THIS IS A CAPITAL CASE – EXECUTION SET FOR OCTOBER 15, 2025

No. 25A__
No. 25-___ (connected case)

In the
Supreme Court of the United States

CHARLES RAY CRAWFORD,

Petitioner,

v.

STATE OF MISSISSIPPI.

Respondent.

On Petition for a Writ of Certiorari
to the Supreme Court of Mississippi

EMERGENCY APPLICATION FOR STAY OF EXECUTION

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States and Circuit Justice for the Fifth Circuit:

The State of Mississippi has scheduled the execution of Petitioner Charles Ray Crawford for October 15, 2025. On October 1, 2025, petitioner filed a petition for a writ of certiorari presenting the question whether *McCoy* v. *Louisiana*, 584 U.S. 414 (2018), announced a new rule under *Teague* v. *Lane*, 489 U.S. 288, 301 (1989), or instead merely applied existing Sixth Amendment principles in holding that the accused has an absolute Sixth Amendment "right to insist that counsel refrain from admitting guilt" at trial. *McCoy*, 584 U.S. at 417. For the reasons explained at length in the petition, there is at minimum a reasonable prospect that this Court will grant certiorari on that question and reverse the Mississippi Supreme Court's holding that *McCoy* announced a new rule; and absent a stay, petitioner will suffer the irreparable harm of being executed on October 15.

At petitioner's capital trial, petitioner's counsel repeatedly conceded petitioner's guilt before the jury, going so far as to argue that petitioner was "legally responsible" and "still dangerous." Petitioner objected both to counsel and to the trial court, to no avail. Petitioner was convicted and sentenced to death. After petitioner's conviction became final, this Court held in *McCoy* that the Sixth Amendment prohibits counsel from conceding guilt over the accused's objection. Based on *McCoy*, petitioner filed a successor postconviction petition in the Mississippi Supreme Court, invoking the State's rules permitting such petitions when there has been an intervening change in the law. Miss. Code Ann. § 99-39-27(9). The Mississippi Supreme Court denied relief in a bare-bones order that dismissed the petition as procedurally barred on the ground that *McCoy* does not apply retroactively—a conclusion that rests on the unstated conclusion that *McCoy* announced a new rule. But *McCoy* did no such thing—instead,

it straightforwardly applied longstanding Sixth Amendment principles that, at the time petitioner was convicted, already guaranteed him the right to be "master of his own defense." *Gannett Co.* v. *DePasquale*, 443 U.S. 368, 382 n.10 (1979). *McCoy*'s clarification of petitioner's Sixth Amendment rights thus applies with full force on collateral review.

Certiorari is manifestly warranted to review the Mississippi Supreme Court's refusal on federal law retroactivity grounds to honor its "duty to grant the relief that federal law requires." *Yates* v. *Aiken*, 484 U.S. 211, 217-218 (1988). Petitioner respectfully requests a stay of execution pending the Court's disposition of this case.

PROCEDURAL BACKGROUND

As explained more thoroughly in petitioner's pending petition, this case arises from a Mississippi capital conviction and sentence that became final before this Court decided *McCoy*. Pet. 6-11. Long before both *McCoy* and petitioner's 1994 trial, however, this Court had held that the Sixth Amendment guarantees the accused, rather than his counsel, "the ultimate authority to make certain fundamental decisions" about his defense. *Jones* v. *Barnes*, 463 U.S. 745, 751 (1983). That consistent line of this Court's decisions reflected that the Sixth Amendment "contemplat[es] a norm in which the accused, and not a lawyer, is master of his own defense." *Gannett*, 443 U.S. at 382 n.10; see, *e.g.*, *Faretta* v. *California*, 422 U.S. 806, 820 (1975) (the Sixth Amendment "speaks of the 'assistance' of counsel, and an assistant, however expert, is still an assistant").

In *McCoy*, this Court clarified that, at trial, "a defendant has the right to insist that counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty." 584 U.S. at 417. "Guaranteeing a defendant the right 'to have the *Assistance* of Counsel for *his* defence,' the Sixth Amendment so demands." *Id.* (quoting U.S. Const. amend. VI). *McCoy* thus explained

that, "[j]ust as a defendant may steadfastly refuse to plead guilty in the face of overwhelming evidence against her, or reject the assistance of legal counsel despite the defendant's own inexperience and lack of professional qualifications, so may she insist on maintaining her innocence at the guilt phase of a capital trial." *Id.* at 422.

