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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Charleston County
Honorable Bentley Price, Circuit Court Judge

Opinion No. 6164 (S.C. Ct. App. Filed September 23, 2026)

THE STATE,

RESPONDENT,

V.

MAURICE T. SINGLETON,

PETITIONER

APPELLATE CASE NO. 2023-000553

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on October 19, 2026.

QUESTION PRESENTED

Did the Court of Appeals err in finding the trial judge's order removing Petitioner from the courtroom during his trial for murder, without stand-by counsel, did not violate Petitioner's right to be present and confront witnesses under the Sixth Amendment and his rights under the Due Process Clause of the Fourteenth Amendment, as well as his right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Petitioner's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Petitioner from the courtroom?

STATEMENT OF THE CASE

In August of 2021, the Charleston County Grand Jury indicted Petitioner, Maurice T. Singleton, for murder, indictment #2021-GS-10-03219.[1] On January 5, 2023, Petitioner appeared before the Honorable Bentley Price for a pre-trial hearing. (R. pp. 1-21). The case had been tried in October and ended in a mistrial because of a hung jury. (R. p. 3, lines 23-24). Petitioner moved to relieve his retained attorney from the first trial. Judge Price relieved prior retained counsel. (R. p. 9, lines 4-7). The judge allowed Petitioner to review the Faretta [2] warnings overnight. (R. p. 9, lines 1-7). The next day, Friday, January 6, 2023, Petitioner appeared for court but did not wish to sign the written Faretta warnings. (R. p. 11, lines 18-19). The trial judge generally advised Petitioner of the dangers of self-representation. (R. pp. 13-16). During the January 6, 2023, hearing the State also moved to revoke Petitioner's bond. (R. pp. 22-29). Judge Price denied the motion to revoke bond but added the additional condition that Petitioner must report to his bondsman every Monday. (R. p. 27, lines 17-23).

On March 27, 2023, Petitioner proceeded to jury trial before Judge Price. Jordan Alyssa Norvell and Cassity Ann Brewer prosecuted the case. Judge Price appointed Michael Nelson to act as standby counsel. (R. p. 42, lines 18-24). Petitioner objected to standby counsel as being unqualified. (R. p. 43, lines 1-19). As Petitioner continued to object, the trial judge warned Petitioner that he could be tried in his absence. (R. p. 43, line 20 – p. 44, lines 1-11). Petitioner continued to object and was escorted out of the courtroom. (R. p. 44, lines 12-20). The judge took

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[1] The witness who testified before the grand jury is listed on the indictment as the North Charleston Police Department. (R. p. 543). At trial the judge allowed the State to amend the indictment to include the name of Detective Chris Ross, the witness who actually testified before the grand jury. (R. p. 81, line 17 – p. 82, lines 1-9).

[2] 422 U.S. 806, 834, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975).

a short recess and asked standby counsel to meet with Petitioner. (R. p. 44, line 21 – p. 45, lines 1-5). Petitioner retuned to the courtroom and pre-trial motions continued.

Petitioner moved to suppress evidence obtained from his cell phone because the cell phone was illegally seized. (R. p. 88, line 18 – p. 89, lines 1-3; p. 89, line 21 – p. 90, p. 91, lines 1-14; pp. 97-102). The judge denied the motion to suppress finding the evidence was obtained pursuant to a valid search warrant. (R. p. 102, lines 13-15). Petitioner continued to object to the admission of contents of the phone and the judge ordered him out of the courtroom. (R. pp. 103-107). The prosecutors, standby counsel and the judge discussed technology available to allow Petitioner to view the trial without disturbing the proceedings. (R. pp. 107-111). Petitioner was then returned to the courtroom. (R. p. 811, line 10 – p. 112, lines 1-3). After a discovery discussion, a motion for continuance by Petitioner, and the judge denying Petitioner's motion for a continuance, the trial began.

On the second day of trial Petitioner was again removed from the courtroom. (R. p. 192, lines 14-18). After the State called four witnesses in the absence of both Petitioner and standby counsel, Petitioner was allowed to return to the courtroom. (R. pp. 241-247). The jury found Petitioner guilty as charged. Judge Price sentenced Petitioner to life in prison. A timely notice of intent to appeal was served and the direct appeal perfected. On September 23, 2026, the Court of Appeals, in a published opinion, affirmed the murder conviction and sentence of life imprisonment. State v. Singleton, No. 2023-000553, 2026 WL 2854818 (S.C. Ct. App. Sept. 23, 2026). A timely petition for rehearing was filed and then denied on October 19, 2026. This petition for writ of certiorari follows.

STANDARD OF REVIEW

" 'In criminal cases, this Court sits to review errors of law only and is bound by factual findings of the trial court unless an abuse of discretion is shown.' State v. Laney, 367 S.C. 639, 643, 627 S.E.2d 726, 729 (2006). An abuse of discretion occurs when the court's decision is unsupported by the evidence or controlled by an error of law. State v. Black, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012)." State v. King, 422 S.C. 47, 54, 810 S.E.2d 18, 22 (2017).

