IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia,

Plaintiff below, Respondent,

v.

Supreme Court No.: 20-0744
Case No. CC-41-2016-F-429
Circuit Court of Raleigh County

A.B.,

Defendant below, Petitioner.

PETITIONER'S REPLY

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REPLY ARGUMENT

Trial counsel faced an impossible choice. Duty bound her to zealously advocate for Petitioner in her child neglect causing death trial,[1] and she personally knew evidence that would impeach a witness the State intended to show causation.[2] But counsel only knew the evidence because the State's witness had confided in her firm.[3] Thus, she had a continuing duty of loyalty to the former client as well.[4]

The ODC told counsel she could not represent Petitioner.[5] To discharge her duty, she must only consider Petitioner's interests when making strategic choices.[6] Yet, she would betray her duty of loyalty and confidentiality if she impeached the former client.[7]

The circuit court ordered counsel to represent Petitioner anyway.[8] Forced to accommodate the conflicting interests, she compromised her advocacy for Petitioner.[9] She acquiesced to the prosecutor's efforts to limit her confrontation of the former client-turned-State witness.[10] She did not seek admission of the impeachment evidence.[11] She did not cross-examine the former client at all.[12]

Counsel could not serve two masters.[13] And because the response fails to refute that ancient maxim—"as true in law as it is in morals"[14]—Petitioner asks this Court to reverse her conviction for a new trial with conflict-free counsel.

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[1] *See* WV R RPC Rule 1.1; *Strickland v. Washington*, 466 U.S. 668, 688 (1984).
[2] A.R. 141; A.R. 142–43; *see also* A.R. 479.
[3] A.R. 141–43.
[4] WV R RPC Rule 1.7; *see also U.S. v. Martinez*, 630 F.2d 361, 362–63 (5th Cir. 1980) (Defendant denied right to conflict-free counsel where trial counsel represented he could not adequately cross-examine prosecution witness he had previously represented without revealing confidential information).
[5] *See* A.R. 141; *see also* WV R RPC Rule 1.7.
[6] *See* Syl. Pt. 4, *Bank of Mill Creek v. Elk Horn Coal Corp.*, 133 W. Va. 639, 57 S.E.2d 736 (1950).
[7] *See* WV R RPC 1.9; Syl. Pt. 1, *State ex rel. Keenan v. Hatcher*, 210 W. Va. 307, 557 S.E.2d 361 (2001).
[8] A.R. 161–62.
[9] *See, e.g.*, A.R. 168; A.R. 474–76; A.R. 479–80; A.R. 481; A.R. 482; A.R. 483.
[10] A.R. 169; A.R. A.R. 479–80.
[11] A.R. 481–82.
[12] A.R. 482.
[13] *See* Matthew 6:24.
[14] *Guthrie v. Huntington Chair Co.,* 71 W. Va. 383, 76 S.E. 795, 796 (1912).

A. The circuit court should have replaced trial counsel when she proffered that an actual conflict prevented her from zealously representing Petitioner.

The circuit court had a full and fair opportunity to correctly rule upon trial counsel's motion to withdraw. The response primarily argues that trial counsel did not prove an actual conflict because although she said she could not ethically cross examine a State's witness, trial counsel did not vouch the record with the privileged information she possessed.[15] But the United States Supreme Court has never held a defendant to this standard.[16] The circuit court should have removed trial counsel when she represented as an officer of the court that she could not concurrently represent the interests of both Petitioner and her firm's former client.

Heeding the court's instruction not to disclose confidential information,[17] counsel said she had an imputed duty of loyalty to the State's witness because her firm previously represented the juvenile.[18] She proffered that by virtue of the representation she possessed information that "[a]bsolutely" would assist Petitioner's defense by impeaching the witness.[19] Again bearing in mind the court's instruction concerning privileged communications, the parties placed the witness's juvenile file on the record under seal.[20] The exhibits, including the entire juvenile file, appear at Appendix Record 1061–1158.[21]

The response denigrates trial counsel's proffers as "factually unsupported assertions[.]"[22] However, the response misapplies this Court's law and misses that the United States Supreme Court has explicitly rejected its position. Per the Supreme Court, trial counsel should only have made representations as an officer of the court because doing anything more would violate her duty of confidentiality to the former client.[23]

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[15] *See* Resp.'s Br. 17.
[16] *See Holloway v. Arkansas*, 435 U.S. 475, 485 (1978).
[17] A.R. 142.
[18] *Id.*
[19] A.R. 143–44; *see also* A.R. 141; A.R. 142–43; A.R. 479.
[20] A.R. 139.
[21] *But see* Resp.'s Br. 4, n. 4.
[22] Resp.'s Br. 17.
[23] *See Holloway*, 435 U.S. at 485.

