

No. **25-7592**

ORIGINAL

Supreme Court, U.S.
FILED

MAR 23 2026

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Asa Carl Scapes — PETITIONER
(Your Name)

vs.

Montana — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Asa Carl Scapes
(Your Name)

M.S.P. ; 400 Conley Lake Road
(Address)

Deer Lodge, MT 59722
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

1. Whether the Sixth Amendment right to an impartial jury is violated when a supervising law-enforcement officer from the agency that investigated the defendant serves as a juror in the same criminal trial..
2. Whether trial counsel renders ineffective assistance under *Strickland v. Washington*, 466 U.S. 668 (1984), by failing to challenge or seek removal of a juror who supervised the investigation underlying the prosecution.
3. Whether a defendant's Fourteenth Amendment right to a fair trial is violated when widely separated allegations are joined for trial in a manner that invites propensity reasoning and substantial prejudice.

LIST OF PARTIES

Petitioner: Asia Carl Soapes

Respondent: State of Montana

No. _____

RELATED CASES

The following case arises from the same conviction challenged in this petition:

Soapes v. State of Montana

Petition for Post-Conviction Relief

Yellowstone County District Court

Case No. **DC-21-1001**

Currently pending.

TABLE OF CONTENTS

QUESTIONS PRESENTED

LIST OF PARTIES AND RELATED CASES

TABLE OF AUTHORITIES

OPINIONS BELOW 1

JURISDICTION 2

CONSTITUTIONAL PROVISIONS INVOLVED 3

STATEMENT OF THE CASE 4

REASONS FOR GRANTING THE PETITION 6

CONCLUSION 8

TABLE OF AUTHORITIES

Cases

Strickland v. Washington, 466 U.S. 668 (1984) ... 9

Smith v. Phillips, 455 U.S. 209 (1982) ... 9

Turner v. Louisiana, 379 U.S. 466 (1965) ... 9

Constitution

U.S. Const. amend. VI ... 7

U.S. Const. amend. XIV ... 7

Statutes

28 U.S.C. §1257 ... 7

INTRODUCTION

This case presents an extraordinary Sixth and Fourteenth Amendment question: a supervising law-enforcement officer from the agency that investigated the charges against petitioner was permitted to serve as a juror determining petitioner's guilt, making review essential to clarify the scope of these constitutional protections. The Montana Supreme Court affirmed the conviction without addressing this clear violation, leaving unresolved questions regarding structural fairness and the right to an impartial jury. Review by this Court is necessary to define the limits of juror service by law-enforcement officials and to safeguard the integrity of criminal trials nationwide.

OPINIONS BELOW

The Montana Supreme Court affirmed petitioner's criminal conviction while allowing a supervising law-enforcement official from the investigating agency to serve as a juror. This decision presents a serious constitutional question concerning the Sixth Amendment right to an impartial jury and whether a law-enforcement official connected to the investigation may participate in the verdict of the very case his agency investigated.

The Montana Supreme Court's decision affirming petitioner's conviction was entered on December 23, 2025. It is reproduced in **Appendix A**.

The District Court judgment of conviction is reproduced in **Appendix B**.

JURISDICTION

The Montana Supreme Court entered judgment on December 23, 2025.

This Court has jurisdiction under 28 U.S.C. §1257(a) because the decision below is a final judgment from the highest court of a State in which a federal constitutional question was decided.

This petition is filed within ninety days of the entry of judgment.

CONSTITUTIONAL PROVISIONS INVOLVED

Sixth Amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury..."

Fourteenth Amendment: "...nor shall any State deprive any person of life, liberty, or property, without due process of law..."

STATEMENT OF THE CASE

Petitioner Asia Carl Soapes was convicted in Yellowstone County, Montana, on several sexual assault charges. The trial record demonstrates that Undersheriff Bofto, who supervised officers involved in the investigation, served as a juror during petitioner's trial (Trial Transcript, Vol. 2, pp. 134–137; *State v. Soapes*, Montana Supreme Court Opinion, Appendix A, pp. 5–6). Trial counsel did not challenge the juror's service, and no additional voir dire was conducted (Id.). Undersheriff Bofto participated in deliberations determining petitioner's guilt, creating both actual and apparent bias.

Petitioner appealed to the Montana Supreme Court. The court affirmed the conviction on December 23, 2025, but declined to address claims regarding juror impartiality and ineffective assistance of counsel, stating that such claims must first be raised in post-conviction proceedings (Appendix A, pp. 8–9).

Pending Post-Conviction Relief

Petitioner has filed a petition for post-conviction relief in the Yellowstone County District Court, which remains pending. The Montana Supreme Court recognized the seriousness of petitioner's claims regarding juror impartiality and ineffective assistance of counsel, noting that counsel should be appointed to pursue these claims in post-conviction proceedings if requested (Appendix A, pp. 8–9). The continuation of the state proceedings ensures that the constitutional claims are fully developed in the trial record, while review by this Court remains necessary to resolve the overarching Sixth and Fourteenth Amendment questions.