"The trial [court] retains discretion to impose reasonable limits on the scope of cross-examination." State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 317 (2002); see also State v. Aleksey, 343 S.C. 20, 33–34, 538 S.E.2d 248, 255 (2000) ("The right to a meaningful cross-examination of an adverse witness is included in the defendant's Sixth Amendment right to confront his accusers. This does not mean, however, that trial courts conducting criminal trials lose their usual discretion to limit the scope of cross-examination."

"Whether a defendant has knowingly, intelligently, and voluntarily waived his right to counsel is a mixed question of law and fact which appellate courts review de novo. United States v. Lopez-Osuna, 242 F.3d 1191, 1198 (9th Cir. 2000). Specifically, we review a circuit judge's findings of historical fact for clear error; however, we review the denial of the right of self-representation based upon those findings of fact de novo. United States v. Bush, 404 F.3d 263, 270 (4th Cir. 2005). In doing so, this Court must consider the defendant's testimony, history, and the circumstances of his decision, as presented to the circuit judge at the time the defendant made his request. United States v. Singleton, 107 F.3d 1091, 1097 (4th Cir. 1997)." State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018).

REASON WHY CERTIOARI SHOULD BE GRANTED

This Court should grant the petition for writ of certiorari to clarify what actions rise to the level of a waiver of the right to be present and confront witnesses under the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment, as well as the right to self-representation under the Sixth Amendment and to hold that when a *pro se* defendant is removed from the courtroom standby counsel must be present.

ARGUMENT

The Court of Appeals erred in finding the trial judge's order removing Petitioner from the courtroom during his trial for murder, without stand-by counsel, did not violate Petitioner's right to be present and confront witnesses under the Sixth Amendment and his rights under the Due Process Clause of the Fourteenth Amendment, as well as his right to self-representation under the Sixth Amendment and right to counsel under the Sixth Amendment when Petitioner's actions in the courtroom were not sufficient to constitute a waiver of constitutional rights and there were alternative ways to deal with any disruption other than removing Petitioner from the courtroom.

On the second day of the murder trial the judge removed Petitioner from the courtroom. (R. p. 192, lines 14-18). In the absence of both Petitioner and standby counsel, the State called four witnesses: 1. Greggory McKean, an eyewitness; 2. Dr. Nicholas Batalis, a forensic pathologist; 3. Nathaniel Pearson, the Assistant Principal at North Charleston High School where the Petitioner and the deceased attended school; and 4. Detective Tiffani Crider with the North Charleston Police Department who obtained Petitioner's phone. (R. pp. 199-240). Petitioner's actions did not warrant removal from the court room. The trial judge erred in removing Petitioner from the courtroom.

Petitioner, who was on bond, did not appear in court on the second day of trial. (R. p. 165, lines 2-15). The State moved that bond be revoked and a bench warrant issued. (R. p. 165, lines 14-15). The judge granted both motions, inexplicably excused standby counsel, and the trial continued in Petitioner's absence. (R. p. 165, lines 16-18; p. 166, lines 18-25). During the testimony of the first State's witness called that day the judge learned that Petitioner was in the clerk's office making copies. (R. p. 187, lines 21-24). The judge ordered the deputies to bring Petitioner into the courtroom. (R. p. 187, lines 24-25).

When Petitioner was escorted into the courtroom, he began questioning the judge. Petitioner asked, "Mr. Judge Price, did you order this? Did you order this unlawful search and

unlawful detainment?" (R. p. 188, lines 2-3). Petitioner then asked, "Sir, I have a right to be heard and today I will get the facts straight as in who is who today in this courtroom. Sir, who is the trier of fact and who is the trier of the case? If you ignore me, sir, let it be shown you're inducing a fraud. I asked you a question to clarify for the record, who is the trier of the case and who is the trier of fact?" (R. p. 188, lines 5-11). The judge declined to answer Petitioner's question. (R. pp. 188-189).

The judge said, "All right. It's 10:32. I instructed the parties to be here at 9:15. My understanding from the deputy, they got an indication from the clerk's office that Mr. Singleton arrived about five to ten minutes ago, and I revoked his bond, and therefore, he will remain in custody. All right. Mr. Singleton, do you want to participate in this trial? Can you behave enough to participate in the trial or not? I will let you face your accuser. I will let you participate in the trial." (R. p. 189, line 25 – p. 190, lines 1-8). The judge then asked, "If I take those handcuffs off are you going to behave?" (R. p. 190, lines 19-20). Petitioner answered, "The fact that these handcuffs are on me is a violation of due process of law. I was at the clerk of court, and you stopped me from filing crucial evidence in my defense. And that – sir, you will be recused. I demand that you be recused because you are not upholding your duty and you are being very partial in this trial proceeding." (R. p. 190, line 21 – p. 191, line 1).

