No. 25-6059

FILED
JAN 13 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

2026

Sergio Hare Rose 725205 — PETITIONER
(Your Name)

vs.

Terry Wilkins — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

Sergio Hare 725205
(Your Name)

Baraga Correctional facility 13924 Wadaga Rd
(Address)

Baraga, MI 49908
(City, State, Zip Code)

(Phone Number)

RECEIVED
JUL 10 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
MAY 15 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT

OF THE

UNITED STATES

2026

SERGIO SHARROD HARE.
Petitioner,

Docket No.:

V.

TERRY WILKINS, Warden,
Respondent.
_____/

On Petition for writ of Certiori, to the
Sixth Circuit Court of Appeals

Motion For Leave To Proceed in Forma
Pauperis / Affidavit in support

BY: Sergio Sharrod Hare, #_____, In Pro Per.
Baraga Correctional Facility
13924 Wadaga Rd.
Baraga, MI 49908

IN THE
SUPREME COURT
OF THE
UNITED STATES
2026

SERGIO SHARROD HARE,
Petitioner,

V.

TERRY WILKINS, Warden,
Respondent. /

On Petition for Writ of Certiorari to the
Sixth Circuit Court of Appeals

PETITION FOR WRIT

B/: Sergio Sharrod Hare #725205, In Pro Per.
Baraga Correctional Facility
13924 Wadaga Rd.
Baraga, MI 49908

Question Presented For Review

1). Did the Petitioner make a substantial showing that he was denied his Sixth Amend. right of effective assistance of Counsel in trial while on appeal?

Table of Contents

Question Presented for review; Pg. i

Table of Authorities; Pgs. ii, iii

Refer to Opinions Below; Pg. iv

- Hare v. Wilkins, (case no. 25-1518); Appendix 1, 2

Statement of Jurisdiction; Pg. v

Constitutional Provisions; Pgs. vi, vii

- U.S. Const. Amend. 6
- U.S. Const. Amend. 14, sec. 1

Statement of the Case; Pg. 1

Issue; Pg. 10

The Petitioner made a substantial showing that he was denied his sixth Amendment rights of effective assistance of Counsel in trial. The lower Court's denials for request of relief are a denial of equal Protection of law.

Law; Pgs. 10-14

Argument; Pgs. 15, 19

Petitioner was denied his sixth amend. right to effective assistance of Counsel in trial and while on his appeal of right.

Conclusion; Pg. 23

Table of Authorities

Clearly Established Law

Douglas v. California, 372 U.S. (1988); Pg. 20

Hinton v. Alabama, 571 U.S. (2014); Pg. 21

Holland v. Florida, 560 U.S. (2010); Pg. 7

Powell v. Alabama, 287 U.S. (1932); Pg. 21

Miller-El v. Cockrell, 537 U.S. (2003); Pg. 14

Roe v. Flores-Ortega, 528 U.S. (2000); Pg. 13

Rothgery v. Gillespie County, 554 U.S. (2008); Pg. 20

Slack v. McDaniel, 529 U.S. (2000); Pg. 15

Strickland v. Washington, 466 U.S. (1984); Pgs. 10, 11, 13, 15, 22

United States v. Cronic, 466 U.S. (1984); Pgs. 12, 13, 22

Wiggins v. Smith, 539 U.S. (2003); Pgs. 13, 15

Williams v. Taylor, 529 U.S. (2000); Pg. 10

Federal Circuit Courts

Hamblin v. Mitchell, 354 F.3d (6th Cir. 2003); Pg. 12

Higgins v. Renico, 470 F.3d (6th Cir. 2006); Pg. 11

Millender v. Adams, 376 F.3d (6th Cir. 2004); Pg. 12

Mitchell v. Mason, 325 F.3d (6th Cir. 2003); Pg. 20

Stewart v. Wolfenbarger, 468 F.3d (6th Cir. 2007); Pg. 13

Towns v. Smith, 395 F. 3d (6th Cir. 2005); Pg. 13, 15

United states v. Forman, 323 F.3d (6th Cir. 2003); Pg. 11

Walker v. Griffin, 835 F.3d (7th Cir. 2016); Pg. 10

Controlling state cases

Dundee v. Puerto Rico Marine management inc, 147 Mich. App. (1985); Pg. 14

People v. Ginther, 390 Mich. (1973); Pgs. 19, 21

People v. Hana, 447 Mich. (1994); Pg. 21.

