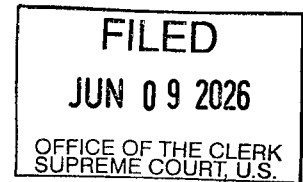


26-5885 ORIGINAL
No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

JOHN E LOHDEN JR.,

____ — PETITIONER

(Your Name)

VS.
UNITED STATES OF AMERICA,

____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

JOHN EDWARD LOHDEN JR

(Your Name)

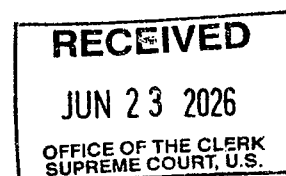
P.O. BOX 5000

(Address)

GREENVILLE, IL 62246

(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

Whether Due Process permits sentencing a defendant whose severe psychiatric decompensation, and documented manifestations of "Dissociative Identity Disorder" and "Post Traumatic Stress Disorder" prevented a "Rational and Factual Understanding of sentencing proceedings under Dusky v. United States, 362 U.S. 402 (1960). Following Pate v. Robison, and Drope v. Missouri, where substantial post-trial evidence demonstrated that Petitioner mentally deteriorated between "Conviction and "Sentencing."

Whether Due Process and fundamental fairness are violated when the Government conditions individual liberty upon third party constitutional decisions, as a contingent plea offer was placed upon circumstances entirely outside a defendant's control, then withdraws the offer despite the defendant's acceptance of responsibility and willingness to plea guilty.

Whether defense counsel rendered ineffective assistance during plea negotiations and competency proceedings by failing to adequately protect Petitioner's Constitutional rights after severe psychological deterioration became apparent before and at sentencing.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Petitioner: John E Lohden Jr.

Respondent: United States of America

RELATED CASES

Boylin v. Alabama,	395 U.S. 238 (1969)
Brady v. United States,	397 U.S. 742 (1970)
Dusky v. United States,	362 U.S. 402 (1960)
Godinez v. Moran,	509 U.S. 389 (1993)
Hill v. Lockhart,	474 U.S. 52 (1985)
Lafler v. Cooper,	566 U.S. 156 (2012)
Machibroda v. United States,	368 U.S. 487 (1962)
Padilla v. Kentucky,	559 U.S. 356 (2010)
Pate v. Robison,	383 U.S. 375 (1966)
Santobello v. New York,	404 U.S. 257 (1971)
Strickland v. Washington,	466 U.S. 668 (1984)
Ford v. Wainwright,	477 U.S. 399 (1986)
Indiana v. Edwards,	554 U.S. 164 (2008)
Panetti v. Quarterman,	551 U.S. 930 (2007)
Missouri v. Frye,	566 U.S. 134 (2012)
Rompilla v. Beard,	584 U.S. 414 (2018)
Ricketts v. Adamson,	483 U.S. 1 (1987)
United States v. Hyde,	574 U.S. F.2d 856,867(1978)
Ricketts v. Adamson,	483 U.S. 1 (1987)

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OTHER

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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 13, 2026

☐ 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).

N/A

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ 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

The Fifth Amendment provides in relevant part:

"No person shall...be deprived of life, liberty, or property, without due process of law".

The Sixth Amendment provides in relevant part:

"In all criminal prosecutions, the accused all shall enjoy the right... to have the Assistance of Counsel for his defence."

The Fourteenth Amendment provides in relevant part:

"No State shall deprive any person of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

KETHLEDGE, Circuit Judge. A jury convicted Dayton Peterson and John Lohden, Jr. of kidnapping, robbery, and impersonating an officer, among other crimes. The district court sentenced Peterson to 30 years in prison and Lohden to 39 years. On appeal, they challenge their convictions and sentences on myriad grounds. We reject their arguments and affirm.

I.