When the judge again asked about removing the handcuffs Petitioner responded, "I will participate regardless, sir. The fact that you leave – if you leave these cuffs on me, that will show prejudice." (R. p. 191, lines 6-9). The judge ordered the deputies to remove the handcuffs. (R. p. 191, lines 10-11). Petitioner then asked, "And you say you revoked my bond. Sir, that was unlawful to do. You had no grounds to revoke my bond, for I am in no violation of the bond, and I am in complete compliance with my bondsman, and I am up on payment. So if you have revoked

my bond, that will be very unlawful and you will be held accountable." (R. p. 191, lines 12-17). The judge responded saying, "If you threaten me one more time, we're going to have a real problem." (R. p. 191, lines 18-19). Petitioner responded, "I am not threatening you, sir. This is a constitutional remedy I have." (R. p. 191, lines 20-21).

Petitioner went on to say, "Anyway, like I was saying, because I'm controlling authority because I have a right to a republic form of government. That means power invested in the people, me, not any corporate entity. You wouldn't let me file that just now while I was at the clerk trying to file this. You sent your corporate mercenaries down to detain me and they prevented me from filing it, so I am just going to read from it." The following then took place between the judge and Petitioner:

> THE COURT: No, you're not.
>
> MR. SINGLETON: Sir, you have no right to tell me I can't do that because this is my –
>
> THE COURT: Do you want to go back there, or do you want –
> (Simultaneous speaking.)
>
> MR. SINGLETON: I have a right, sir, and –
>
> THE COURT: Do you want to go back there –
> (Simultaneous speaking.)
>
> MR. SINGLETON: Sir, did you take an oath to the constitution?
>
> THE COURT: I revoked his bond. Take him in the back. He will not participate.
>
> MR. SINGLETON: I have a right to be heard. I am not going to –
>
> (Mr. Singleton is escorted out of the courtroom.)

(R. p. 192, lines 4-18).

The judge then voiced his concerns saying:

> For the record, the concern that I have is I just don't trust that he won't do anything violent. I just – with the way he's acting and the way he is behaving, he's been

> nothing but violent with ya'll, I don't know if he needs to be evaluated or what, but I don't trust that he's not going to do something with this jury, or continue to try to tamper with them, or even just be violent with somebody, so I'm very concerned about that.
>
> So I don't know what, really, the best options are; whether we just cuff him and bring him in, whether he can participate in that manner, or whether he'll actually be quiet, but the other concern is that he'll do something to unfortunately force a mistrial by saying something or doing something that's inappropriate.

(R. p. 193, lines 4-16).

The prosecutor told the judge, "There is case law, Judge, essentially – so, of course the defendant's conduct must be egregiously disruptive in order to overcome his Sixth Amendment rights to face his accusers at trial; however, Judge, if he has been given his Faretta warnings on the record, which you have done multiple times, and you have a record of your repeated attempts to persuade him to conduct himself in an orderly manner or be held in contempt, then he can be TIA's with stand-in counsel." Although standby counsel was appointed, standby counsel was not present when Petitioner was absent from the courtroom.

The judge ruled:

> All right. For the record, I believe it's been more than obvious that I have been patient with Mr. Singleton. I have attempted to give him several options in which he could participate in his trial. He refuses to acknowledge any of my rulings or orders.
>
> And, to be quite honest with you, I am very fearful for the parties in this case. I am not sure if he would lash out, do something violent towards the jury, or Ms. Norvell, or anyone along those lines, so even for that reason I'm not going to allow him to participate. He has forfeited his constitutional right to represent himself based on his actions and outbursts. I'm not going to let him fight the deputies anymore. Bring them [the jurors] out.

(R. p. 195, line 21 – p. 196, lines 1-7). The trial judge did not ask that standby counsel[3] be present at trial in Petitioner's absence stating, "At this point it would just be – he's not abreast of the case;

[3] Petitioner earlier objected to standby counsel as being unqualified. (R. p. 43, lines 1-19).

he was just standby counsel for procedural purposes only, and that's been a nonissue, so it's moot, so we don't need to bring him back." (R. p. 197, lines 8-18). The trial continued in the absence of Petitioner and the absence of standby counsel with the State calling four witnesses.

During the lunch break the judge asked standby counsel to consult with Petitioner. The judge said, "Mr. Nelson [standby counsel], if you will go down and ask Mr. Singleton if he wishes to participate in his trial. If so, he will remain handcuffed and, you know, he won't be able to -- he's not going to come in here and injure anybody. You missed it. He and the deputies got into it, so he had –" (R. p. 241, lines 14-18). Standby counsel asked if this took place in the presence of the jury. (R. p. 241, line 19). The judge answered, "No, fortunately it was not. He had an extreme outburst and we could not control him, so we had to try to take him in the back, and he fought the deputies. But he's going to remain shackled." (R. p. 241, lines 20-23).

