No. 26-6019

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SUPREME COURT, U.S.

In the

Supreme Court of the United States

ORIGINAL

LEONARD EARL BROWN,

Petitioner,

v.

STATE OF MISSISSIPPI,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Leonard Earl Brown # 146455
East Mississippi Correctional Facility
10641 Highway 80 West
Meridian, MS 39307
Petitioner
Pro Se

QUESTIONS PRESENTED FOR REVIEW

I. Whether the Sixth and Fourteenth Amendments permit a state court to refuse consideration of a prisoner's claim that counsel failed to perfect a requested direct appeal, thereby depriving the prisoner of his first appeal as of right, solely because the claim is asserted outside a state post-conviction limitations period.

II. Whether a state court may apply a procedural time bar to foreclose review of a claim that attorney abandonment caused the loss of appellate rights, notwithstanding this Court's decisions recognizing the constitutional significance of attorney abandonment and equitable tolling.

III. Whether due process requires an evidentiary hearing where a prisoner alleges that counsel promised to file an appeal, failed to do so, and thereby caused the forfeiture of appellate review, and where those allegations are not conclusively refuted by the record.

IV. Whether this case presents a recurring question of national importance.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RULE 14.1(b)(I) STATEMENT

Pursuant to Rule 14.1(b)(1), Petitioner states that the parties include:

1. Leonard Earl Brown, Petitioner, who was the Appellant in the Mississippi Supreme Court.
2. State of Mississippi, Respondent, who was the Appellee in the Mississippi Supreme Court.

RULE 14.1(b)(iii) STATEMENT

State of Mississippi v. Leonard Earl Brown, CR08-010A, Circuit Court of Lee County Mississippi. Judgment entered February 9, 2024. Leonard Earl Brown v State of Mississippi, 2024-KA-00307-COA, Mississippi Supreme Court. Judgment entered February 2, 2026.

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OPINIONS BELOW

The opinion of the Mississippi Court of Appeals affirming dismissal of petitioner's motion for post-conviction. Leonard Earl Brown v. State of Mississippi, No. 2024-CA-00307-COA (July 22, 2025). The opinion of the Court of Appeals for the State of Mississippi is attached to this petition as Appendix A. (Appendix pgs. 1a-4a.)

The Mississippi Supreme Court denied discretionary review, rendering the judgment final. Leonard Earl Brown v. State of Mississippi, No. 2024-CT-00307-SCT. The opinion of the Supreme Court for the State of Mississippi is attached to this petition as Appendix B. (Appendix pg. 5a)

JURISDICTION

The Mississippi Court of Appeals affirmed dismissal of Petitioner's post-conviction motion on July 22, 2025.

Petitioner timely filed a Petition for Rehearing on August 5, 2025. Rehearing was denied on November 25, 2025.

Thereafter, Petitioner sought review in the Mississippi Supreme Court. Following denial of review by the Mississippi Supreme Court, jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment VI:

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

United States Constitution, Amendment XIV, Section 1:

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

STATEMENT OF THE CASE

Petitioner Leonard Earl Brown was convicted in the Circuit Court of Lee County, Mississippi. Following conviction, trial counsel represented that Petitioner would pursue an appeal and that meritorious appellate issues existed. Despite those representations, no notice of appeal was filed. Petitioner did not knowingly or voluntarily waive his appellate rights.

For years, Petitioner sought to obtain review of his conviction and sentence. He pursued relief through various filings, including post-conviction pleadings filed in 2009, 2011, and later proceedings culminating in the present action. Throughout this period, Petitioner consistently maintained that counsel failed to perfect a direct appeal.

In 2023, Petitioner filed a motion for post-conviction relief asserting that counsel's failure to file a direct appeal deprived him of his constitutional rights. The Circuit Court dismissed the motion without an evidentiary hearing, concluding that the petition was time-barred.

The Mississippi Court of Appeals affirmed. Although acknowledging Petitioner's allegations concerning counsel's failure to appeal, the court held that the claims were procedurally barred and affirmed dismissal without conducting an evidentiary hearing. Petitioner sought rehearing, which was denied. Further review was denied by the Mississippi Supreme Court. This Petition follows.

REASONS FOR GRANTING THE WRIT

I. THE DECISION BELOW PERMITS A STATE PROCEDURAL BAR TO EXTINGUISH A CLAIM THAT COUNSEL DEPRIVED A DEFENDANT OF HIS FIRST APPEAL AS OF RIGHT.