For about six years, John Lohden, Jr., worked as a confidential informant for the Bullitt County Sheriff's Office. During{2026 U.S. App. LEXIS 2} that time, he also worked occasionally with the Louisville Police Department and the Federal Bureau of Investigation. Through his work, Lohden learned who in his area sold drugs-and he assembled a modest arsenal of guns and law-enforcement gear.

In July 2021, Lohden kidnapped Anthony Bishop, a suspect he was helping to investigate. Lohden, his brother, and a friend drove to Bishop's apartment dressed as United States Marshals. When they arrived, they put Bishop in handcuffs and led him to a black SUV, where they blindfolded him. They

then drove Bishop to a parking garage, where they forced him to call his friends and family for ransom. Lohden and his partners released Bishop only after he had given them between \$75,000 and \$80,000.

Over the next year, Lohden continued to work with law enforcement. In January 2022, he offered to arrange a controlled buy to help police recover a set of stolen firearms. Lohden took money from law enforcement and brought back three rifles and a shotgun. But the guns had been his all along. Lohden split the money with his friend, who had played the seller.

In August 2022, Lohden kidnapped Jose Manuel Avila-Galaviz. This time, Lohden brought along Dayton Peterson{2026 U.S. App. LEXIS 3} and two other friends. Lohden and Peterson entered Avila's house-armed and wearing body armor-and told Avila and his family that they had a search warrant. Lohden and Peterson scoured the house and collected (among other things) at least 17 firearms, 33 Rolex watches, 80 pounds of cocaine and heroin, and \$70,000 cash. They then told Avila that they were taking him to the "federal building," and they drove him away in his own car. In the parking lot of a nearby store, Lohden and Peterson demanded that Avila tell them about other drug-dealers in the area. After they drove Avila home, they drove away again in his car-this time without Avila-to take the car "to impound."

Two days later, local police tried to arrest Lohden on outstanding warrants. Law enforcement surrounded the car Lohden was driving; but he rammed his vehicle into several others, drove off, and hit yet more vehicles, including a school bus. Eventually, Lohden exited the car and fled on foot, with his minor son in tow. Law enforcement soon found the pair hiding in a bush nearby.

On Lohden's person, officers found watches and cash; in the car, they found cocaine, heroin, cash, law-enforcement gear, a search warrant with Avila's{2026 U.S. App. LEXIS 4} wife's name on it, two rifles, and a grenade. Lohden said he had procured the firearms and jewelry from "someone named D," and he directed police to a storage unit where Avila's car was parked. The storage unit had been rented by Dayton Peterson.

Meanwhile, shortly after Avila's kidnapping, Peterson paid \$27,000 in cash for a trailer, which law enforcement started to surveil. On one occasion, police saw Peterson loading a pink backpack into a white truck parked outside the trailer. In October 2022, police executed a search warrant at the trailer, and they found watches, marijuana, drug paraphernalia, pistols, ammunition, more than \$12,000 cash, and three cellphones. They arrested Peterson the same day. When police searched the white truck two months later (with a new search warrant), they found a pink backpack that contained cocaine, heroin, and digital scales.

Four months later, an FBI agent asked Lohden's attorney whether he wanted to claim the car Lohden had wrecked on the day of his arrest. Lohden's attorney replied, "No, we don't want it." The agent arranged for the car to be towed, and when he searched the car for the keys (at the tow-truck driver's request), he found a foil-wrapped{2026 U.S. App. LEXIS 5} cellphone. The agent obtained a search warrant for the phone, where he found messages between Lohden and Peterson about another planned kidnapping.