People v. Pubrat, 451 Mich. (1996); Pg. 13

Provisions

28 U.S.C Sec. 2254; Pgs. 4, 14

Mich. Const. 1963 art. 1, Sec. 20; Pg. 13

Mich. ct. R. 6.121; Pgs. 12, 21, 22

mich. ct. R. 6.500; Pg. 5

Mich. ct. R. 7.205 (A)(2); Pg. 6

Mich. R. Prof. Cond. 1.1 Le(d); Pg. 8

Mich. R. Prof. Cond. 1.4(a); Pg. 8

U.S. Const. Amend. 6; Pgs. 13, 19, 21

U.S. Const. Amend. 14; Pgs. 19, 21

Refer To Opinions Below

The October 17, 2025 order of the united states Court of Appeals for the Sixth Circuit. Hare v. Wilkins, (Case No.: 25-1518). Appendix 2. The Order is a denial of Petitioner, Hare's Court of Appeals application for a Certificate of appealability.

The May 1, 2025 District Court's opinion and order denying Petitioner's Habeas Corpus Petition. Appendix 1.

Statement of Jurisdiction

Petitioner, seeks review of the May 1, 2025 order and opinion from the united states District Court, Eastern District of Michigan; and the United States Court of Appeals for the sixth circuit's denial of Petitioner's application for certificate of appealability order filed October 17, 2025.

This Court has Jurisdiction Pursuant to 28 U.S.C. § 1257.

Constitutional Provisions

U.S. Const. Amend. 6

In all Criminal Prosecutions, the accused shall enjoy the right to a speedy and Public trial, by an impartial Jury of the state and district wherein the crime shall have been Committed, which district shall have been Previously ascertained by law, and to be informed of the nature and cause of the accusation; to be Confronted with the witnesses against him; to have Compulsory Process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

U.S. Const. Amend. 14, Sec. 1

All Persons born or naturalized in the United states, and Subject to the Jurisdiction thereof, are citizens of the United states and of the state wherein they reside. No state shall make or enforce any law which shall abridge the Privileges or immunities of citizens of the United States; nor shall any state deprive any Person of life, liberty, or Property, without due Process of law;

Nor deny to any Person within its Jurisdiction the equal Protection of laws.

STATEMENT OF THE CASE

Petitioner, Hare was tried Jointly with Co-defendant Jerod Anthony Blond on first degree Premeditated murder, two Counts of assault with intent to murder. Possesion of a firearm by felon and four Counts of felony firearm. Petitioner was ultimately Convicted and Sentenced to life in Prison for the murder, 40 to 60 yrs for the assaults with intent to murder, and 10 to 15 years for the felon in Possesion Charge.

Evidence arose at trial that the Defendants went to a house that Tavion Wells and Jerrel Carter shared to get some Marijuana. All of a sudden, A fight broke out between the Defendant's with Wells and Carter and in the ensuing melee Wells was shot and killed and two other People were Wounded. Justice Thomas and Tamyra Thompson were the other two who were wounded, while they were attempting to flee the scene. When the shooting started.

Carter identified both Defendants at the house on the night in question and that they displayed guns at the time. Thompson attested that Blond had

a gun in view; she also admitted to have previously been inconsistent about whether Hare also had a gun, however clarified that Hare had his hand in his Pocket in a way that suggested to her that he was also armed. Carter and Thompson's testimony conflicted with one another of what allegedly occurred.

Four days into trial, the co-defendant Blond testified that he did not have a gun, and that Wells produced a Glock and brandished it threateningly, causing Blond and wells to struggle over the weapon that went off in the midst of the struggle. Blond placed a gun in Hare's possesion alleging Hare fired his weapon, once, not at any one, in the holes of putting an end to the fighting that was ongoing between Blond and wells. (People v. Blond, RE 17-2, Page ID #1160-1161). The Glock was found at Blond's residence.