After petitioner was indicted for murder but before his trial began, petitioner wrote letters to his appointed counsel about the need for pre-trial investigation, trial strategy, and petitioner's expectation that he would be acquitted. One letter, which petitioner sent in the months before trial, emphasized to his counsel that "[a]ll a defendant is required to show is a reasonable doubt," for which petitioner believed he had "more than shown sufficient evidence." Pet. 7. In another letter, petitioner unequivocally instructed his attorneys that "[y]our *main* objective as my defense counsel should be to do *everything* within your power to obtain an acquittal in my case!" *Id.*

At trial, petitioner's counsel immediately and repeatedly conceded petitioner's guilt, over his express objections. Pet. 7-10. As petitioner's appointed counsel later stated in a signed affidavit, "the trial strategy was to concede the underlying facts of Mr. Crawford's guilt and argue an insanity defense." *Id.* 7-8. That strategy manifested throughout the guilt phase of petitioner's trial. As early as voir dire, for example, petitioner's attorney stated, "[w]e do not anticipate a defense or that the defense is going to be able to show or to attack the State's case and prevent them from showing that this Defendant did in fact commit the acts that he is charged with." *Id.* 8. And during the guilt-phase closing arguments, petitioner's attorney conceded: "No one else is legally responsible for what happened here." *Id.* Petitioner, for his part, expressed his ardent disagreement with his lawyers' concession of guilt throughout the trial. *Id.* 9-10. Petitioner stated on the record, for instance, that, "[f]rom the time that [his counsel] during the voir dire of the jury told the jury that they couldn't prove that I was innocent. They might as

well been sitting over there with the prosecution." *Id.* 10. At all turns, the trial court and petitioner's counsel rebuffed his objections and allowed counsel to concede guilt.

The jury convicted petitioner of capital murder and sentenced him to death. *Crawford* v. *Mississippi*, 716 So. 2d 1028, 1031 (Miss. 1998). It is thus crystal clear that petitioner's Sixth Amendment rights, as explicated by this Court's decisions, were violated at trial, and that petitioner was prejudiced as a result.

In December 2024, petitioner filed a successive petition for postconviction relief in the Mississippi Supreme Court, arguing that under *McCoy*, counsel's concession of guilt over his objections violated the Sixth Amendment. Pet. 11-12. In particular, petitioner argued that this Court has long held that the Sixth Amendment forbids counsel from overriding a client's autonomy to make certain fundamental decisions about his defense. Petitioner contended that this Court's decisions elucidating the constitutional violation culminated in, but are not limited to, *McCoy*. And petitioner submitted that, under federal law, *McCoy* applied retroactively on collateral review primarily because although *McCoy* crystallized the nature of the constitutional violation that occurred at his trial, *McCoy* was merely an application of settled Sixth Amendment jurisprudence, such that the decision applied retroactively to petitioner's case as a matter of federal law.

On September 12, 2025, the Mississippi Supreme Court dismissed the petition in a short order on the grounds that the petition was subject to the one-year limitations period for capital cases and also barred as a successive petition for post-conviction relief. The state court did not engage with the merits of petitioner's Sixth Amendment claim or deny that his constitutional rights were violated. With regard to both the limitations period and the successive petition rule, the court reasoned that "[u]nless Crawford shows that his claims are excepted," they are

procedurally barred. Pet. App. 2a. The court went on to recognize that petitioner's "primary claim" was that this Court's decision in *McCoy* "amounts to an intervening decision and that he thus meets an exception to the bars." *Id.* (citing Miss. Code Ann. § 99-39-5(2)(a)(i) (Rev. 2020); Miss. Code Ann. § 99-39-27(9) (Rev. 2020)). The Mississippi court, however, "f[ound] that Crawford has not shown that *McCoy* should be given retroactive effect." Pet. App. 3a. The court also "note[d] that Crawford waited" to file the petition after *McCoy* was decided. *Id.* Accordingly, the decision below concluded that "no relief is warranted." *Id.*

The same day, the Mississippi Supreme Court granted the State's motion to set an execution date for petitioner. Pet. App. 5a. That court stated that "execution of the death sentence imposed upon Charles Ray Crawford shall take place in a manner provided by law on October 15, 2025, at 6:00 p.m. C.D.T., or as soon as possible thereafter within the next twenty-four (24) hours." *Id.*

Petitioner timely filed a petition for a writ of certiorari in this Court on October 1, 2025.