For the Bishop incident (the first kidnapping), Lohden was charged with kidnapping and impersonating an officer. See 18 U.S.C. §§ 913, 1201(a)(1). For the fraudulent controlled buy, Lohden was charged with possessing a firearm as a felon and possessing an unregistered firearm. See *id.* § 922(g)(1); 26 U.S.C. § 5861(d). For the Avila incident, both Lohden and Peterson were charged with kidnapping, impersonating an officer, robbery, brandishing a firearm during a violent crime, and conspiracy to possess with intent to distribute controlled substances. See 18 U.S.C. §§ 913, 924(c)(1)(A), 1201(a)(1), 1951(a); 21 U.S.C. §§ 841(a)(1), 846. Lohden was individually charged with possessing with intent to distribute controlled substances, possessing a firearm during a

drug-trafficking crime, and possessing an unregistered firearm. See 18 U.S.C. § 924(c)(1)(A); 21 U.S.C. § 841(a)(1); 26 U.S.C. § 5861(d). For his conduct after the Avila incident, Peterson was separately charged with possessing with intent to distribute controlled substances, possessing a firearm during a drug-trafficking crime, and money laundering. See 18 U.S.C. §§ 924(c)(1)(A), 1957; 21 U.S.C. § 841(a)(1).

Prosecutors offered Lohden and Peterson a plea deal, albeit one they could accept only if both pled guilty. Lohden{2026 U.S. App. LEXIS 6} tried to accept, but Peterson refused. A joint trial followed, after which the jury found both defendants guilty of all charges. The trial court sentenced Lohden to 468 months in prison and Peterson to 360 months. These appeals followed.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW THREATENS THE RELIABILITY DETERMINATIONS OF COMPETENCY NATIONWIDE

The constitutional standard established in *Dusky v. United States* requires reliable determinations of rational understanding

However, the approach adopted below risks that mentally incompetent defendants will nevertheless be sentenced. This danger affects federal criminal proceedings nationwide because trauma-related psychiatric disorders are increasingly common among criminal defendants.

This case presents a unique opportunity for this Court to clarify the "Meaning" of "Rational Understanding" this is of "National Importance".

Without clearer constitutional guidance, lower courts may continue applying inconsistent standards that fail to adequately protect all mentally ill defendants during competency proceedings.

The competency standard established in *Dusky v. United States* requires not merely factual awareness, but "Rational Understanding".

Yet the lower courts frequently struggle to distinguish factual comprehension, superficial courtroom functionality, and genuine rational psychological understanding.

This case directly presents a National unresolved Constitutional question.

Petitioner contends that despite intermittent "Outward Functionality", severe dissociative impairment prevented him from "rationally understanding the consequences of the proceedings, how trauma-induced dissociation should be analyzed under competency jurisprudence, how fluctuating psychiatric symptoms should be evaluated, and what "Nationwide" "Constitutional Safeguards" are necessary before sentencing defendants suffering from severe trauma-related disorders

II. THIS CASE PRESENTS A UNIQUE OPPORTUNITY FOR THE COURT TO CLARIFY THE MEANING OF "RATIONAL UNDERSTANDING".

This competency standard established in *Dusky v. United States* requires not merely factual awareness, but "Rational Understanding".

Yet the lower courts frequently struggle to distinguish factual comprehension, superficial courtroom functionality, and genuine rational psychological understanding.

However, the approach adopted below risks creating framework in which "Outward appearance outweighs psychiatric evidence, fluctuating symptoms are dismissed as manipulation, trauma-induced dissociation is misunderstood, and irrational courtroom behavior is minimized. Such an approach creates substantial risk that mentally incompetent defendants will nevertheless be sentenced.

This danger affects federal criminal proceedings nationwide because trauma-related psychiatric disorders are increasingly common among criminal defendants.

Without clearer constitutional guidance, lower courts may continue applying inconsistent standards that fail to adequately protect mentally ill defendants during competency proceedings nationwide.

III. THE "SUA SPONTE" DUTY OF THE COURT

Allocution is one of the most important stages of criminal sentencing.

A defendant who lacks rational understanding cannot meaningfully speak on his own behalf, communicate remorse coherently, assist counsel during sentencing or participate intelligently in mitigation or rationally process just punishment.

The sentencing transcript reflected unusual and irrational conduct when Petitioner unexpectedly interrupted proceedings and counsel declined allocution on his own behalf, Petitioner stated:

Ref.(Doc-432-Page-5238 Sentencing Transcript)

DEFENDANT: "I'm a bad boy, I know that."