16 months awaiting trial, Hare's defense attorney learned of the co-defendant's proffered testimony on the eve of the day he testified. Defendant Hare learned of the Proffer on the fourth day of trial, in the morning. Defense Counsel complained he did not receive a copy of the Proffer timely and that its disclosure was basically ten months late. Defense Counsel

also had explained that the late disclosure hampers his ability to be able to represent his client, and that he had not had a chance to look at the Proffer closely to be able to prepare for it. After Defense Counsel mentioned his Concerns, she had only asked for a brief recess. TT IV, 105-111.

The Prosecutor described the Proffer of Blond's as an "elaborate story about self-defense." TT IV, 109 A strategy never considered for the defense by trial Counsel as the record reflected that trial Counsel was unaware of the statement before trial. TT IV, 105-106. The defense was unaware that Blond was going to place a gun in the Defendant, Hare's hands. The Defendant was not advised of the inculpatory evidence before trial, he was just as surprised as Trial Counsel.

Trial Counsel did not investigate on behalf of Defendant, Hare up until the trial date, had that happened, Counsel's representation would not have been hampered. He would have been able to properly advise his client and advocate for him properly and effectively, even if that meant advising his client to take a plea,

due to the damaging evidence that surfaced mid-trial of a Proffer from the Codefendant.

Hare raised his right to appeal in the Michigan Court of Appeals, claiming:

> Mr. Hare was Deprived of His Sixth Amendment Right To The Effective Assistance of Counsel And His Right To Due Process Where Trial Counsel Failed To Move To Sever The Trial Where There Was No Basis For Joinder And The Injustice Was Manifest.

The Court of Appeals affirmed the trial Court's ruling upholding the Defendant's Conviction on December 12, 2019, in an unPublished opinion, Case Number 344440. The michigan Supreme Court denied leave to appeal on April 29, 2020, Case number 160167. (People v. Hare,)

On or about July 28, 2021, through Counsel kimberly W. Stout (P38588), Mr. Hare filed a Petition for writ of habeas Corpus under 28 u.s.c. § 2254, which was assigned Docket No. 2:21-CV-11744, raising two claims: (1) ineffective assistance of trial Counsel for failing to move to sever Hare's trial, and (2) ineffective assistance of trial Counsel for failing to Prepare a defense and failing to request a mistrial upon learning of evidence not Possessed before trial.

On or about July 29, 2021, On behalf of Hare, Stout filed a motion to stay Proceedings to return to state Court to exhaust the second habeas claim:

> MR. Hare was Denied The Effective Assistance of Counsel Pursuant To The Sixth Amendment for Trial Counsel's Failure To Prepare And Present A Defense And Failing To Request A Mistrial upon Learning of Evidence He Did Not Have During Trial.

On or about August 24, 2021, the district Court Granted the motion to stay Proceedings, setting deadlines for filing in state Court and for returning to federal Court.

In Compliance with the stay order, Hare, again through appellate Attorney stout, filed a motion for relief from Judgement with the Genesee County Circuit Court on August 4, 2021 raising his second Habeas Claim. On November 22, 2021, the Genesee Circuit Court denied the motion on Procedural grounds (failure to show good Cause and actual Prejudice under Mich. Ct. R. 6.508(D)(3)) and on the merits, noting that Hare [although it was Counsel] had made "no attempt to address the Procedural and gatekeeping requirements of MCR 6.500 et Seq."

Over a Year later (483 days), Attorney Stout filed Hare's application for leave to appeal to the Michigan Court of appeals, which was Promptly dismissed for lack of Jurisdiction

for being filed outside the six-month time limit of Mich. Ct. R. 7.205(A)(2).

On or about August 18, 2023, Attorney Stout, filed a motion with the federal district Court to withdraw as Counsel, citing a breakdown in the attorney-client relationship and disputes of Payments over legal fees. The Court held a hearing where Stout admitted that she was hired to represent Hare in his state and federal Post-Conviction Proceedings, which she admitted failing to do for failing to appeal to the Michigan Supreme Court. After the district Court raised Concerns about the failure to exhaust Hare's state Court remedies, Stout then voluntarily withdrew her motion to withdraw as Counsel.