When the trial was reconvened after the lunch break standby counsel advised the judge that Petitioner wished to participate in his defense. (R. p. 242, lines 9-13). The judge stated, "So if he wants to participate, then I'm okay with bringing him up but, I mean, he understands if he says one word other than, yes, sir, he's gone." (R. p. 243, lines 7-10). When Petitioner returned to the courtroom the judge asked standby counsel if Petitioner was ready to proceed. (R. p. 244, lines 19-20). Standby counsel indicated Petitioner was ready to proceed but stated, "And I'm supposed to stay in the back and not participate." (R. p. 244, lines 21-22). Petitioner told the judge, "Mr. Nelson [standby counsel] does not have standing to speak for me, he is not qualified to be my counsel." (R. p. 244, lines 23-24).

Petitioner then asked the judge, "Did you purposely deny me my right to cross-examine these witnesses that you – that took the stand in my absence because of you?" The judge responded, " I did it because of your actions, the way you behaved." (R. p. 245, lines 10-11). The

trial then continued with Petitioner representing himself and cross-examining witnesses. The judge denied Petitioner's first requests to remove the handcuffs. (R. p. 265, lines 22-25; p. 280, lines 2-5). The judge then allowed Petitioner's right hand to be uncuffed. (R. p. 286, lines 5-12). Petitioner asked about Mr. McKeen, a witness who testified in Petitioner's absence. (R. p. 331, lines 14-16). The transcript reflects that Petitioner was escorted out of the court room and the trial ended for the day. (R. p. 369, lines 3 -p. 370, lines 1-9).

When the trial resumed the following morning Petitioner asked that his right hand be released from the handcuffs. (R. p. 375, lines 22-23). The judge responded:

> No, not after the way you behaved yesterday with assaulting those deputies on the way out. So here's the procedural background of everything that's going on here today, Mr. Singleton. The fact that you showed up late, your bond was revoked, and obviously that's why you are currently incarcerated. And then as the day wore one, there was not once, but twice, instances whereby you accused the Court of perpetrating some fraud. And then when the proceedings were over for the day I witnessed you fight two deputies, if not three, for whatever purpose, I'm not sure, all the way out. So for that I'm going to hold you in contempt, I'm going to give you six months in the county detention center.

(R. p. 375, line 24 – p. 376, lines 1-10).

During the cross examination of a detective with the North Charleston Police Department, Petitioner asked to be allowed to cross examine Mr. McKeen, one of the witnesses who testified in Petitioner's absence. (R. p. 460, lines 21-22). The judge responded, "We've already talked about that. Continue with this witness." (R. p. 460, lines 24-25).

At the close of the State's case Petitioner moved for a directed verdict and asserted that he was deprived of the right to cross examine witnesses resulting in prejudice. (R. p. 480, lines 13-19). The judge denied the directed verdict motion and then stated, "And any prejudge [sic] that the defendant had received have been of his own doings by - - " (R. p. 481, lines 4-5). The judge then elaborated on Petitioner's actions during the trial. (R. p. 481, line 23 – p. 482, lines 1-10).

When asked if he had enough time to decide if he wished to testify, Petitioner told the judge, "What I would have needed more time for Your Honor, was to cross-examine the witness that I was not able to do because you had me detained." (R. p. 483, lines 4-6).

A. Sixth Amendment Right to Be Present and Confront Witnesses

Petitioner had a Sixth Amendment right to be present in the courtroom and confront the witnesses against him. In Illinois v. Allen, 397 U.S. 337, 338, 90 S. Ct. 1057, 1058, 25 L. Ed. 2d 353 (1970), the Supreme Court of the United States wrote:

> The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that: 'In all criminal prosecutions, the accused shall enjoy the right * * * to be confronted with the witnesses against him * * *.' We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. Lewis v. United States, 146 U.S. 370, 13 S.Ct. 136, 36 L.Ed. 1011 (1892).

In State v. Shuler, 344 S.C. 604, 624, 545 S.E.2d 805, 815 (2001), the South Carolina Supreme Court wrote:

> The primary interest secured by the Confrontation Clause of the Sixth Amendment is the right to cross examination. Starnes v. State, 307 S.C. 247, 414 S.E.2d 582 (1991) (citing Douglas v. Alabama, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed.2d 934 (1965)). The right to confrontation has been referred to as a "trial right." Id. (citing Barber v. Page, 390 U.S. 719, 88 S.Ct. 1318, 20 L.Ed.2d 255 (1968)). The appropriate question under Confrontation Clause analysis is whether there has been any interference with the defendant's opportunity for effective cross examination at trial. Kentucky v. Stincer, 482 U.S. 730, 745, 107 S.Ct. 2658, 96 L.Ed.2d 631 (1987).

The judge's order excluding Petitioner from the courtroom without standby counsel while the State presented four key prosecution witnesses clearly interfered with Petitioner's opportunity for effective cross-examination.