THE COURT: I'm sorry?

MR. COX: we're ready to move forward, sorry.

The Sixth Amendment duty: Defense counsel has a "duty to investigate" a client's mental health. If any attorney ignores obvious signs of incompetence, (irrational behavior) or lack of understanding of the proceedings, this is ineffective assistance of counsel due to his failure to investigate further into Petitioner's incoherent response after declined allocution.

In Pate v. Robison (1966): The critical "deep" procedural rule is that the responsibility to ensure competency belongs to the judge, not just the lawyers.

This ruling established that if there is a "bona fide doubt" about defendant's competency, the judge must pause the proceeding's on their own initiative via "sua sponte" Which in this case did not occur, both the Judge and Counsel continued the proceeding despite this "irrational conduct" with a defendant whom has consistent records of mental health illnesses since he was a child.

Ref.(Doc-403-Pages-4525-4589 Competency Hearing Transcript)

Ref.(Doc-396-Pages-4439-4478 Johnson Evaluation)

This Court has held that trying to sentencing an incompetent defendant violates due process under the Fourteenth Amendment, This Court explained that when substantial evidence of mental health instability or irrational behavior exists, the court cannot simply ignore it or rely only on its own observations of the defendant in the courtroom.

The evidence presented, included severe dissociative symptoms, psychiatric decompensation after conviction, irrational courtroom behavior, and expert testimony regarding alternate personalities, all this raised substantial doubt as to whether Petitioner possessed the rational understanding required under Dusky v. United States. Despite this evidence, the court improperly discounted the defense expert Dr. Wayne Haper testimony and relied heavily on superficial courtroom observations of trial and the Bureau of Prison's evaluation, contrary to the constitutional protections recognized in Pate.

Petitioner's condition prior to sentencing was further documented during a Bureau of Prisons psychological evaluation conducted by Dr. Johnson at the Federal Detention Center in Englewood, Colorado. During that evaluation, Petitioner was reportedly identifying himself as "Gary" documented by multiple staff members. At one point the Petitioner was reportedly discovered in a fetal position crying in his cell and was later identified presenting as a child like alternate personality named "Bubba".

Ref.(Doc-403-Pages-4525-4589 Competency Hearing Transcript)

The "Bubba" persona manifested at the sentencing hearing, Petitioner in this regression dissociative state rendered him from effectively assisting his counsel during the sentencing proceedings with a rational understanding under Dusky.

The "Shadow" of the 8th Amendment, While Dusky is a 14th Amendment (due process) case, the 8th Amendment (cruel and

unusual punishment) haunts Sentencing. If a defendant cannot understand why they are being punished, the "Punishment" loses its retributive and deterrent value, becoming "Pointless and needless horror".

Like in *Madison v. Alabama*, the court faces a metaphysical crisis, if a defendant's brain and physically changed pathways destroyed, memories erased, personality reconstructed is the "person" being sentenced the same person who was convicted? The Court's stance the law generally ignores the "new person" argument for guilt, but it embraces it for sentencing.

The rational link this Court has suggested that if the "Rational link" is severed by biological decay, the state is essentially "Punishing" a "Different identity". This is why a defendant who becomes incompetent after conviction but before "sentencing" cannot be processed the law requires a continuous "thread of identity" to justify the state's power.

The record in this case demonstrates substantial evidence of a "different identity" and severe psychiatric deterioration between conviction and sentencing. Defense expert Dr. Wayne Harper testified that Petitioner displayed bizarre behavior, severe psychological decline, dissociation, flattened affect, paranoia, and emergence of "alternate personalities after trial.

Dr. Harper specifically testified:

"It was absolutely bizarre. When they brought him in he was absolutely disheveled. His hair was unkempt. His clothing looked soiled. He had a sad, flat face. His affect was very flat and it looked like he wasn't entirely connected." Ref. (Doc-403-Page-4570 Hearing).