Additionally, petitioner raised concerns that the trial improperly joined criminal charges separated by many years, creating a risk of improper propensity reasoning and substantial prejudice. The joinder of widely separated charges created a substantial risk that the jury would improperly infer petitioner's criminal propensity, increasing the likelihood of prejudice and implicating the Fourteenth Amendment's guarantee of a fair trial (Appendix A, pp. 9–10). The Montana Supreme Court did not resolve these claims, leaving significant constitutional questions regarding petitioner's right to a fair trial (Appendix A, pp. 9–10).

REASONS FOR GRANTING THE PETITION

This case presents a significant and recurring constitutional question regarding the Sixth Amendment right to an impartial jury. The participation of a supervising law-enforcement official who oversaw the investigation as a juror undermines both the appearance and reality of

impartiality, threatening structural fairness in the criminal trial process.

Trial counsel's failure to challenge or seek removal of the juror constitutes ineffective assistance under *Strickland v. Washington*, 466 U.S. 668 (1984). The Montana Supreme Court did not resolve this claim, directing that it first be raised in post-conviction proceedings (Appendix A, pp. 8–9). Because these issues remain unresolved, review by this Court is necessary to provide guidance on the constitutional limits of juror service and counsel performance in criminal cases nationwide.

The case also presents important due process concerns under the Fourteenth Amendment. Widely separated charges were tried together, creating a substantial risk that the jury would improperly infer petitioner's criminal propensity, increasing the likelihood of prejudice (Appendix A, pp. 9–10). The Montana Supreme Court did not address these issues, leaving the constitutional implications unresolved.

Given the extraordinary facts of this case, the participation of a supervising law-enforcement officer from the investigating agency as a juror presents a structural constitutional defect that undermines the basic framework of the jury trial itself and therefore warrants this Court's review.

I. Participation of a Supervising Law-Enforcement Official as a Juror Undermines the Sixth Amendment

The Sixth Amendment guarantees trial by an impartial jury. A juror with a direct professional connection to the investigation violates this guarantee.

Smith v. Phillips, 455 U.S. 209 (1982), held that the Constitution requires a jury capable and willing to decide the case solely on the evidence.

McDonough Power Equipment, Inc. v. Greenwood, 464 U.S. 548 (1984). The Court has also recognized that juror impartiality is compromised when circumstances create a serious risk that a juror cannot decide the case solely on the evidence presented at trial.

Turner v. Louisiana, 379 U.S. 466 (1965), recognized that close relationships between jurors and law-enforcement participants may violate the right to an impartial jury.

In this case, the supervising officer meets both criteria: a professional connection to the investigation and active participation in deliberations (Appendix A, pp. 5-6).

Courts have long recognized that certain forms of juror bias are so fundamental that they constitute structural error requiring reversal without a specific showing of prejudice. The presence of a juror who holds a supervisory role within the law-enforcement agency responsible for investigating the defendant raises precisely such concerns. A supervising officer's institutional role and professional allegiance to the investigating agency create an inherent risk of implied bias that cannot easily be cured through ordinary voir dire. Allowing such a juror to participate in determining guilt threatens the structural integrity of the jury system and undermines public confidence in the fairness of criminal trials.

II. The Presence of a Biased Juror Constitutes Structural Constitutional Error

Even a single biased juror undermines the structural protections of the Sixth Amendment, compromising trial reliability and legitimacy.

III. Trial Counsel's Failure to Challenge the Juror Violates Sixth Amendment

Rights

Trial counsel's failure to remove or question the juror falls below the standard established in *Strickland v. Washington*, 466 U.S. 668 (1984), creating a substantial risk of constitutional harm (Appendix A, pp. 5–6, 8–9).

IV. Joinder of Offenses Raises Additional Due Process Concerns

The trial joined widely separated allegations, creating a substantial risk that the jury would improperly infer petitioner's criminal propensity, increasing the likelihood of prejudice, and implicating the Fourteenth Amendment (Appendix A, pp. 9–10).

THIS CASE PRESENTS AN APPROPRIATE VEHICLE FOR REVIEW

The trial record clearly demonstrates a constitutional violation: a supervising law-enforcement official directly involved in the investigation served as a juror, and trial counsel failed to challenge or question the juror. These facts present an unusually strong factual record, making this case an ideal vehicle for Supreme Court review.

Because the Montana Supreme Court declined to address the constitutional issues and directed that they first be raised in post-conviction proceedings, this case allows the Court to consider the important questions regarding the Sixth Amendment right to an impartial jury and the obligations of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984).

In addition, the improper joinder of widely separated offenses raises further questions under the Fourteenth Amendment regarding due process and potential prejudice. Taken together, these circumstances make the petition a clear and appropriate vehicle for clarifying the constitutional protections of criminal defendants and ensuring structural fairness in trials nationwide.

This case presents an important and recurring constitutional question concerning the structural protections of the Sixth Amendment jury trial guarantee. Allowing a supervising law-enforcement official from the investigating agency to participate as a juror threatens the fundamental requirement that criminal verdicts be rendered by a neutral and independent jury. Clarification from this Court is necessary to ensure that courts nationwide maintain clear boundaries between law-enforcement functions and the constitutional role of jurors in criminal trials. Because this issue implicates the structural integrity of the jury trial itself, it is one of the rare errors that warrants review even in the absence of a showing of specific prejudice.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,



Asia Carl Soapes

Petitioner, Pro Se

Date: March 23, 2026