surprising no case has required this Court to clarify the minimum standards for standby counsel. As it stands now, the role is ill-defined. *United States v. Moreland*, 622 F.3d 1147, 1155 (9th Cir. 2010) ("Generally, the role of standby counsel is vague and undefined, and the defendant must retain control over his case."). Because of that lack of definition or guidance, the type of standby counsel in a case depends not just on the jurisdiction, but also the judge.

Sometimes, courts have procedures that require standby counsel to prepare as if they may try the case. *United States v. Studley*, 892 F.2d 518, 522 n.5 (7th Cir. 1989) (noting that standby counsel have a duty to either inform a court when they are not prepared for trial or refuse the appointment). Other times, courts treat standby counsel as a mere "observer, an attorney who attends the trial or other proceeding and who may offer advice, but who does not speak for the defendant or bear responsibility." *United States v. Taylor*, 933 F.2d 307, 313 (5th Cir. 1991). These conflicting approaches create unnecessary opportunities for disparate results and, therefore, disparate treatment. These effects are magnified when standby counsel take over cases.

Suppose *Defendant A*, accused of murder, is indicted in a district that implements a robust understanding of standby counsels' duties, requiring counsel to prepare as if she may take over the case at any point. At the same time, *Defendant B*, also accused of murder, is indicted in another district. This district does not follow the same standards, allowing counsel to function as a mere observer with no responsibility. Now, assume both cases are identical, and each has eyewitness identification issues. Both trials begin with the defendants representing themselves. Both defendants intend to present identification defenses. Both realize they are in over their heads, so they ask for the assistance of counsel. Because *Defendant A*'s district requires standby counsel to prepare beforehand, his attorney is familiar with the case and is ready to step up, resulting in an acquittal.

In contrast, because *Defendant B*'s district does not follow the same procedures, he has an ill-equipped representative. Until trial, his attorney was a mere observer, unfamiliar with the case facts. While his attorney knows the intended defense, he lacks the necessary factual backdrop to execute the plan. *Defendant B* is convicted.

As it stands now, if *Defendant B* appealed, his conviction would stand, because there is no unform understanding of what minimum standards governed his attorney. In effect, the lack of caselaw post *Faretta* and *McKaskle* allows the coexistence of these repugnant results.

*Defendant B* could argue his attorney lacked the necessary time to prepare for his trial, invoking historic cases from this Court like *Powell v. Alabama*, 287 U.S. 45 (1932) and *Avery v. Alabama*, 308 U.S. 444 (1940), but the likelihood of success would be undermined by the lack of jurisprudence addressing the impact of standby counsel on such claims.

In *Powell* and *Avery*, this Court was asked whether courts can effectively deny defendants their right to representation by forcing trials without adequate preparation time. *Powell*, 287 U.S. at 50; *Avery*, 308 U.S. at 445. Neither case established a bright-line rule for such cases. But they did give guidelines for courts to consider before reversing convictions because attorneys lacked preparation time. For example, in *Powell*, this Court reasoned the Sixth Amendment was violated because the trial court waited until the day of trial to designate an attorney. *Powell*, 287 U.S. at 58. The trial court had appointed the local bar generally, but not a specific lawyer until trial. *Id.* at 56.

Discussing the importance of honoring the right to representation, this Court stated:

> It is hardly necessary to say that the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his own choice. Not only was that not done here, but such designation of counsel as was attempted was either so indefinite or so close upon trial as to amount to a denial of effective and substantial aid in that regard.

*Id.* at 53.

Two years later, in *Avery*, this Court emphasized its commitment to the general rule that a court cannot engage in procedures that "convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel." *Avery*, 308 U.S. at 446. But in doing so, it affirmed a trial court's actions that, at first blush, seem like the same procedures disapproved of in *Powell*: A trial court—in a death case—forced attorneys to try the case three days after arrest, resulting in a conviction and death sentence. *Id.* at 445–46. Key to the outcome, however, was the venue. *Id.* at 450–53. As this Court emphasized, the rural location made it possible for the defense to complete necessary parts of an investigation. *Id.* at 451–52. Thus,

unlike *Powell*, there was time to satisfy the minimum requirements of the Sixth Amendment. *Ibid.*