Dr. Harper further testified that a new alternate personality named "Gary" emerged after conviction and that this personality became intensely paranoid and believed Petitioner needed to be medicated and further tested as he lacked the "rational understanding" per "Dusky" and the evidence creates "doubt" under *Pate v. Robison*, "bona fide doubt" to proceed to sentencing. Ref. (Doc-403-4581 Hearing).

With the evidence presented, This Court may REMAND the case for a "retrospective" competency evaluation rather than an immediate REVERSAL, as seen in *Mayfield v. State of Texas* (2017).

IV. THE NATIONAL CIRCUIT SPLITS REGARDING COMPETENCY

The deepest conflict in these rulings is the clash between two different definitions of "Dignity".

The "Dusky floor", a defendant can be competent enough to stand trial with a lawyer (meeting the *Dusky v. United States* standard).

The "Edward's" Ceiling, that same defendant can be found incompetent to represent themselves. At sentencing, this means a state can legally force a lawyer upon a defendant who wants to speak for themselves if the judge believes the defendant's mental illness would turn the hearing into a "shambles" that the appearance of fairness.

In *Indiana v. Edward's* the majority argued that no trial is "fair" if it leaves a mentally ill person "hopeless and alone before the court". Here, the "dignity of the legal system's search for just sentence outweighs the individual's right to represent themselves.

The individual Autonomy as argued by Justice Scalia in his "Edward's" dissent, true dignity is the right to be the "master of one's fate", even if that means making an amateurish or self-defeating defense at sentencing.

A deep tension exists in case *Indiana v. Edward's* (2008). The Court faced a paradox: a defendant may be competent to stand trial (under *Dusky*) but incompetent to represent themselves. The Court recognized a "gray area" of defendants who are mentally ill but technically "competent". This suggests that "competency" is not a binary switch ON/OFF but a spectrum that the Court must navigate, especially when a defendant tries to fire their lawyer at sentencing.

The problem is a defendant can pass a clinical test (naming the judge, the jury, and the charges) but suffer from a delusional system that renders them unable to assist counsel.

Some circuits (like 5th and 11th) hold that if a defendant can recite the facts, they are competent, other circuits (like the 2nd and 9th) follow the "Rationality" prong under "Dusky", arguing that a defendant who believes their lawyer is a Government spy is incompetent, regardless of their "Factual" knowledge.

Courts often rely on "contemporaneous observations" by jail guards or the Judge to override professional medical history.

Under *Pate v. Robison*: a Judge's "lay opinion" cannot substitute for a clinical evaluation when the defendant has a documented history of severe psychosis. Citing Dr. Harper and Dr. Johnson's reports on record.

V THIS CASE PRESENTS IMPORTANT CONSTITUTIONAL QUESTIONS CONCERNING CONTINGENT PLEA AGREEMENTS

This Court has repeatedly recognized that plea bargaining is central to the American criminal justice system. See *Missouri v. Frye* and *Lafler v. Cooper*.

Yet the important "Constitutional" questions remain unresolved concerning contingent or "package" plea agreements dependent upon the actions of co-defendants.

Here, Petitioner personally accepted the Government's plea offer. Nevertheless, the Government withdrew the agreement solely because another defendant refused to plead guilty. Petitioner was therefore forced to trial and exposed to substantially greater punishment because of circumstances entirely outside his control.

This case presents nationally important constitutional questions concerning, the limits of prosecutorial discretion in contingent plea bargaining, due process protections during plea negotiations and whether one defendant may constitutionally lose an accepted plea agreement because of another person's actions.