B. Due Process

Petitioner also had a Due Process right under the Fourteenth Amendment to be present during his murder trial. In Kentucky v. Stincer, 482 U.S. 730, 745, 107 S. Ct. 2658, 2667, 96 L. Ed. 2d 631 (1987), the Supreme Court of the United State wrote:

> The Court has assumed that, even in situations where the defendant is not actually confronting witnesses or evidence against him, he has a due process right "to be present in his own person whenever his presence has a relation, reasonably substantial, to the fulness of his opportunity to defend against the charge." Snyder v. Massachusetts, 291 U.S. 97, 105–106, 54 S.Ct. 330, 332, 78 L.Ed. 674 (1934). Although the Court has emphasized that this privilege of presence is not guaranteed "when presence would be useless, or the benefit but a shadow," id., at 106–107, 54 S.Ct., at 332, due process clearly requires that a defendant be allowed to be present "to the extent that a fair and just hearing would be thwarted by his absence," id., at 108, 54 S.Ct., at 333. Thus, a defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.

Petitioner had a right to be present during the examination of the four prosecution witnesses, a critical stage of the trial.

1. Petitioner's actions did not rise to the level of disruptive conduct warranting removal from the courtroom.

The Court of Appeals affirmed Petitioner's removal from the courtroom writing:

> Although Singleton's actions occurred outside the presence of the jury, his behavior when he entered the courtroom and his interactions with the court before his removal were disruptive and warranted his removal. *See* id. at 625, 545 S.E.2d at 815 ("[A] defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct."); *id.* ("A defendant may be properly excluded when his conduct is disruptive or is interfering with the progress of the trial."); Bell, 293 S.C. at 401–02, 360 S.E.2d at 712 (concluding the trial court did not err in excluding Petitioner from the courtroom); Shuler, 344 S.C. at 625–26, 545 S.E.2d at 816 (concluding the trial court did not err in finding Petitioner's "conduct at the [pretrial] hearing disruptive, his mental and physical condition to be the result of malingering, and he voluntarily absented himself from the hearing"). The trial court had valid concerns about Singleton's behavior, especially in light of Singleton's prior interactions with the court, which resulted in his removal on at least two other occasions. Further, the trial court had shown patience with Singleton throughout

> trial and repeatedly asked Singleton if he wanted to participate and also if he could behave in order to participate in trial; however, Singleton would not conform his conduct. Moreover, the trial court later indicated Singleton engaged in a physical altercation with the deputies. Accordingly, we hold the trial court did not err in removing Singleton from the courtroom based on his conduct. *See* 21A Am. Jur. 2d *Criminal Law* § 1004 (Aug. 2026 Update) ("A defendant can lose the right to be present at trial if, after being warned by the judge that the defendant will be removed if [he or she] continues in disruptive behavior, the defendant nevertheless [acts] ... so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with the defendant in the courtroom.").

State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *7 (S.C. Ct. App. Sept. 23, 2026). (App. p. 68). The Court of Appeals erred.

Petitioner's conduct did not rise to the level of disruptive conduct warranting removal in Bell and Shuler. Petitioner's actions are distinguished from the actions in Bell where the defendant twice stood and objected during defense counsel's closing argument, the judge excused the jury and then explained that the right to be present had limitations and allowed defense counsel to further explain the matter to defendant, when the jury returned the defendant again interrupted closing argument, the judge again excused the jury to further explain the right to be present to the defendant who told the judge that he would continue to obstruct the proceedings. The Court found the defendant in Bell waived his right to be present. Petitioner in the present case did not indicate that he would continue to obstruct the proceedings and did not interrupt a lawyer. Instead, while Petitioner may have interrupted the judge, his interruption was an attempt to make a record as he represented himself. Petitioner did not waive his right to be present. After Petitioner was removed from the courtroom, the judge should have given him the opportunity to comply with the rules and returned Petitioner to the courtroom before the State called the next key witness, Greggory McKean.

Petitioner's actions are distinguished from the actions in Shuler where, during a Jackson v. Denno hearing, the defendant not only fought with the guards prior to the hearing but, also had to

be restrained during transport to the court, slammed his head on the table prior to the hearing, wore a protective mask to prevent spitting and yelled during court. The Court found that the defendant voluntarily absented himself from the hearing. The Court additionally found that the error was harmless primarily because the hearing was held open so that the defendant could be present. In the present case Petitioner's presence was excluded from a portion of his trial, not a pre-trial hearing as in Shuler. Petitioner's behavior did not rise to the level of disruptive conduct discussed in Shuler. Petitioner did not voluntarily absent himself from the trial. The error in the present case is not harmless because, despite his requests, Petitioner was not given an opportunity to cross-examine the witnesses called by the State during Petitioner's absence.