REASONS FOR GRANTING THE STAY

Petitioner respectfully seeks a stay of execution pending the disposition of this case. Petitioner has already filed a petition for certiorari, and granting a stay of execution would permit this Court to consider that petition and to resolve the case before the State presses ahead with the execution.

A stay of execution is warranted where there is a "presence of substantial grounds upon which relief might be granted." *Barefoot* v. *Estelle*, 463 U.S. 880, 895 (1983). To determine whether a stay is warranted, this Court considers the petitioner's likelihood of success on the merits, the relative harm to the parties, and the extent to which the prisoner has delayed his or her claims. See *Hill* v. *McDonough*, 547 U.S. 573, 584 (2006); *Nelson* v. *Campbell*, 541 U.S. 637, 649-650 (2004). In certiorari proceedings, a petitioner must show a reasonable probability that

four members of this Court would vote to grant certiorari, a significant likelihood of reversal of the lower court's decision, and a likelihood of irreparable harm absent a grant of certiorari. See *Barefoot*, 463 U.S. at 895. Here, those factors all weigh in favor of staying petitioner's execution.

I. THERE IS A REASONABLE PROSPECT THAT THIS COURT WILL GRANT CERTIORARI AND REVERSE THE MISSISSIPPI SUPREME COURT'S DECISION.

Petitioner's petition for a writ of certiorari has a substantial likelihood of success. Petitioner stands to be executed despite a blatant violation of his Sixth Amendment rights as they existed at the time that his conviction became final. Petitioner's counsel conceded guilt at trial over petitioner's express and repeated objection. Pet. 6-11. Petitioner repeatedly urged his counsel to vigorously advocate for his acquittal at trial—"to do *everything* within [counsel's] power to obtain an acquittal in [his] case[.]" *Id.* 7. Yet his counsel did the opposite. *Id.* 7-10. The trial court's failure to intervene straightforwardly violated petitioner's longstanding Sixth Amendment right to the "ultimate authority to make certain fundamental decisions," including whether to concede guilt. See *Jones* v. *Barnes*, 463 U.S. 745, 751 (1983). That constitutional violation was apparent under this Court's decisions when petitioner was convicted, and it is uncontestable under *McCoy* v. *Louisiana*, 584 U.S. 414, 417 (2018), which held that "a defendant has the right [under the Sixth Amendment] to insist that counsel refrain from admitting guilt."

A. The Mississippi Supreme Court's holding that *McCoy* is not retroactive—a conclusion that necessarily rested on the assumption that *McCoy* announced a new rule—warrants this Court's review. The Mississippi court's holding conflicts with this Court's decisions on a question of recurring importance.

This Court has made clear that a decision does not announce a "new rule" unless it

"'break[s] new ground or impose[s] a new obligation' on the government." *Chaidez* v. *United States*, 568 U.S. 342, 347 (2013) (quoting *Teague* v. *Lane*, 489 U.S. 288, 301 (1989)). When this Court "appl[ies] a settled rule" in a novel context, a defendant may "avail herself of the decision on collateral review" regardless of whether the conviction was final before the decision. *Id.* at 347; accord *Whorton* v. *Bockting*, 549 U.S. 406, 416 (2007) ("[A]n old rule applies both on direct and collateral review.").

McCoy's holding that counsel may not concede guilt over the accused's objection was "merely an application of the principle that governed" this Court's longstanding Sixth Amendment precedent. *Chaidez*, 568 U.S. at 347-48 (quoting *Teague*, 489 U.S. at 307). Long before petitioner's conviction, this Court recognized that "the accused, and not a lawyer, is master of his own defense" under the Sixth Amendment. *Gannett Co.* v. *DePasquale*, 443 U.S. 368, 382 n.10 (1979). The Sixth Amendment guarantees "the 'assistance' of counsel, and an assistant, however expert, is still an assistant." *Faretta* v. *California*, 422 U.S. 806, 820 (1975). This Court has thus long recognized that the *defendant* enjoys "the ultimate authority to make certain fundamental decisions" about his defense. *Jones*, 463 U.S. at 751. For example, this Court established decades before petitioner's conviction that the Sixth Amendment "does not provide merely that a defense shall be made for the accused; it grants to the accused personally the right to make his defense." *Faretta*, 422 U.S. at 819. That is so even though self-representation "usually increases the likelihood of a trial outcome unfavorable to the defendant." *McKaskle* v. *Wiggins*, 465 U.S. 168, 177 n.8 (1984). And for the same reasons, this Court has held for decades that counsel cannot override a defendant's absolute right to "take the witness stand and to testify in his or her own defense." *Rock* v. *Arkansas*, 483 U.S. 44, 49 (1987). After all, "the structure of the [Sixth] Amendment" "necessarily implie[s]" the accused's absolute right