Missouri v. Frye: this Court recognized that plea bargaining is not merely informal negotiation, but a "critical stage" of criminal proceedings where constitutional protections apply. In *Frye*, this Court held that the Sixth Amendment right to effective assistance of counsel applies during plea negotiations because modern criminal justice is largely resolved through plea bargaining rather than trial. This Court explained "Ninety-seven percent of federal convictions and ninety-four percent of state convictions are the result of guilty pleas." Because plea bargaining determines the outcome of most criminal cases, this Court recognized that defendants like Petitioner have constitutional interests that must be protected during the plea process.

Ref.(Doc-432-Pages5234-5235 Transcript Sentencing)

Petitioner's Counsel presented the following at the sentencing hearing:

"And the Government was willing to recommend to the Court that you impose a sentence of 25 years, or 300 months, for John, but it was again appropriately conditional to the other two defendants pleading, and Peterson changed his mind".

The Government employed structurally coercive bargaining mechanisms that conditioned negotiated liberty upon collective constitutional decision-making.

Public confidence in the integrity of federal criminal adjudication is undermined when liberty depends upon another person's constitutional choices.

Breach of "Executed" Agreements: *Santobello v. New York* (1971), once the plea is entered in court, the rules change entirely. In *Santobello v. New York*, the Court established that when a plea "rest in any significant degree on a promise of agreement of the prosecutor," that promise must be fulfilled.

Administrative Errors: Even if a breach is accidental (e.g., a new prosecutor joins the case and doesn't know about the deal), the state is still bound by the original promise.

Constitutional Protection: Unlike standard contracts, plea deals involve a defendant waiving fundamental rights (like the right to a jury trial). Therefore, due process requires the government to keep its word.

Court-Ordered Remedies for Prosecutorial Breach: When a prosecutor breaches an accepted deal, the Supreme Court does not incorporate a fix. Instead, it leaves it to state courts to choose between two primary remedies. The court forces the prosecution to honor the original deal. This often involves a re-sentencing before a different judge to ensure the original, breached recommendation is the only one considered.

When the Defendant "Breaches" First: *Ricketts v. Adamson* (1987)

The prosecution's obligation is not absolute; it is contingent on the defendant's performance. In *Ricketts v. Adamson*, the Court ruled that if a defendant breaches the terms of the agreement (such as refusing to testify as promised), the prosecutor can: Revoke the deal even after sentencing.

The justice U.S. Supreme Court Center: The ruling: In *United States v. Hyde*, the Supreme Court ruled that once the court accepts the plea, the defendant can no longer withdraw it "on a lark" or for no reason. The standard; the defendant must show a "fair and just reason" to back out. However, if the judge later rejects the agreement, the defendant then gains an absolute right to withdraw the plea. The takeaway: the guilty plea and the plea agreement are "bound up together" but are not legally identical. A plea can be binding on the defendant even before the deal is finalized.

VI INEFFECTIVE ASSISTANCE OF COUNSEL

Counsel's failure to fully investigate, obtain appropriate expert assistance, seek additional forensic evaluation or present mental health evidence deprived Petitioner of effective assistance under the Sixth Amendment.

Petitioner submits that accepted dissociative -disorder measures, including the Structured clinical interview for DSM Dissociative disorders(SCID-D), the dissociative experience scale (DES), and the multidimensional inventory of dissociation (MID), were not adequately utilized to rule out or confirm the presence of a severe dissociative disorder, this alone caused prejudice, none which was used in either competency evaluation. Ref.(Doc-403-Pages-4525-4589).

This Court has repeatedly recognized that courts have a continuing obligation to ensure that criminal proceedings are not conducted against defendants who lack the capacity the meaningfully participate in their defense. See Pate v. Robison, 383 U.S. 375 (1966); Drope v. Missouri, 420 U.S. 162 (1975).