2. Waiver

Petitioner did not waive his right to be present and confront the witnesses against him. In Shuler the South Carolina Supreme Court wrote:

> Finally, a defendant can waive his right to be present at a crucial stage of the trial by disruptive conduct. State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987). A defendant may be properly excluded when his conduct is disruptive or is interfering with the progress of the trial. Id. (citing In re Dwayne M., 287 S.C. 413, 339 S.E.2d 130 (1986)); see Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353 (1970) (holding defendant waived his right to be present where he continued to behave in a disorderly manner and continued to interrupt the trial judge after he was warned about his conduct). Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. Bell, supra. (citations omitted).

344 S.C. at 625, 545 S.E.2d at 815.

In State v. Bell, 293 S.C. 391, 401, 360 S.E.2d 706, 711 (1987), the South Carolina Supreme Court wrote:

> An accused has the right to be present at every stage of his trial. Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353 (1970). This right, however, may be waived. Ellis v. State, 267 S.C. 257, 227 S.E.2d 304 (1976). A defendant may

> properly be excluded when his conduct is disruptive or is interfering with the progress of the trial. In re: Dwayne M., 287 S.C. 413, 339 S.E.2d 130 (1986). Although the right to be present is a substantial one, no presumption of prejudice arises from a defendant's exclusion. State v. Whaley, 290 S.C. 463, 351 S.E.2d 340 (1986); State v. Smart, 278 S.C. 515, 299 S.E.2d 686 (1982).

Petitioner's actions in the courtroom were not sufficient to constitute a waiver of the right to be present in the courtroom and confront witnesses. Petitioner's actions were not in front of the jury. Petitioner had a physical altercation with the guards and, according to the judge's ruling, Petitioner refused to acknowledge the judge's rulings or orders. The record, however, reflects that prior to the judge removing Petitioner from the courtroom, Petitioner, representing himself, was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

3. The trial judge failed to mitigate the disadvantages of removal.

In his concurrence in Illinois v. Allen, 397 U.S. 337, 351, 90 S. Ct. 1057, 1064, 25 L. Ed. 2d 353 (1970), Justice Brennan wrote:

> I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

The trial judge did not attempt to mitigate Petitioner's absence from the courtroom. During pre-trial, when Petitioner continued to argue for suppression after the judge denied the motion, the prosecutors, standby counsel and the judge discussed technology available to allow Petitioner to view the trial without disturbing the proceedings. (R. pp. 107-110). There was, however, no discussion of the use of alternate ways to deal with any possible disturbance before the judge ordered Petitioner out of the courtroom on the second day of trial. Additionally, Petitioner was not given a second opportunity to conform his conduct before the State was allowed to call four

witnesses in his absence and in the absence of standby counsel. Finally, once Petitioner returned to the courtroom, he was not given the opportunity to cross-examine the witnesses called during his absence.

B. Sixth Amendment Right to Self -Representation

"In Faretta, the United States Supreme Court held that criminal defendants have a fundamental right to self-representation under the Sixth Amendment. 422 U.S. at 819–21, 95 S.Ct. 2525." State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 491 (2018). Petitioner was generally warned of the dangers of self-representation during the January 6, 2023, hearing prior to the March 27, 2023, trial date. (R. pp. 13-16). At trial Petitioner advised the judge that he wished to proceed *in propia persona* rather *pro se*. (R. p. 42, lines 14-17). The judge appointed standby counsel. (R. p. 42, lines 18-24). Petitioner objected to standby counsel as being unqualified. (R. p. 43, lines 1-19).

The trial proceeded with Petitioner representing himself. Later in the trial, as discussed above, the judge specifically ruled, "He has forfeited his constitutional right to represent himself based on his actions and outbursts." (R. p. 196, lines 5-6). The judge, however, did not require standby counsel to be present during Petitioner's absence from the trial. The error in in the trial judge's termination of Petitioner's right to self-representation is further complicated by the fact that counsel was not appointed once Petitioner was removed the courtroom. While standby counsel had been appointed, standby counsel was not present when Petitioner was absent. Petitioner was entirely unrepresented while the State called four witnesses to testify at trial.

1. Petitioner's actions did not rise to the level of disruptive conduct warranting the forfeiture of self-representation.

In affirming the Court of Appeals wrote, "Although Singleton asserts the trial court erred in stating he had "forfeited his constitutional right to represent himself based on his actions and outbursts," we find the trial court intended to say Singleton had *forfeited his right to be present during trial*, which is supported by the fact that the trial court did not actually terminate Singleton's right to self-representation because Singleton continued to represent himself after he returned to the courtroom." State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *9 (S.C. Ct. App. Sept. 23, 2026) (App. p. 72). The Court of Appeals erred. The right to be present during trial and the right to self-representation are two distinct rights provided by the Sixth Amendment.

During the time Petitioner was removed from the courtroom, and the State was allowed to call four witnesses and admit State's exhibits #32, #33, #34, #35, #36, #37, #38A, and #39, Petitioner's right to self-representation was terminated. Petitioner's actions in the courtroom were not sufficient to constitute a waiver of the right to self-representation.