to testify because the "accused's right to present his own version of events in his own words" is "fundamental to a personal defense." *Id.* at 52 (citation omitted). Further, the accused's "ultimate authority" over "fundamental decisions" similarly extends to "whether to plead guilty, waive a jury," or "take an appeal." *Jones*, 463 U.S. at 751.

The result in *McCoy* was "dictated by [that] precedent," *Chaidez*, 568 U.S. at 348 (citation omitted), all of which was well settled before petitioner was tried or convicted. Just as petitioner has an absolute right to determine whether to plead guilty, represent himself, and testify as part of his defense, petitioner similarly has a right to define the most basic objective of his defense—to determine whether to concede his own guilt. That right is an obvious extension of the fundamental right to control one's own defense that had been established and reaffirmed for decades before petitioner's conviction became final. Accordingly, courts to consider the issue had held, well before *McCoy*—and even before petitioner's trial—that, under the Court's pre-*McCoy* precedents, conceding guilt over a defendant's objection violated the Sixth Amendment. See, *e.g.*, *Francis* v. *Spraggins*, 720 F.2d 1190, 1194 (11th Cir. 1983); *Wiley* v. *Sowders*, 647 F.2d 642, 650 (6th Cir. 1981) (given the defendant's right to determine whether to plead innocence, "attorney [must] structure the trial of the case around his client's plea"); *Byrd* v. *United States*, 342 F.2d 939 (D.C. Cir. 1965); *Commonwealth* v. *Lane*, 382 A.2d 460 (Pa. 1978).

The question whether *McCoy* announced a new rule is a recurring one. Two state courts have concluded, in conflict with the Mississippi Supreme Court's order below, that *McCoy* did not announce a new rule, but instead merely clarified existing Sixth Amendment precedent. See *Jan G.* v. *Comm'r of Correction*, 2023 WL 8431827 (Conn. Super. Ct. Nov. 20, 2023); *In re Smith*, 49 Cal. App. 5th 377 (Cal. Ct. App. 2020). And given the recurring nature of retroactivity questions in general, and their importance to the legitimacy of criminal convictions, this Court

has regularly granted certiorari to decide whether criminal procedure decisions announce new rules and, if so, apply retroactively under *Teague*. See, *e.g.*, *Chaidez*, 568 U.S. 342; *Montgomery* v. *Louisiana*, 577 U.S. 190 (2016); *Whorton*, 549 U.S. 406. The Court should do the same here.

Review is particularly warranted to ensure that state courts faithfully apply this Court's decisions—not only their precise holdings, but their reasoning. By the time of petitioner's trial, this Court had clearly elucidated the principle at stake here: the Sixth Amendment's guarantee of a personal right to make decisions fundamental to the objectives of the defense. The trial court was well aware of petitioner's vehement objections to counsel's concession of guilt, and presumptively aware of this Court's extant decisions—yet it disregarded the import of this Court's jurisprudence and forced petitioner to proceed with a defense that was irreconcilable with his personal objectives. The Mississippi Supreme Court then compounded that error by refusing to recognize that *McCoy* did not announce a new rule. That refusal had the effect of rendering the Sixth Amendment's protection of defendants' right to a personal defense illusory for all Mississippi defendants whose convictions became final before *McCoy*—despite this Court's many longstanding decisions safeguarding that right. The Mississippi Supreme Court "ha[d] a duty to grant the relief that federal law requires" under *McCoy*, and certiorari is warranted to enforce that duty. See *Yates* v. *Aiken*, 484 U.S. 211, 217-218 (1988) (holding that state may not refuse retroactive application of a Supreme Court decision that "did not announce a new rule," but merely clarified the application of this Court's earlier decisions).