The response relies upon *State ex rel. Youngblood v. Sanders*[24] to argue that courts must scrutinize the actual privileged communications to be certain a conflict exists,[25] but that case differs in a crucial respect. In *Youngblood*, the State sought to disqualify defense counsel *over objection*.[26] In that situation, courts absolutely should require a high showing from the movant: The State may be seeking a strategic advantage in bad faith, and the motion implicates the defendant's right to counsel of choice.[27] Neither is at issue when the defense moves to withdraw to vindicate constitutional rights. To the extent a court believes a lawyer files a motion to force a delay, its recourse is against the lawyer.[28] A court cannot violate the defendant's right to conflict-free counsel just to meet a litigation deadline.[29]

Furthermore, the United States Supreme Court has explicitly rejected the response's position. In *Holloway v. Arkansas*,[30] a lawyer representing co-defendants told the trial court he had acquired confidential information from each client that placed their interests in conflict.[31] The trial court forced the lawyer to proceed, and the jury convicted.[32] The Arkansas Supreme Court affirmed by doing exactly what the response asks this Court to do—it ruled that the defendants could not meet their burden because trial counsel did not disclose the privileged communications and only made conclusory statements.[33] The United States Supreme Court reversed, finding the state court's rationale—identical to the response's—untenable.[34]

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[24] *State ex rel. Youngblood v. Sanders*, 212 W. Va. 885, 575 S.E.2d 864 (2002).
[25] Resp.'s Br. 17.
[26] *See Youngblood*, 212 W. Va. at 888.
[27] *See id.* at 889, 892–93; *see also* Syl. Pt. 2, *State ex rel. Blake v. Hatcher*, 218 W. Va. 407, 624 S.E.2d 844 (2005).
[28] *See Holloway*, 435 U.S. at 486.
[29] *See id.* at 486–87 (court can punish counsel if the motion is both untimely AND brought late for purposes of delay).
[30] *Holloway v. Arkansas*, 435 U.S. 475 (1978).
[31] *Holloway*, 435 U.S. at 476–77.
[32] *Id.* at 478–81.
[33] *Id.* at 481.
[34] *Id.* at 484–85.

On the contrary, the United States Supreme Court found that counsel need not breach an ethical duty to prove he or she is representing conflicting interests.[35] The lawyer is in the best position to know whether a conflict exists,[36] and has an ethical obligation of candor to bring the issue to the court's attention.[37] "Attorneys are officers of the court, and 'when they address the judge solemnly upon a matter before the court, their declarations are virtually made under oath.'"[38] To require anything more—to require the response's heightened proof—would place trial counsel at "risk of violating, by more disclosure, his duty of confidentiality to his clients."[39] The court therefore reversed, finding that counsel's conclusory statements sufficed to prove a violation of the Sixth Amendment Counsel Clause.[40]

Finally, to whatever extent trial counsel's conduct fell short, the entire point of Petitioner's appeal is that counsel provided constitutionally ineffective assistance and restrained her advocacy to satisfy competing interests.[41] By this same token, *Sullivan* does not require conflicted counsel to alert the trial court or adduce any evidence that he or she is providing ineffective assistance. "In order to establish a violation of the Sixth Amendment, a defendant *who raised no objection at trial* must demonstrate that an actual conflict of interest adversely affected his lawyer's performance."[42]

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[35] *Holloway*, 435 U.S. at 484–85.
[36] *Id.* at 485.
[37] *See id.* at 485–86.
[38] *Id.* at 486 (quoting *State v. Brazile*, 75 S.02d 856, 860–61 (La. 1954)).
[39] *Id.* at 485; *cf. T. C. Theatre Corp. v. Warner Bros. Pictures*, 113 F. Supp. 265, 269 (S.D.N.Y. 1953) ("To compel the client to show, in addition to establishing that the subject of the present adverse representation is related to the former, the actual confidential matters previously entrusted to the attorney and their possible value to the present client would tear aside the protective cloak drawn about the lawyer-client relationship. For the Court to probe further and sift the confidences in fact revealed would require the disclosure of the very matters intended to be protected by the rule.").
[40] *Holloway*, 435 U.S. at 484 ("We hold that the failure, in the face of the representations made by counsel weeks before trial and again before the jury was empaneled, deprived petitioners of the guarantee of "assistance of counsel.").
[41] *See id.* at 490 ("[I]n a case of joint representation of conflicting interests the evil—it bears repeating—is in what the advocate finds himself compelled to refrain from doing[.]").
[42] *Cuyler v. Sullivan*, 446 U.S. 335, 348 (1980) (*emphasis added*).