Through these two cases, a general rule emerged that courts should presume attorneys provided competent representation unless, among other things, their performance prejudiced their clients. *United States v. Chronic*, 466 U.S. 648 at 658 (1984). But this Court has always emphasized that, in some scenarios, the likelihood of prejudice is so high there is no point in "litigating their effect in a particular case." *Ibid.* Examples of that latter category include the actual denial of counsel; when there is counsel, but "counsel entirely fails to subject the prosecution's case to meaningful adversarial testing"; and when "the likelihood that any lawyer, even a fully competent one, could" succeed because the process was so stacked against them. *Id.* at 659–60. These latter categories of cases are akin to *Defendant B*'s situation, because even though there was standby counsel throughout the case, said counsel never prepared to try the case. Instead, she was an observer thrust into a process so stacked against her it was impossible for her to succeed. And unfortunately for *Defendant B*, this Court has never extended its reasoning from cases like *Powell* to standby counsel cases.

Nonetheless there are reasons for doing so, and illustrations from this Court's past help explain those reasons and why the same type of analysis is appropriate.

In *Geders v. United States*, 425 U.S. 80 (1976), a trial court stopped John Geders's attorney from communicating with him during an overnight recess because Geders was still testifying. *Id.* at 83. Recognizing that "a sequestration order affects a defendant in quite a different way from the way it affects a nonparty witness," this Court did not conduct a prejudice-based inquiry. *Id.* at 91. Instead, it focused on how important the Sixth Amendment right to counsel is. *Id.* at 88, 91. Later, this Court explained why a prejudice inquiry was unnecessary in *Geders* when such an inquiry *is* necessary when "determining whether the quality of a lawyer's performance itself has been constitutionally ineffective." *Perry v. Leeke*, 488 U.S. 272, 279–80 (1982). The critical distinction is that "direct governmental interference with the right to counsel is . . . different." *Id.* at 279.

In *Hamilton v. Alabama*, 368 U.S. 52 (1961), Charles Hamilton was denied counsel when he was arraigned. *Id.* at 52. This Court, like it did in *Geders*, sidestepped a prejudice analysis. *Id.* at 55. Such an

analysis, this Court said, was inappropriate because "the degree of prejudice can never be known. Only the presence of counsel could have enabled this accused to know all the defenses available to him and to plead intelligently" *Ibid.*

Just as the situations in *Powell*, *Geders*, and *Hamilton* rendered a prejudice analysis unnecessary, so too does *Defendant B*'s situation, because the court's procedures interfered with the right to effective representation. One could argue *Defendant B* created his predicament by representing himself—as the Eleventh Circuit did below—but that myopic analysis misses the mark. The issue is not whether *Defendant B* was *a* but-for causation of his attorney's unpreparedness. Instead, it should be whether the district court's procedures created an untenable situation in which evaluating any prejudice is impossible because the attorney was prevented from satisfying even the minimum requires of the Sixth Amendment and, therefore, could not subject the case to adversarial testing.

Indeed, if a trial court believes promoting standby counsel is appropriate, it should ensure that counsel has an opportunity to be effective. Otherwise, it merely provides an opportunity for nominal assistance of counsel, not constitutionally sufficient counsel. To avoid that type of infringement on constitutional rights, this Court should clarify that standby counsel must, at a minimum, have an opportunity to prepare before a case may proceed to trial. Absent such a rule, trial courts could delay appointing standby counsel as long as they wish, frustrating the very purpose of using standby counsel in the first place.

In sum, this case is an ideal vehicle for resolving an important constitutional question that has divided courts and judges around the country. Petitioner, like *Defendant B*, was represented by an attorney who lacked any realistic chance of subjecting the government's case to adversarial testing. The trial court was aware of that situation, but it believed Petitioner did not have the right to have access to standby counsel that was familiar with Petitioner's case. (Doc. 357 at 77:6–15.) Such a standard is not rationally related to the very purpose of appointing standby counsel, and it creates an untenable strain on the ability of our justice system to produce consistent, reliable results. The

type of justice one receives should not depend on which courtroom the government happens to haul a defendant into and which judge happens to take the bench. Justice requires a unform understanding, and application, of the Sixth Amendment and its demands.

## CONCLUSION

Based on the foregoing, this Court should grant this petition and review the decision of the United States Court of Appeals for the Eleventh Circuit.

Respectfully submitted Tuesday, March 17, 2026.

Ezra Addison Gantt
Assistant Federal Defender
GA Bar No.: 385634
addison_gantt@fd.org

Federal Defenders of the Middle District of Georgia, Inc.
440 Martin Luther King, Jr. Boulevard, Suite 400
Macon, Georgia 31201
Tel: (478) 743-4747 Fax: (478) 207-3419