In a footnote in Faretta v. California, 422 U.S. 806, 834, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975), the Court wrote:

> Moreover, the trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct. See Illinois v. Allen, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Of course, a State may—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary. See United States v. Dougherty, 154 U.S.App.D.C. 76, 87—89, 473 F.2d 1113, 1124—1126.

The trial judge erred in terminating self-representation by Petitioner when Petitioner did not deliberately engage in serious and obstructionist misconduct. As discussed above, Petitioner had a physical altercation with the guards and, according to the judge's ruling, Petitioner refused

to acknowledge the judge's rulings or orders. While Petitioner may have interrupted the judge, the record reflects that prior to the judge removing Petitioner from the courtroom, Petitioner was trying to make a record of what he attempted to file in the clerk's office. (R. p. 191, line 22 – p. 192, lines 1-3).

An opinion by the Texas Court of Appeals is persuasive where the court wrote:

> However, even though we rely heavily on the trial court's assessment of an obstreperous defendant when reviewing the court's decision, the court's discretion to deny the right of self-representation is necessarily limited. Faretta empowers the courts to preserve the integrity of the trial by denying self-representation to those who deliberately engage in obstructionist behavior. Allowing a defendant to represent himself will almost certainly result in some disruption or delay in the trial proceedings, but "so long as it is not a *calculated* obstruction, this delay cannot deprive the accused of the right [of self-representation] once properly asserted." Birdwell v. State, 10 S.W.3d 74, 77 (Tex.App.—Houston [14th Dist.] 1999, pet. ref'd) (emphasis added). We address only the instances in which the trial court has observed calculated attempts to disrupt, subvert, or obstruct the trial proceedings. A trial court may not deny the right to self-representation based simply on "predictions of likely recalcitrant behavior" or delay or disruption incidental to self-representation without a legal education. Scarbrough v. State, 777 S.W.2d 83, 92, 94 n. 3 (Tex.Crim.App.1989); Colon v. State, 717 S.W.2d 474, 475 (Tex.App.—San Antonio 1986, no pet.) ("To hold that citizens are unduly disruptive merely because they are inexperienced in the practice of law is tantamount to holding that only attorneys enjoy a constitutional right to self-representation.").

Lewis v. State, 532 S.W.3d 423, 431–32 (Tex. App. 2016)(n. 5 omitted). In ruling the Texas Court of Appeals wrote, "On this record, the trial court did not abuse its discretion in determining that Petitioner's behavior demonstrated an attempt at calculated obstruction and delay, not an earnest attempt to act in his own defense. The delay caused by Petitioner's questions, interjections about his proper name, and general refusal to give answers responsive to the trial court's questioning were not regular incidents of self-representation." Lewis, 532 S.W.3d at 432. In contrast, Petitioner's behavior in the present case was not an attempt at calculated obstruction and delay.

The error in denying Petitioner the right to self-representation is structural and not subject to a harmless error analysis. McKaskle v. Wiggins, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984);

C. Standby Counsel

Petitioner maintains that the trial judge erred in finding that Petitioner forfeited his right to self-representation because he did not deliberately engage in serious and obstructionist misconduct. Assuming, arguendo, that the judge did not err in finding Petitioner forfeited his right to self-representation, the judge erred by not appointing standby counsel in Petitioner's absence. The Court of Appeals noted, "We have been unable to find any South Carolina authority that precludes the trial court from proceeding with a pro se defendant's trial after his removal from the courtroom or that *requires* a trial court to appoint counsel, order standby counsel to return and represent a defendant in his or her absence, or allow the pro se defendant to cross-examine the witnesses who testified in his or her absence upon his or her return to the courtroom." State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *8 (S.C. Ct. App. Sept. 23, 2026). (App. p. 69). The Court of Appeals then cited two opinions from other jurisdictions that generally stand for the proposition that a criminal defendant does not have a right to standby counsel if he is removed from the courtroom: State v. Lacey, 431 P.3d 400, 408 (or. 2018); and State v. Fuller, 914 S.E.2d 36, 43-46 (N.C. Ct.App.2025). (App. p. 69). The present case is distinguished from these cases from other jurisdictions.

In State v. Lacey, 364 Or. 171, 185–86, 431 P.3d 400, 408 (2018), the Supreme Court of Oregon wrote, "The trial court clearly and repeatedly warned defendant that, if he insisted that he would violate the court's order prohibiting him from referring to information that had not been admitted into evidence, he would be removed from the courtroom and no one would be present to

represent him. Despite those warnings, defendant insisted that he would violate the order. By doing so, he made a knowing and voluntary choice to be removed from the courtroom and leave the defense table empty." While Petitioner initially made a knowing and voluntary waiver of the right to counsel in order to represent himself, he was not warned that if he was removed from the courtroom, no one would be present to represent him. Petitioner did not waive his right to standby counsel.