The Court of Appeals acknowledged that Petitioner's trial counsel represented to the trial court that Petitioner would appeal his convictions and that meritorious appellate issues existed. The court further acknowledged Petitioner's allegation that trial counsel "did not perfect an appeal."

Despite those findings, the Court of Appeals did not address whether counsel's conduct violated the Sixth and Fourteenth Amendments.

Instead, the court held only that Petitioner's claim was untimely under Mississippi's post-conviction statute.

This Court has repeatedly recognized that the complete loss of a first appeal as of right is a constitutional injury of exceptional significance.

In Evitts v. Lucey, 469 U.S. 387 (1985), this Court held that a criminal defendant is constitutionally entitled to effective assistance of counsel on direct appeal.

In Roe v. Flores-Ortega, 528 U.S. 470 (2000), this Court held that counsel's failure to file a notice of appeal may constitute constitutionally deficient performance.

In Garza v. Idaho, 586 U.S. 304 (2019), this Court reaffirmed that prejudice is presumed when counsel's deficient conduct results in the forfeiture of appellate review.

The decision below raises an important federal question: whether a state may rely exclusively upon a procedural limitations period to avoid addressing a substantial constitutional claim that counsel's abandonment caused the forfeiture of a first appeal as of right.

II. THE DECISION BELOW CONFLICTS WITH THIS COURT'S ATTORNEY-ABANDONMENT JURISPRUDENCE.

Petitioner alleged that counsel promised to pursue appellate review but failed to do so. This Court has repeatedly recognized that attorney abandonment presents circumstances materially different from ordinary attorney negligence.

In Holland v. Florida, 560 U.S. 631 (2010), the Court held that extraordinary attorney misconduct may justify equitable tolling.

In Maples v. Thomas, 565 U.S. 266 (2012), the Court explained that a client cannot fairly be charged with the acts or omissions of an attorney who has effectively abandoned representation.

The Court of Appeals did not examine whether counsel's failure to perfect an appeal constituted abandonment under federal constitutional principles. Nor did it consider Petitioner's repeated attempts to obtain review, including his 2009 motion for an out-of-time appeal, his 2009 notice of appeal, his 2017 filing in the Mississippi Supreme Court, and the present proceeding.

The decision below therefore presents an important question concerning the interaction between state procedural bars and attorney abandonment recognized by this Court.

III. THE FAILURE TO CONDUCT AN EVIDENTIARY HEARING PREVENTED DEVELOPMENT OF FACTS ESSENTIAL TO THE ADJUDICATION OF PETITIONER'S FEDERAL CONSTITUTIONAL CLAIMS.

Petitioner's claim depends upon factual questions that remain unresolved. Among those questions are:

- Whether counsel promised to file an appeal;
- Whether Petitioner instructed counsel to appeal;
- Whether Petitioner knowingly waived appellate review;
- When did Petitioner learn that no appeal had been filed; and

- Whether counsel's conduct prevented timely pursuit of post-conviction remedies.

The Court of Appeals affirmed dismissal without permitting factual development of any of these issues.

This Court has long recognized that substantial constitutional claims dependent upon disputed facts cannot be summarily rejected where the record does not conclusively resolve the dispute. *See*: Machibroda v. United States, 368 U.S. 487 (1962); Blackledge v. Allison, 431 U.S. 63 (1977).

The decision below effectively foreclosed all factual inquiry into Petitioner's claim that counsel deprived him of a constitutionally protected appeal.

IV. THIS CASE PRESENTS A RECURRING QUESTION OF NATIONAL IMPORTANCE.

State and federal courts routinely confront claims involving lost appeals caused by attorney misconduct.

The question presented here is whether constitutional claims arising from the complete loss of a first appeal as of right may be extinguished through rigid application of procedural limitations periods without meaningful consideration of attorney abandonment, due process, or effective assistance of counsel.

Resolution of that question would provide important guidance to courts nationwide and protect the constitutional right to appellate review recognized by this Court.

CONCLUSION

For all the foregoing reasons, Leonard Earl Brown respectfully requests that this Petition for a Writ of Certiorari be granted. The decisions of the trial/lower and appellate courts must be overruled and Brown respectfully requests that this Court remand the case to the state court for an appeal.

Respectfully submitted,

Leonard Earl Brown, Petitioner
East Mississippi Correctional Facility
10641 Highway 80 West
Meridian, MS 39307
Pro Se

DATED: June 25 2026