No.

IN THE SUPREME COURT OF THE UNITED STATES

ANIBAL MUNIZ,

Petitioner,

v.

SECRETARY, DEPARTMENT OF CORRECTIONS,

Respondent.

On Petition for a Writ of Certiorari
to the Eleventh Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Sixth Amendment requires defense counsel to offer a criminal defendant his informed opinion as to what plea should be entered?

PARTIES TO THE PROCEEDING

Parties to the proceeding include Anibal Muniz (Appellant/Petitioner) and The Secretary, Department of Corrections, State of Florida (Appellee/Respondent).

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Other Authority

https://www.pew.org/en/research-and-analysis/data-visualizations/2025/03/how-many-cases-and-what-kind-do-state-and-local-courts-handle 1

PETITION FOR WRIT OF CERTIORARI

OPINION BELOW

The decision of the Eleventh Circuit Court of Appeal, *infra*, is attached as Appendix A.

JURISDICTION

The Judgment of the Eleventh Circuit Court of Appeal was entered on July 31, 2026. A Motion for Reconsideration was timely filed and denied on September 15, 2026. This Court's jurisdiction is invoked under Title 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

The Sixth Amendment to the United States Constitution provides, in relevant part: **"**In all criminal prosecutions, the accused shall enjoy the right … to have the Assistance of Counsel for his defence." U.S. Const. amend. VI.

STATEMENT OF FACTS

This case presents the Court with an opportunity to establish that the Sixth Amendment requires defense counsel to offer a criminal defendant his informed opinion as to what plea should be entered. Given that "the jury trial has given way to a conveyor belt of plea bargains[,]" *Hunter v. United States*, 608 U.S. 713, 730, 146 S. Ct. 1702, 1715, 225 L. Ed. 2d 272 (2026) Gorsuch, J., concurring, this issue is of substantial importance, impacting thousands, if not millions, *see*, https://www.pew.org/en/research-and-analysis/data-visualizations/2025/03/how-

many-cases-and-what-kind-do-state-and-local-courts-handle, of cases across the country each year, and thus merits this Court's use of its certiorari jurisdiction.

On July 3, 2024, Mr. Muniz filed a Petition for Writ of Habeas Corpus under 28 U.S.C. Section 2254. In the Petition, Mr. Muniz asserted that he had been charged with second degree murder in the state of Florida, and the state had extended a plea offer of 30 years imprisonment to him. Mr. Muniz asserted that he rejected the offer without having received any advice from his attorney as to whether he should accept the offer, and ultimately proceeded to trial where he was convicted and sentenced to life imprisonment. In a state post-conviction proceeding, Mr. Muniz asserted that defense counsel advised him he had a strong case, but failed to offer him any advice as to whether he should accept or reject the state's plea offer. (Appendix D, at 14). In the same proceeding, trial counsel admitted that during the plea-bargaining process, while he goes over what the possible outcomes could be, he never advises his clients whether they have a good case or a bad case. *Id*. at 43-44. Accordingly, Mr. Muniz argued he was deprived of his right to the effective assistance of counsel by his trial counsel's failure to advise him whether he should accept or reject the state's plea offer.

The district court denied relief (Appendix A), and the Eleventh Circuit denied Mr. Muniz a certificate of appealability, concluding that "the court properly found that counsel was not deficient in advising him about the plea offer because he advised Mr. Muniz about the strengths of his case and the plea offer, and Mr. Muniz rejected it because it contained a 30-year prison sentence. *See Missouri v. Frye*, 566 U.S. 134, 140 (2012)." (Appendix B, at 3).

This Petition follows.

REASONS FOR GRANTING THE PETITION

I. THIS COURT SHOULD GRANT REVIEW TO ESTABLISH THAT THE SIXTH AMENDMENT REQUIRES DEFENSE COUNSEL TO OFFER A CRIMINAL DEFENDANT HIS INFORMED OPINION AS TO WHAT PLEA SHOULD BE ENTERED.

This petition presents an ideal vehicle for establishing that a criminal defense attorney is required to offer his client an informed opinion as to what plea should be entered. This Court has already stated defense counsel is required to do so, but did so through a plurality opinion with no binding effect. *See*, *Von Moltke v. Gillies*, 332 U.S. 708, 721, 68 S. Ct. 316, 322, 92 L. Ed. 309 (1948) (plurality opinion) ("Prior to trial an accused is entitled to rely upon his counsel to make an independent examination of the facts, circumstances, pleadings and laws involved and then to offer his informed opinion as to what plea should be entered.") Given that ninety-seven percent of federal convictions and ninety-four percent of state convictions are now the result of guilty pleas, *see*, *Missouri v. Frye*, 566 U.S. 134, 143, 132 S. Ct. 1399, 1407, 182 L. Ed. 2d 379 (2012), it is imperative that this Court establish that counsel is required to advise his client whether to accept a plea offer and which plea to enter.