B. For much the same reasons, the Court is likely to reverse the Mississippi Supreme Court's decision. This Court had broadly held that the Sixth Amendment guaranteed the accused the right to personally make decisions fundamental to the defense's objectives—and there are few decisions more fundamental than whether to concede guilt before the jury. And *McCoy*'s

reasoning leaves no doubt that its recognition of the accused's right not to concede guilt flowed directly from the principles that the Court had long ago announced. The *McCoy* Court expressly analogized the decision whether to concede guilt to decisions already recognized as the defendant's own to make: "*Just as* a defendant may steadfastly refuse to plead guilty in the face of overwhelming evidence against her, or reject the assistance of legal counsel despite the defendant's own inexperience and lack of professional qualifications, *so may she insist* on maintaining her innocence at the guilt phase of a capital trial." 584 U.S. at 422 (emphases added). After all, none of those decisions "are * * * strategic choices about how best to achieve a client's objectives; they are choices about what the client's objectives in fact are." *Ibid*. The Court thus made clear that its holding was a clarification and application of existing Sixth Amendment principles.[1]

All told, *McCoy* did not announce a new rule, and the decision below wrongly denied petitioner the benefit of his fundamental Sixth Amendment rights on the theory that this Court's confirmation of the constitutional violation came too late to matter in petitioner's case.

II. PETITIONER WILL SUFFER IRREPARABLE HARM ABSENT A STAY OF EXECUTION, AND THE BALANCE OF EQUITIES AND PUBLIC INTEREST SUPPORT A STAY.

If the execution is not stayed pending disposition of this case, petitioner will unquestionably suffer irreparable harm. Petitioner would be executed without the opportunity to fully litigate his meritorious claim that his death sentence was imposed in violation of this Court's decisions, culminating in *McCoy*, explicating the protections guaranteed by the Sixth Amendment. That is an "irremediable" harm because "execution is the most irremediable and unfathomable of

[1] As explained in the petition, no independent and adequate state ground bars this Court's review. Pet. 26-31. The Mississippi Supreme Court's application of timeliness and successive-petition bars turned entirely on its conclusion that *McCoy* did not announce a new rule—which is a question of federal, not state, law.

penalties." *Ford* v. *Wainwright*, 477 U.S. 399, 411 (1986).

Further, allowing the government to execute petitioner while his petition is pending threatens to "effectively deprive this Court of jurisdiction." *Garrison* v. *Hudson*, 468 U.S. 1301, 1302 (1984) (Burger, C.J., in chambers). Because the "'normal course of appellate review might otherwise cause the case to become moot,' * * * issuance of a stay is warranted." *Id.* at 1302 (quoting *In re Bart*, 82 S. Ct. 675, 676 (1962) (Warren, C.J., in chambers)).

By contrast, granting a stay will not similarly harm the State. The State's interest in finality is at its nadir here. This Court's precedent establishes that the state courts misapplied federal law in sentencing petitioner to death after permitting his appointed counsel to concede guilt at trial over petitioner's express objections. But the Mississippi Supreme Court refused to acknowledge the force of this Court's precedent, and thereby rendered the Sixth Amendment's bedrock guarantees illusory. Granting a stay will permit petitioner to vindicate the compelling public interest in ensuring this Court's decisions are enforced nationwide.

Moreover, petitioner has exercised diligence in presenting his claim. Petitioner presented the claim after *McCoy* clarified the constitutional violation that occurred at petitioner's trial, and petitioner fully complied with Mississippi's rules concerning successor petitions that meet a statutory exception under Mississippi law. See Pet. 11-12. And petitioner sought certiorari here as expeditiously as possible—less than three weeks after the decision below was issued. Indeed, it was the Mississippi Supreme Court that held onto petitioner's petition for over eight months, only to simultaneously deny relief and also grant the State's request to set an execution date as soon as possible.

Petitioner cannot be faulted for the State's decision to seek an execution date that would prematurely short-circuit this Court's opportunity to review the Mississippi courts' refusal to fol-

low this Court's precedents. Under those circumstances, the balance of equities and the public interest unambiguously support issuance of a stay of execution.

III. CONCLUSION

The application for a stay of execution should be granted.

Dated: October 1, 2025

Respectfully submitted,

/s/ Donald B. Verrilli, Jr.

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