Petitioner meets this standard. The ODC told trial counsel she had an unwaivable, concurrent conflict that precluded her from representing Petitioner.[43] Trial counsel told the court that she possessed information that "[a]bsolutely"[44] would help Petitioner, but using it would breach her duty of loyalty to the witness, her firm's former client.[45] The circuit court therefore erred by not replacing trial counsel pre-trial.

B. Trial counsel actively represented conflicting interests.

Trial counsel had a disqualifying, concurrent conflict because she could not discharge her duty to both Petitioner and the former client without one detracting from the other.[46] The Response argues that Petitioner did not invoke the Rules of Professional Conduct below and cannot show a conflict under the rules even if she had.[47] But this argument disregards that the circuit court analyzed counsel's motion to withdraw under the rules[48] and misapplied them.[49] It also ignores the ODC's pretrial warning that trial counsel had an unwaivable conflict under the Rules of Professional Conduct.[50] More fundamentally, the Response misses that local rules don't set the standard for whether an actual conflict adversely impacts counsel's performance.[51] The Sixth Amendment to the United States Constitution does.[52]

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[43] A.R. 141.
[44] A.R. 143–44.
[45] A.R. 141–43.
[46] WV R RPC Rule 1.7(a)(2) ("[A] lawyer shall not represent a client if ... there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to ... a former client[.]"); *also compare* WV R RPC Rule 1.9 *with State ex rel. Keenan*, 210 W. Va. 307 at Syl. Pt. 1.
[47] *See* Resp.'s Br. 19, 20.
[48] *See* A.R. 159.
[49] *See State ex rel. Keenan*, 210 W. Va. 307 at Syl. Pt. 1 (" "[A] current matter is deemed to be substantially related to an earlier matter in which a lawyer acted as counsel if ... there is a substantial risk that representation of the present client will involve the use of information acquired in the course of representing the former client[.]").
[50] *See* A.R. 141.
[51] *Cf. Strickland*, 466 U.S. at 688–89.
[52] *See Sullivan*, 446 U.S. at 350.

Rules are useful guides for evaluating ineffective claims, "but they are only guides."[53] For purposes of the Counsel Clause of the United States Constitution,[54] a conflict is "actual" if the interests diverge[55] and counsel must "actively represent[]" both.[56] Irrespective of whether counsel's conduct merits disciplinary action, her client's and the former client's interests diverged during Petitioner's trial.

First, trial counsel owed a duty of loyalty to her firm's former client and could not divulge confidential information she possessed by virtue of the representation.[57] The ability to freely confide it one's attorney or her firm is inherent to the traditional attorney-client relationship going back at least four centuries.[58] Even after the representation ends, confidentiality is necessary to "encourage clients fully and fairly to make known to their attorneys all facts pertinent to their cause. Considerations of public policy, no less than the client's private interest, require rigid enforcement of the rule against disclosure."[59]

And the former client-turned-State witness had a substantial interest in the confidentiality of her discussions with counsel's firm and her juvenile records. The response suggests that the former client's record was "generally known,"[60] but the West Virginia Legislature and this Court do not treat the rights of juveniles so carelessly. By statute, juvenile records command the utmost confidentiality.[61] Absent leave of court, it is illegal even to publish a juvenile's name in connection with their legal proceedings.[62]

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[53] *Strickland*, 466 U.S. at 688; *see also* Petr.'s Br. 8, n. 73.
[54] *See* U.S. Const. Amend. VI; W. Va. Const. Art. III § 14.
[55] *See Sullivan v. Cuyler*, 723 F.2d 1077, 1086 (3d Cir. 1983).
[56] *See Sullivan*, 446 U.S. at 350.
[57] WV R RPC Rule 1.9(c); *see also* WV R RPC Rule 1.6.
[58] *See* Holderness, A. Sidney Jr. and Brook Wunnicke, *Legal Opinion Letters Formbook*, § 6.06 ABA MODEL RULE 1.6: CONFIDENTIALITY OF INFORMATION (Aspen 2011) (citing *Bard v. Lovelace*, Cary 62, 21 Eng. Rep. 33 (1577)).
[59] *Id.* (quoting *T.C. Theatre Corp.*, 113 F. Supp. at 269).
[60] Resp.'s Br. 17.
[61] *See e.g.* W. Va. Code § 49-5-103.
[62] W. Va. Code § 49-4-103.