The following month, Stout filed a renewed motion to withdraw as Counsel, that stated she filed a delayed application for Leave to appeal with the Michigan Supreme Court on September 12, 2023. However, an affidavit signed by the Clerk of the Michigan Supreme Court and filed with the Respondent's Rule 5 materials, says, "I have Searched the files and the records of the Michigan Supreme Court and find that Michigan Court of Appeals docket number 365401 has not been appealed to this Court." Stout has yet to submit any evidence that she filed anything with the

Michigan Supreme Court, in violation of the district Court's show cause order." (RE 21-27, Page ID #1916; RE 23, Page ID #1996).

On or about January 31, 2024, the district Court granted Hare's motion to reopen the case, despite his failure to timely comply with the district court's stay order. The district Court found that "equitable tolling of the deadlines is appropriate considering Hare's allegations of ineffective assistance of Counsel in his Post-Conviction Proceedings" because Post-Conviction Counsel's actions and inactions "Constituted far more than 'garden Variety' or 'excusable neglect.'" (RE 17, Page ID # 125-126) (quoting Holland v. Florida, 560 U.S. 631, 649, 130 S. Ct. 2549, 177 L.Ed 2d 130 (2010)). In doing so, the district Court explicitly considered multiple letters sent to the Court by Mr. Hare disputing Attorney Stout's Claims of his failure to Pay and stating, in any event, that Stout also failed to Provide him with the means necessary to Pursue state Postconviction Proceedings on his own, Such as copies of the State Court Post-Conviction orders. (RE 17, Page ID # 126) (citing ECF Nos. 5, 11, 16); (RE 5, Page ID # 51) ("My

motion to stay was granted in August 2021 [and] I haven't heard anything or nothing about it. Mrs. Stout won't tell me anything about it[.] I'm asking can I get an extention to filed help with my matter."); [Letter from Petitioner filed on 10/5/23, RE 5, PageID #51 ("I'm trying to get a copy of why my delayed leave for appeal got denied in the Court of Appeals . . . I've never gotten a copy of it.") Compare Mich. R. of Prof. Conduct 1.16(d)("upon termination of representation, a lawyer shall take reasonable steps to protect a client's interests. Such as giving reasonable notice to the client, allowing time for employment of other Counsel") and Mich. R. of Prof. Conduct 1.4(a)("A lawyer shall keep a client reasonably informed about the status of a matter and comply promptly with reasonable requests for information.").

After the state filed its answer (RE 20), Hare, through newly retained Counsel, Tameka L. Tucker, filed a reply. (RE 22).

On May 1, 2025, the district Court entered an opinion and order denying the habeas Petition. (RE 24). The district Court denied Hare's first claim (ineffective assistance for

failing to move to sever trials) on the merits. Concluding that the state courts rejection of this claim was not unreasonable, given the deferential AEDPA standard of review. (RE 24, Page ID# 2002-2005). It denied Hare's Second Claim (ineffective assistance for failing to Prepare a defense and failing to request a mistrial) as Procedurally defaulted, finding that Hare [although it was Counsel] failed to show Cause and Prejudice or a fundamental miscarriage of Justice to overcome this Procedural bar, as the state trial Court had expressly relied on state Procedural rules in denying this claim. (RE 24, Page ID # 2005-2007).

On or about May 27, 2005, Hare, in Pro Se filed a timely notice of appeal to the Sixth circuit Court of Appeals.

On or about August 7, 2025, through Counsel Tameka L. Tucker, filed a Motion for certificate of appealability in the circuit Court. Counsel Tucker argued for Habeas Claim's (I) and (II), were "debatable among reasonable Jurists.". The certificate was denied October 17, 2025

He NOW Petitions this Court for Writ of certiorari.

Issue

The Petitioner Made a substantial showing that He Was Denied His Sixth Amendment Rights of Effective Assistance of Counsel in Trial. The Lower Courts Denials for Request of Relief are a Denial of Equal Protection of Law.