More specifically, "[d]etermining whether an accused is guilty or innocent of the charges in a complex legal indictment is seldom a simple and easy task for a layman, even though acutely intelligent." *Von Moltke*, 332 U.S. at 721, 68 S. Ct. at 322 (plurality opinion). That is why this Court has previously observed that "criminal defendants require effective counsel during plea negotiations." *Frye*, 566 U.S. at 144, 132 S. Ct. at 1407–08. Prior to *Frye*, and its companion case *Lafler v. Cooper*, 566 U.S. 156, 132 S. Ct. 1376, 182 L. Ed. 2d 398 (2012), the circuit courts, including the Eleventh Circuit, generally recognized defense counsel had a duty to advise his client

whether to accept or reject a plea offer. *See*, *Boria v. Keane*, 99 F.3d 492 (2d Cir.1996) (Observing that defense counsel "must give the client the benefit of counsel's professional advice on this crucial decision" of whether to plead guilty.)(citations omitted); *Agan v. Singletary*, 12 F.3d 1012 (11th Cir. 1994) (Explaining that with respect to advising a defendant which plea to enter, "counsel must…make an independent examination of the facts and circumstances and offer an informed opinion to the accused as to the best course to follow.")(citations omitted); *United States v. Leonti*, 326 F.3d 1111, 1117 (9th Cir. 2003)("If it is ineffective assistance to fail to inform a client of a plea bargain, it is equally ineffective to fail to advise a client to enter a plea bargain when it is clearly in the client's best interest.")(citations omitted).

However, following the entry of *Frye* and *Lafler*, the Eleventh Circuit and the district courts that sit below it, have inexplicably reversed course, and now routinely refuse to recognize such a duty on the part of counsel. *See*, *e.g.*, (Appendix B, at 3); *Bethea v. Sec'y, Dep't of Corr.*, No. 16-14689-E, 2016 WL 11859834, at *3 (11th Cir. Nov. 3, 2016) ("Even if counsel mistakenly thought that the trial was winnable, and based on such, did not explicitly advise Mr. Bethea to plead guilty, this does not demonstrate an error 'so serious that counsel was not functioning as the 'counsel' guaranteed [him] by the Sixth Amendment.'")(quoting, *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)); *See also*, *Hayward v. Sec'y, Dep't of Corr.*, No. 6:19-CV-479-PGB-GJK, 2022 WL 22899204, at *9 (M.D. Fla. Mar. 7, 2022), *aff'd sub nom. Hayward v. Sec'y, Fla. Dep't*

of Corr., No. 22-11087, 2024 WL 5116430 (11th Cir. Dec. 16, 2024) ("there is no indication that counsel was obligated to affirmatively advise Petitioner to accept the plea offer. *See Boyers v. Sec'y, Dep't of Corr.*, No. 8:15-CV-260-T-36MAP, 2017 WL 2506420, at *6 (M.D. Fla. June 9, 2017) (stating that counsel has no obligation to advise a defendant to take a plea offer and rather that counsel should advise a client that the ultimate decision to enter a plea is their choice)"). Absent this Court's intervention, this split will continue to produce unequal, geography-dependent outcomes, where defendants in certain circuits will enjoy Sixth Amendment rights defendants in other circuits do not. Accordingly, the time has come for this Court to firmly establish what it recognized in plurality nearly 80 years ago: defense counsel has a duty to offer his client his informed opinion as to which plea to enter. *See*, *Von Moltke v. Gillies*, 332 U.S. at 721, 68 S. Ct. at. 322.

Furthermore, Mr. Muniz's case is the ideal vehicle for doing so, as the record clearly reflects that no such advice was given, thus presenting this Court with a pure legal question to resolve.

Consequently, this Court should grant review, and firmly establish that a criminal defense attorney is required to offer his client an informed opinion as to what plea should be entered, and remand Mr. Muniz's case to the Eleventh Circuit to reconsider his Motion for a Certificate of Appealability.

CONCLUSION

For the reasons stated above, this Court should grant the instant Petition for Writ of Certiorari.

Respectfully Submitted,

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