Both out of deference to the legislature's primary role in setting policy and respect for the rights of juveniles, this Court also keeps juvenile records confidential. Though records—if known—are available for impeachment,[63] a defendant may only discover a juvenile's records by showing that the due process right to a fair trial requires disclosure.[64] And as the Response acknowledges,[65] this Court prohibits the identification even of *adult* defendants if there is a risk one might infer a child's identity.[66]

Second, trial counsel owed a duty to Petitioner.[67] "Counsel's function is to assist the defendant, and hence counsel owes the client a duty of loyalty, a duty to avoid conflicts of interest."[68] Counsel has an "overarching duty to advocate the defendant's cause[.]"[69] "The relationship of attorney-at-law and client is of the highest fiduciary nature, calling for the utmost good faith and diligence on the part of such attorney."[70] The adversarial system's promise is that counsel will zealously advocate for their clients' interests—not that they will balance those interests against the interests of the other side.[71]

And here, these interests conflicted. The Response argues that refraining from cross was sound strategy,[72] but this argument misses that the Sixth Amendment requires unconflicted counsel to make that call.[73] Under *Sullivan*, the only unreasonable tactic Petitioner must show is a conflict.[74] Counsel impeaching the witness would betray her duty of loyalty.[75] But if counsel honored her duty to the former client, she would betray her duty

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[63] *See* Syl. Pt. 4 *State v. Tyler G.*, 236 W. Va. 152, 778 S.E.2d 601 (2015).
[64] *See* Syl. Pt. 2 *State ex rel. Lorenzetti v. Sanders*, 238 W. Va. 157, 792 S.E.2d 656 (2016).
[65] *See* Resp.'s Br. 1, n. 1.
[66] *Id.*; *see also* WVRAP 40(e).
[67] *See* WV R RPC Rule 1.1.
[68] *Strickland*, 466 U.S. at 688.
[69] *Id.*
[70] *Bank of Mill Creek*, 133 W. Va. 639 at Syl. Pt. 4.
[71] *Cf. Sprint Commc'ns Co., L.P. v. APCC Servs., Inc.*, 554 U.S. 269, 288 (2008) ("[C]oncrete adverseness" necessary to "sharpen[] the presentation of issues.").
[72] *See* Resp.'s Br. 29–30.
[73] *See Sullivan*, 446 U.S. at 350.
[74] *Id.*
[75] *See U.S. v. Nicholson*, 475 F.3d 241, 250 (4th Cir. 2007) (Actual conflict exists where zealous advocacy for a client would require counsel to accuse another of uncharged misconduct).

to advocate for Petitioner's interests alone.[76] Regardless of what an unconflicted lawyer could have decided, trial counsel could not ethically make any decision.

This is a quintessential conflict of interest.[77] Counsel could not serve two masters. And in choosing allegiance to the former—no matter her motive—she necessarily slighted Petitioner.[78] The circuit court therefore erred in finding no conflict.

C. The conflict "adversely affected" trial counsel's conduct because she compromised her representation of Petitioner.

Forced to represent conflicting interests, trial counsel chose fidelity to the former client at Petitioner's expense.[79] Counsel consented to the court weighing Petitioner's interest in a fair trial against the witness's interest in confidentiality before admitting evidence.[80] This novel procedure violates both the Due Process Clause of the Fourteenth Amendment and the Confrontation Clause of the Sixth.[81] The prosecutor invented this unprecedented gatekeeping step,[82] counsel acquiesced to it,[83] and in the absence of adversarial testing the court accepted it.[84] Trial counsel then cooperated with the prosecutor to use this illegal procedure and a choreographed cross-examination to exclude the confidential information.[85] Before trial, the circuit court should have replaced trial counsel to avoid