Law

"The clearly established federal law that Controls ineffective assistance of counsel is Strickland v. Washington. 466 U.S. 668. 104 S.Ct. 2052, 8 L.Ed 2d 674 (1984). Walker v. Griffin, 835 F.3d 705. 708 (7th Cir. 2016). Under Strickland, Petitioner must show that: (1) Counsel's Performance fell below an objective standard of reasonableness and (2) but for Counsel's deficient Performance, there is a reasonable Probability that the outcome of the Proceedings would have been different. Strickland, 466 U.S. at 687. Also in Strickland, it held that Petitioner need only demonstrate a reasonable Probability that... the result of the Proceedings would have been different. Williams

Argument

Did The Petitioner

V. Taylor, 529 U.S. 362, 405-06, 120 S.Ct. 1495, 146 L.Ed. 2d 389 (2000)(quoting Strickland, 466 U.S. at 694.)

The Petitioner must establish Prejudice to bring a successful ineffective assistance of Counsel claim. 466 U.S. at 688. "In order to avoid second-guessing trial Counsel's strategic decisions," review of Counsel's Performance is highly deferential. United States v. Foreman, 323 F.3d 498, 503 (6th Cir. 2003).

"A reviewing Court must Judge the reasonableness of Counsel's actions on the facts of the defendant's Case, viewed from Counsel's Perspective at the time." Higgins v. Renico, 470 F.3d 624, 631-32 (6th Cir. 2006), and "Strategic choices must be respected if they were made after thorough investigation of law and facts relevant to Plausible options." Id at 632.

The Petitioner has the burden of Proving, by a Preponderance of evidence, that Counsel made errors so Serious that Counsel was not functioning as the Counsel guaranteed the defendant by the Sixth Amendment. Strickland, 466 U.S. at 687. Unless the accused receives the effective assistance of Counsel, a serious risk of

injustice infects the trial itself. United States v. Cronic, 466 U.S. 648, 656, 104 S.Ct. 2039, 80 L.Ed 2d 657 (1984). The Prejudice Prong is satisfied if there is a reasonable Probability that at least one Juror would have struck a different balance. Hamblin v. Mitchell, 354 F. 3d 482, 493 (6th Cir. 2003). Prejudice may be Presumed if Petitioner's Counsel 'entirely fails to Subject the Prosecution's case to meaningful adversarial testing. Millender v. Adams, 376 F. 3d 520, 524 (6th Cir. 2004) (quoting Cronic, 466 U.S. at 659).

In Michigan, "the Court MUST Sever the trial of defendants on related offenses on a showing that Severance is Necessary to avoid Prejudice to Substantial rights of the defendant." Mich. Ct. R. 6.121(C). And "the Court may Sever the trial of defendants on the ground that Severance is appropriate to Promote fairness to the Parties and a fair determination of the guilt or innocence of one or more of the defendants." Mich. Ct. R. 6.121(D).

Well established federal law requires that defense Counsel Conduct a reasonable investigation into the facts

of a defendant's case, or make a reasonable determination that such investigation is unnecessary. Wiggins v. Smith, 539 U.S. 510, 522-23 (2003); Strickland, 466 U.S. at 691; Stewart v. Wolfenbarger, 468 F.3d 338, 356 (6th Cir. 2007); Towns v. Smith, 395 F.3d 251, 258 (6th Cir. 2005). The duty to investigate "includes the obligation to investigate all witnesses who may have information concerning ... guilt or innocence." Towns, 395 F.3d at 258. When making strategic decisions, Counsel's Conduct must be reasonable. Roe v. Flores-Ortega, 528 U.S. 470, 481, 120 S.Ct. 1029, 145 L. Ed. 2d 985 (2000). See also Wiggins, 539 U.S. at 522-23.

The right to Counsel guaranteed by the United States and Michigan Constitutions, U.S. Const. Amend. VI; Const. 1963, art 1, sec. 20, is the right to effective assistance of Counsel. United States v. Cronic, 466 U.S. 648, 654-655; 104 S.Ct. 2039; 80 L.Ed 2d 657 (1984); People v. Pubrat, 451 Mich 589, 594; 548 NW2d 595 (1996).

The Michigan Court of Appeals is bound by Precedent set by the Sixth Circuit of the United States Court of

appeals in regards of issues to federal law. Dundee v. Puerto Rico Marine Management, inc., 147 Mich. App. 254, 383 Nw 2d 176, 1985 Mich. App. Lexis 3069.