In State v. Fuller, 298 N.C. App. 199, 214, 914 S.E.2d 36, 46 (2025), the Court of Appeals of North Carolina, addressing the appointment of standby counsel when an unrepresented defendant is removed from the courtroom, wrote, "Good and prudent practice may necessitate appointing standby counsel in these situations. The role of standby counsel is to assist a pro se defendant, understanding that the defendant 'must be allowed to control the organization and content of his own defense, to make motions, to argue points of law, to participate in *voir dire*, to question witnesses, and to address the court and the jury at appropriate points in the trial.' McKaskle v. Wiggins, 465 U.S. 168, 174, 104 S. Ct. 944, 949, 79 L.Ed.2d 122 (1984)." In Fuller the Court of Appeals of North Carolina found the defendant forfeited his right to counsel based on egregious behavior, including threatening to remove his clothes. Some of the outbursts by the defendant in Fuller were in front of the jury pool. Petitioner's actions, outside the presence of the jury, did not rise to the level of the actions of the defendant in Fuller to constitute a forfeiture of the right to counsel. Pursuant to a North Carolina statute, the Court of Appeals in Fuller found the trial court did not abuse its discretion by not appointing standby counsel. South Carolina does not have a statute addressing the appointment of standby counsel for a *pro se* defendant.

1. **Petitioner did not forfeit or waive his right to standby counsel.**

In finding standby counsel was not required the Court of Appeals wrote:

> While appointment of counsel or standby counsel may be "prudent practice," we hold the trial court here was not required to have standby counsel return to the courthouse or appoint counsel given Singleton's previous waiver of the right to counsel and his adamance—throughout various points during trial—that he did not want standby counsel to participate in this case. See Faretta, 422 U.S. at 834 n.46, 95 S.Ct. 2525 ("[A] State *may*—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary." (emphasis added));

State v. Singleton, No. 2023-000553, 2026 WL 2854818, at *9 (S.C. Ct. App. Sept. 23, 2026). (App. p. 70).

Standby counsel had been appointed but was not present when Petitioner was absent. Petitioner was entirely unrepresented while the State called four witnesses to testify at trial. Petitioner's initial waiver of counsel in order to represent himself should not extend to when Petitioner was removed from the courtroom and unable to represent himself. In United States v. Ductan, 800 F.3d 642, 654 (4th Cir. 2015), the United States Court of Appeals for the Fourth Circuit found the defendant did not waive his right to counsel. In a concurrence Judge Diaz wrote:

> Of course, the right to self-representation is "not absolute." Fields, 49 F.3d at 1035. Thus, a pro se defendant who is disruptive in the courtroom may forfeit his right to self-representation. Faretta, 422 U.S. at 834 n. 46, 95 S.Ct. 2525 ("[T]he trial judge may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct."). In these cases, the proper course of action is to revoke the defendant's right to self-representation and appoint counsel. See, e.g., United States v. Mack, 362 F.3d 597, 601 (9th Cir.2004) ("A defendant does not forfeit his right to representation at trial when he acts out. He merely forfeits his right to represent himself in the proceeding."); United States v. Pina, 844 F.2d 1, 15 (1st Cir.1988) (suggesting that a trial judge "employ his or her wisdom to appoint standby counsel" to represent a defendant who is removed or discharges counsel); see also United States v. West, 877 F.2d 281, 287 (4th Cir.1989) (affirming the defendant's conviction where the district court found him

incompetent to represent himself and immediately appointed his standby counsel to replace him).

Ductan at 654. (n. 2 omitted). As noted in the concurrence in Ductan, "In these cases, the proper course of action is to revoke the defendant's right to self-representation and appoint counsel." 800 F.3d at 654. This Court should follow the Fourth Circuit and hold that when the right to self-representation is revoked and the defendant removed from the courtroom, standby counsel should be appointed.

"The Sixth Amendment guarantees to a criminal defendant the right to the assistance of counsel before he can be convicted and punished by a term of imprisonment. U.S. Const. amend. VI; Gideon v. Wainwright, 372 U.S. 335, 339–40, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). The right to counsel is fundamental to our system of justice; beyond protecting individual defendants, it is 'critical to the ability of the adversarial system to produce just results.' Strickland v. Washington, 466 U.S. 668, 685, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)." United States v. Ductan, 800 F.3d 642, 648 (4th Cir. 2015). Allowing the trial to go forward in Petitioner's absence while entirely unrepresented violated Petitioner's Sixth Amendment right to counsel. Under the unusual circumstances of this case, Petitioner did not waive the right to counsel once he was removed from the courtroom. The error in denying Petitioner the right to counsel is structural and not subject to a harmless error analysis. United States v. Gonzalez–Lopez, 548 U.S. 140, 148–50, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006). The multiple constitutional violations require reversal.

CONCLUSION

Based on the above arguments, this Court should grant the petition for writ of certiorari to allow further briefing on the issue.

Respectfully Submitted,



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This 16th day of November, 2026.