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[76] *See Bank of Mill Creek*, 133 W. Va. 639 at Syl. Pt. 4.
[77] *See Beets v. Scott*, 65 F.3d 1258, 1265 (5th Cir. 1995) (multiple and serial representation of clients are exactly the kinds of conflicts the Supreme Court meant to address in *Cuyler v. Sullivan*).
[78] *See* Matthew 6:24.
[79] *See e.g.* A.R. 168; A.R. 474–76; A.R. 479–80; A.R. 482; A.R. 483.
[80] A.R. 168.
[81] *See Pennsylvania v. Ritchie*, 480 U.S. 39, 60 (1987) (for discovery purposes, a court may screen confidential information in camera, but must disclose anything helpful to the defense without regard for confidentiality); *Davis v. Alaska*, 415 U.S. 308, 319 (1974) (Witness's interest in confidentiality not grounds for excluding cross-examination based on known evidence).
[82] A.R. 168.
[83] *Id.*
[84] *Id.*
[85] A.R. 474–76.

this sort of entanglement.[86] And post-conviction, this consequence of the court's error justifies a new trial under *Sullivan*.[87]

The response does not contest that the State below proposed an illegal screening procedure[88]—no matter the witness's interest in confidentiality, the defendant's right to a fair trial "is paramount."[89] Rather, it argues that it sees no proof of conflict, and therefore counsel must have assisted the State in violating Petitioner's Sixth and Fourteenth Amendment rights as a matter of sound strategy.[90] This argument is unpersuasive.

If anything, this otherwise inexplicable lapse in judgment shows an interest other than Petitioner's influencing counsel.[91] The response argument hinges on its position—already rejected by the United States Supreme Court[92]—that trial counsel must breach her duty to the former client to prove a conflict.[93] This is unsound.[94] But the argument further misses just how extraordinary trial counsel's conduct was after the court forced her to represent Petitioner. When counsel sought to withdraw, she said she possessed confidential information that "[a]bsolutely" would be helpful to Petitioner's case.[95] Yet when the court forced her to trial, counsel acquiesced to an unconstitutional procedure that served no purpose but to exclude this evidence.[96] It is not reasonable for counsel to consent to an illegal procedure that hurts a client. And this wasn't a mistake in the heat of

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[86] *See Holloway*, 435 U.S. at 484–85.
[87] *Sullivan*, 446 U.S. at 350.
[88] *Compare* Resp.'s Br. 30 (citing *State v. Tyler G.*, 236 W. Va. 152 (2015)) *with* Petr.'s Br. 12, n. 106.
[89] *Davis*, 415 U.S. at 319.
[90] *See* Resp.'s Br. 29.
[91] *See, e.g., Mickens v. Taylor*, 535 U.S. 162, 171 (2002) ("we think 'an actual conflict of interest' meant precisely a conflict that affected counsel's performance—as opposed to a mere theoretical division of loyalties.") (*emphasis removed*); *U.S. v. Tatum*, 943 F.2d 370, 375 (4th Cir. 1991) ("The two requirements, an *actual conflict* of interest resulting in an *adverse effect* on counsel's performance, are often intertwined, making the factual analyses of them overlap.").
[92] *Holloway*, 435 U.S. at 484–85.
[93] *See* Resp.'s Br. 29.
[94] *See Holloway*, 435 U.S. at 484–85.
[95] A.R. 143–44.
[96] A.R. 168.

the moment—trial counsel again acquiesced to the in camera screening procedure at trial.[97] There is no better explanation for counsel's dereliction of her duty to Petitioner than that she owed a competing duty to another.

The response also argues that in light of the witness's answers during the in camera cross, counsel's decision to forego using the impeachment evidence—and indeed cross-examining the former client at all—was reasonable.[98] But again, the response glosses over an egregious record. Though the adverse effect often lies in what counsel refrains from doing,[99] here trial counsel also actively worked against her client's interests—at least tacitly—by taking part in cross-examination choreographed by the State.