Under the Antiterrorism and Effective Death Penalty act (AEDPA). a district Court shall not grant a habeas Petition with respect to any claim that was adjudicated on the merits in the state courts unless the adjudication resulted in a decision was: (1) "Contrary to, or involved an unreasonable application of clearly established law as determined by the Supreme Court" or (2) "based on an unreasonable determination of the facts in light of the evidence Presented in the state Court Proceeding." 28 U.S.C. sec. 2254(d). If the state Courts adjudicated the Petitioner's claim on the merits, then the relevant question at the COA stage is whether the district Court's application of sec. 2254(d) to that claim is debatable by Jurists of reason. Miller-El v. Cockrell, 537 U.S. 322, 327 (2003).

When a district Court denies a Claim on Procedural grounds, the Court may issue a COA only if the applicant shows "that Jurists of reason would find it debatable whether the Petition states a valid claim of the denial

of a Constitutional right and that Jurists of reason would find it debatable whether the district was correct in its Procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Argument

Petitioners trial attorney was ineffective for failing to move the Court to sever his trial in light of evidence that Counsel learned of the Codefendants Proffer the eve of the fourth day of trial and Counsel's own admissions, he failed to investigate the case. The duty to investigate is an obligation, Towns, 395 F.3d at 258. a failure to investigate is unreasonable. well established federal law requires that defense Counsel Conduct a reasonable investigation into the facts of a defendant's case, or make a reasonable determination that such investigation is unnecessary. Wiggins v Smith, 539 U.S. 510, 522-23 (2003); Strickland, 466 U.S. at 691.

Trial Counsel admitted to the following:

"I do not -- Just for the record. I did not know anything about a Proffer either until yesterday. [The Prosecutor] brought it to my attention that there was a Proffer in this matter, that it didn't really match the interview

that was taken. I didn't have-- I never had a copy of the Proffer. I note that the attorney that accompanied Mr. Blond to the Proffer was Mr. Theodoroff. This was not part of the Package that I got when I took this case over... My first chance to look it over was last night. I went up to the Jail and was going to talk to my client about it but getting into the Genesee County Jail after five o'clock is something but sure... Nobody ever [came to get me]... So, my client has only had the opportunity to actually look at the Proffer this morning. I would like the opportunity-- well, first of all, I have to complain that I didn't get a copy of this timely. This is something that says that it was taken on June thirtieth of last year.

...

This is basically ten months late. And that hampers my ability to be able to represent my client if I don't have an important piece of information because if Mr. Blond says anything that would tend to compromise my client's case and I have to use that for impeachment purposes, I really haven't had the chance to look at it closely enough to be able to prepare that. TT IV, 105-106

Mr. Blond, the codefendant, ultimately testified and put a gun in Hare's hand with certainty. TT IV, 140.

The Prosecutor described the Proffer as one of Mr. Blond telling an "elaborate story about self defense." TT IV, 109 The surprise evidence most certainly had an impact on trial Counsel's strategy for the case. he had already given his opening statement and cross-examined all the state's witnesses. Trial Counsel's first chance to review the document was the night before Blond testified. Hare only saw the statement the morning of the testimony. TT IV, 105-106. After learning of the Codefendants Proffer Counsel unreasonably failed to timely bring it to his clients attention and move for a Mistrial, whereas Blond's testimony supported a theory of self-defense, one never Considered by trial Counsel as he never saw the statement before trial.

The Prosecution Proceeded in opening arguing an aiding and abetting theory of guilt with respect to Petitioner Hare, the Prosecutions opening statement was Confusing with respect to Hare's involvement and failed to even identify a theory of his guilt, as opposed to a theory of Codefendant Blond's guilt. (Trial Transcript of 4/26/18, 223-244, RE 21-16 Page ID # 612-633). The Prosecutor said only that Hare accompanied Blond to the location where Blond shot and killed Wells: "Mr. Hare was also then in the Course of this situation

was identified as the other Person who was there and was one of the individuals responsible". Id The Prosecution did not say how Hare was "responsible" Indeed, the Prosecuter did not argue that Hare shot anyone, shot at anyone, or even that he Possessed a firearm or did anything else at all to aid or encourage Blond in the Commission of the Charged offenses.