Under Strickland v. Washington, 466 U.S. 688 (1984), counsel is constitutionally ineffective where, counsel's performance falls below an objective standard of reasonableness and prejudice results, Petitioner states that Counsel failed to adequately: investigate severe trauma disorders, obtain additional trauma-informed psychiatric evaluations, challenge the Bureau of Prisons malingering conclusions, present expert testimony regarding dissociation and alternate personalities, request additional competency proceedings and object to sentencing while Petitioner was "Actively Dissociating" after counsel's declined allocation on the Petitioner's behalf. Ref.(Doc-432-Page-5238 Transcript Sentencing). Counsel also failed to fully develop evidence demonstrating that Petitioner's competency deteriorated after conviction.

Had counsel properly investigated this evidence, there is a reasonable probability that Petitioner would have been found incompetent, sentencing would have been postponed or additional treatment and evaluation would have been ordered as requested by defense expert Dr. Wayne Harper at competency hearing Ref.(Doc-403-Pages-4525-4589)

Counsel's failure's prejudiced Petitioner and undermined confidence in the outcome of the proceedings.

A defendant may also not have to demonstrate prejudice if the attorney made a key decision about the case against the client's wishes, including whether to plead guilty (McCoy v. Louisiana), whether to waive the right to a jury trial, whether to forgo an appeal, or whether the defendant wanted to testify on their own behalf.

In limited circumstances, the defendant need not prove prejudice at all, under the Cronin doctrine. In United States v. Cronin This Court acknowledged that "affirmative government interference in the representation process" or the lawyer's failure to subject the prosecution's case to "meaningful adversarial testing" could constitute ineffective performance and per se prejudice.

This Court has discovered notable examples of ineffectiveness. In Rompilla v. Beard, the Court faulted the defendant's lawyer for not reviewing a file that the attorney knew would be used by the prosecution in the sentencing phase of the trial. In Hinton v. Alabama, this Court held a lawyer's performance ineffective when he did not request funding for a better ballistics expert, though he was statutorily entitled to do so.

In Missouri v. Frye, this Court ruled that a defendant can claim ineffective assistance of counsel if they reject a plea deal that, but for bad advice of counsel, would have otherwise been accepted, maintained by the prosecutor, and accepted by the judge.

The Sixth Amendment duty: Defense counsel has a "duty to investigate" a client's mental health, if an attorney ignores obvious signs of incompetence:

Ref.(Doc-432-Page-5238 Transcript Sentencing)

THE COURT: Does Mr. Lohden wish to address the Court?

MR. COX: He would respectfully decline to allocate, your honor.

THE COURT: Very Well.

THE DEFENDANT: I'm a bad boy. I know that.

THE COURT: I'm sorry?

MR. COX: we're ready to move forward, sorry.

(irrational behavior) or (lack of understanding the proceedings, this is ineffective assistance of counsel due to his failure to investigate further into Petitioner's incoherent response after declined allocation by counsel.

Petitioner's Counsel informed the Courts that he received a few correspondences on Petitioner's behalf and one letter from Petitioner's Alternate persona "Gary" raising suspicion of incompetency and breached the attorney-client process in open court exposing dialogue within attorney-client correspondences.
Ref. (Doc-380-Pages-4382-4400 Hearing Transcripts)

Petitioner's Counsel Mr. Scott Cox also submitted attorney-client confidential correspondences to the Government Bureau of Prisons psychiatrist Dr. Rebecca Johnson for review regarding Petitioner's request for counsel's assistance in Petitioner's mental current disturbances. this caused prejudiced and bias in the Government's ultimate conclusion of incompetency.
Ref.(Doc-403-Pages-4525-4589 Competency Hearing Transcript)

VII VOLUNTARINESS CANNOT EXIST UNDER STRUCTURAL COERCION

Despite the Petitioner's acceptance of the Government's proposed disposition and stood prepared to pled guilty pursuant to the negotiated terms the agreement was withdrawn by the prosecution.

This court has repeatedly recognized that plea bargaining is central to the American criminal justice system. See Missouri v. Frye and Lafler v. Cooper.

Yet the important "Constitutional" questions remain unresolved concerning contingent or "package" plea agreements dependent upon the independent liberty of co-defendant's.