Though restraining her advocacy would be enough to show the conflict adversely affected trial counsel's performance,[100] she did more. The record shows that trial counsel—at least tacitly—worked with the prosecutor to exclude the impeachment evidence, likely in the mistaken belief it would obviate the conflict. First, trial counsel acquiesced to an in camera cross-examination of the former client-turned-State witness.[101] This screening had no basis in law—Petitioner had every right to cross examine the witness upon whatever material evidence she possessed without weighing confidentiality.[102] And doing so in camera had no basis in law—the purpose of cross-examination is to present testimony to the finder of fact in open court.[103] Trial counsel also acquiesced when the prosecutor insisted she ask only one question.[104] But subject to reasonable control by the court, trial counsel

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[97] A.R. 474–76.
[98] *See* Resp.'s Br. 30–33.
[99] *Holloway*, 435 U.S. at 490.
[100] *See Holloway*, 435 U.S. at 489–90 ("Joint representation of conflicting interests is suspect because of what it tends to prevent the attorney from doing.").
[101] A.R. 474–76.
[102] *See* Resp.'s Br. 30 (citing *State v. Tyler G.*, 236 W. Va. 152 (2015)); *see also Davis*, 415 U.S. at 319.
[103] *See* W. Va. R. Crim. P. 26.
[104] A.R. 479–80.

should have been free to ask any number of questions relevant to credibility.[105] Trial counsel acquiesced when the State dictated the one question she could ask.[106] But normally, the adverse party conducts cross-examination, not the lawyer who prepped the witness for trial.[107] Nothing in this procedure had any basis in law, it could only hurt Petitioner, and yet trial counsel acquiesced to all of it.

Besides the irregularity of the procedure, the cross-examination question itself—chosen by the prosecutor and heard only by the judge—is also problematic. The prosecutor and trial counsel claimed the witness's answer would determine whether the door was opened to impeachment,[108] even though credibility is always at issue[109] and confidentiality could not bar its introduction.[110] And yet, it appears they crafted the question to avoid "opening the door" no matter the witness's answer (even though it had never been shut). Trial counsel paraphrased the prosecutor's question: "[O]n November 7th, 2015, had you used any alcohol or drugs?"[111] If she answered in the affirmative, trial counsel could not impeach her with the confidential information because her testimony would be consistent.[112] Yet when she denied being under the influence, trial counsel said she had not opened the door.[113] Trial counsel did not seek to impeach her[114] or test the truthfulness of her assertion.[115] In the jury's presence she did not cross-examine the former client at all.[116]

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[105] WVRE 611.
[106] A.R. 479–80.
[107] WVRE 611.
[108] A.R. 479–80.
[109] WVRE 611.
[110] *See* Resp.'s Br. 30 (citing *State v. Tyler G.*, 236 W. Va. 152 (2015)); *see also Davis*, 415 U.S. at 319.
[111] A.R. 481.
[112] WVRE 613.
[113] *But see* Syl. Pt. 1, *State v. Blake*, 197 W. Va. 700, 478 S.E.2d 550 (1996) (to impeach with prior statement, current testimony must be inconsistent but need not be diametrically opposed).
[114] A.R. 481.
[115] *See California v. Green*, 399 U.S. 149, 158 (1970) (Cross-examination is the "greatest legal engine ever invented for the discovery of truth[.]") (quoting 5 Wigmore § 1367.).
[116] A.R. 483.

This was not an adversarial confrontation. It was a show to reach a pre-determined outcome convenient for both lawyers but adverse to Petitioner's interests. And though the intent may have been to obviate an ethical problem caused by the court, it only shows the degree of the conflict and the catastrophic impact it had on trial counsel's performance. The response brief does not begin to address this fundamental breach of the attorney-client relationship, the subversion of the adversarial process, or the detriment to the judicial system's legitimacy. Petitioner therefore asks for a new trial untainted by conflicted counsel.

CONCLUSION

Trial counsel had a conflict between her duty to zealously advocacy for Petitioner and her duty to maintain the confidences of the former client. But there was another conflict—a conflict between what the circuit court ordered her to do, and what the ODC told her was right.

Trial counsel could not serve two masters. And because the conflict compromised her advocacy, Petitioner requests that the Court reverse her conviction for a new trial with conflict-free counsel.

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CERTIFICATE OF SERVICE

I, Matthew Brummond, counsel for Petitioner, Ariel Ladawn Bennett, do hereby certify that I have caused to be served upon the counsel of record in this matter a true and correct copy of the accompanying *"Petitioner's Reply"* to the following:

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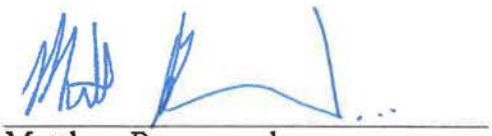
by depositing the same in the United States mail in a properly addressed, postage paid, envelope on the 8th day of April, 2021.



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