Blond's testimony Compromised the Defendant's case and assisted the Prosecution substantiate its aiding and abetting theory. When Blond attested:

> Q). You realize that by you saying that your friend had a gun, that could hurt your friend? Do you realize that?
>
> A). Yes, Sir.
>
> Q). And you're telling this Jury that sersio had a gun?
>
> A). Yes. He had a gun
>
> TT IV. 140

Without the Codefendant Blond's testimony, the only evidence that Hare did anything to assist Blond in the Commission of the offenses was the testimony of Jerry Carter that Petitioner Possessed a firearm that Conflicted with Tamyra Thompson's trial testimony that she did not see Hare with a gun. (Trial Transcript 4/27/18

280, RE 21-17, Page ID #978). Thompson also testified that Hare was not even acting aggressively. (Id at 1616).

Severance would have promoted fairness and a fair determination of Petitioner's guilt or innocence because of the potential for confusion stemming from the nature of the evidence and, thus, a motion for severance had a reasonable probability of success. Therefore based off Counsels own admissions of failing to investigate denied Petitioner his right to effective assistance of Counsel, right to present a defense and of a fair trial. US Const. Amend. 6 and 14.

A). Petitioner was denied his Sixth Amend. right to effective assistance of Counsel in trial and while on his appeal of right.

On direct appeal, through Counsel, Mr. Hare raised a single claim, "ineffective assistance of trial Counsel" for failing to move to sever Hare's trial from the trial of the Codefendant Blond. Although Counsel filed a an ineffective assistance of Counsel claim on appeal, he unreasonably failed to request an evidentiary hearing to further substantiate his claim Pursuant to People v. Ginther, 390 Mich. 436 (1973). Most Claims

of ineffective assistance of Counsel require an expansion of the record to determine the reasons for Counsel's actions, inactions or omissions. However, based off trial Counsel's own admissions on the fourth day of trial Counsel did not investigate Petitioner's case for at the least "10 months" leading up to trial. TT IV. 105-106.

"The right to Counsel exists not only at trial, but at all 'critical stages" of the Prosecution." Rothgery v. Gillespie County, 554 U.S. 191 (2008). The Pre-trial Period constitutes a "Critical Period" of the Proceedings for Purposes of the sixth Amendment, which encompasses Counsel's Constitutional duty to investigate the case Prior to trial. Mitchell v. Mason, 325 F.3d 732 (6th Cir. 2003). (Habeas was granted based on Counsel's inability to investigate the case).

A defendant also has a Constitutional right to be represented by Counsel on his first aPReal of right from his Conviction and sentence. Douglas v. California, 372 U.S. 353, 356 (1988) The Constitutional right to

Counsel entitles a criminal defendant to the effective assistance of Counsel. Powell v. Alabama, 287 U.S. 45 (1932). Counsel has an obligation to conduct a reasonable investigation.... and may be ineffective for failing to take advantage of resources that would assist the defense. Hinton v. Alabama, 571 U.S. ___, 134 S.Ct. 1081 (2014).

Appellate Counsel on direct appeal was ineffective in failing to motion the Court Pursuant to Ginther, to support the ineffective assistance claim that he raised; and failing to substantiate the severance claim that was presented by not providing the Court with a supporting affidavit, or an offer of Proof from Petitioner that would clearly affirm and demonstrate that his substantial rights would be prejudiced and that severence would have been a necessary means of rectifying the prejudice. People v. Hana, 447 Mich. 325, 346-347 (1994); Mich. Ct. R. 6.121.

Petitioner was denied his sixth and fourteenth amendment rights, if his Conviction is upheld it

would be a miscarriage of Justice.

There is a reasonable Probability that the trial Court would have granted discretionary severance under Mich.ct.R. Le.121(D) had trial Counsel requested it, the outcome of the trial would have been different, had trial Counsel investigated the case before trial.

The state Courts decision to affirm Petitioners Conviction is Contrary to Clearly established law when Counsel fails to investigate. Strickland and Cronic applies. Counsel entirely failed to subject the Prosecutions case to meaningful adversarial testing. Id at 659. The district and circuit Court of appeals reasoning for not granting relief, is in err. In sum reasonable Jurists could debate the lower Court rulings that trial Counsel was not ineffective for failing to move for a severance due to his lack of investigation.

For these reasons, Petitioner Hare asks that this Court grant this Petition for writ of certiorari.

Respectfully Submitted,

Filed 1/12/26

Sergio Sharrod Hare #725205
In Pro Per
Baraga Correctional Facility
13924 Wadaga Rd.
Baraga, MI 49908