This case presents nationally important constitutional questions concerning. the limits of prosecutorial discretion in contingent plea bargaining, due process "safeguards" during plea negotiations and whether one defendant may constitutionally lose a plea agreement because of another persons actions that's out of their control.

Missouri v. Frye; this Court recognized that plea bargaining is not merely informal negotiation, but a "critical stage" of the criminal proceedings where constitutional protections apply. In Frye, this Court held that the 6th Amendment right to effective assistance of counsel applies during plea negotiations because modern criminal justice is largely resolved through plea bargaining than trial. Because plea bargaining determines the outcome of most criminal cases, this Court recognized that defendants like Petitioner have constitutional interests that must be protected during the plea process.

Like this Petitioner was forced to trial by counsel and exposed to substantially greater punishment because of the circumstances entirely outside his control and counsels ineffectiveness.

Ref.(Doc-432-Pages-5234-5235 Sentencing Transcript)

Petitioner's Counsel presented the following: "And the Government was willing to recommend to the court that you impose a sentence of 25 years, or 300 months, for John , but it was again appropriately conditional to the other two defendant's pleading, and Peterson changed his mind".

Ref.(Doc-380-Pages-4382-4400 Hearing)

During this hearing on competency requested by counsel he said during trial:
Petitioner's counsel Mr. Cox informed the Court that he noticed during trial a few issues occurred "maybe two or three things that were I don't no how to put it, that were unbelievable, a fantasy, and I just moved on from that". this could of been a manifestation of trauma-induced dissociation if counsel would have requested a earlier competency hearing Petitioner could have been evaluated accordingly.

This continues to reveal the ineffective assistance that counsel should have investigated more into Petitioner's current fluctuating mental health and recorded history in which counsel never fully obtained all of Petitioner's requested mental health records for mitigation that should of been placed on the record for proper sentencing purposes.

This Court has remained ambiguous on the allocation of the burden of proof, leading to a three was split among the circuits.

"Government Bears the Burden", the 3rd, 5th and 9th circuits hold that the government must prove the defendant is competent by preponderance of evidence. The 3rd circuit argues that placing the burden on a potentially incompetent defendant is fundamentally unfair, as they may not even realize they are incompetent Ref.(Doc-432-Page-5238 Sentencing Transcript)

"The Defendant Bears the Burden", the 4th and 10th circuits require the defendant to prove by preponderance of evidence. These Courts often rely on Cooper v. Oklahoma (1996), dicta, suggesting that since the evidence is often neutral, the burden allocation rarely changes the outcome.

Parrish v. United States (2025), while focused on the timeline for appeals, this Court ruled how it impacts defendants can challenge procedural errors in their original trials, including those related to competency, by clarifying that a second notice of appeal is not required after a motion to reopen time has been granted.

IX. THESE ISSUES ARE EXCEPTIONALLY IMPORTANT TO THE FAIR ADMINISTRATION OF JUSTICE NATIONWIDE

The Constitution forbids criminal punishment imposed through proceedings lacking fundamental reliability and fairness.

Review is warranted under Supreme Court Rule 10, because this case presents: important federal constitutional questions, recurring issues affecting defendants criminal proceedings nationwide, unresolved questions regarding competency standards and dissociative disorders, the Government withdrawing accepted plea offer's before it was formally accepted by the Court are all exceptionally important due process concerns.

This case presents an important opportunity for this Court to clarify: The Constitutional limits and withdrawing protocols of contingent plea agreements; the meaning of "Rational Understanding" under *Dusky v. United States*; how federal courts should evaluate trauma-induced dissociation and fluctuating competency; and what "Safeguards" are Constitutionally required before sentencing mentally ill defendants suffering from severe dissociative disorders.

Without this Court's "Guidance", federal courts will continue to apply inconsistent and insufficient standards when evaluating defendants suffering from severe dissociative impairment and trauma-induced psychiatric decompensation.

The petition for writ of certiorari should be GRANTED

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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