



One Fabulous Skyline

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TIBA's Case of the Week

Supreme Court of the United States

Case Name: [McCoy v. Louisiana](#)

- **OFFENSE:** Capital Murder / Death Sentence
- **CASE No.** 16-8255
- **DATE OF OPINION:** May 14, 2018
- **VOTE:** 6-3
- **OPINION:** [Justice Ginsburg](#)
- **DISPOSITION:** Supreme Court of Louisiana Reversed

(Background Facts): On May 5, 2008, Christine and Willie Young and Gregory Colston were shot and killed in the Youngs' home in Bossier City, Louisiana. The three victims were the mother, stepfather, and son of Petitioner's estranged wife, Yolanda. Several days later, police arrested Petitioner in Idaho. Extradited to Louisiana, Petitioner was appointed counsel from the public defender's office. A Bossier Parish grand jury indicted Petitioner on three counts of first-degree murder, and the prosecutor gave notice of intent to seek the death penalty. Petitioner pleaded not guilty. Throughout the proceedings, he insistently maintained he was out of State at the time of the killings and that corrupt police killed the victims when a drug deal went wrong. At defense counsel's request, a court-appointed sanity commission examined Petitioner and found him competent to stand trial. In December 2009 and January 2010, Petitioner told the court his relationship with assigned counsel had broken down irretrievably. He sought and gained leave to represent himself until his parents engaged new counsel for him. In March 2010, Larry English ("trial counsel"), engaged by Petitioner's parents, enrolled as Petitioner's counsel.

⚖️ **124.01 Right to Counsel / Ineffective Assistance of Counsel / Conflicts Between Client & Counsel:**

Trial counsel eventually concluded that the evidence against Petitioner was overwhelming and that, absent a concession at the guilt stage that Petitioner was the killer, a death sentence would be impossible to avoid at the penalty phase. Petitioner, trial counsel reported, was “furious” when told, two weeks before trial was scheduled to begin, that trial counsel would concede Petitioner’s commission of the triple murders. Petitioner told trial counsel “not to make that concession,” and trial counsel knew of Petitioner’s “complete opposition” to trial counsel telling the jury that Petitioner was guilty of killing the three victims;” instead of any concession, Petitioner pressed trial counsel to pursue acquittal. At a July 26, 2011 hearing, Petitioner sought to terminate trial counsel’s representation, and trial counsel asked to be relieved if Petitioner secured other counsel. With trial set to start two days later, the court refused to relieve trial counsel and directed that he remain as counsel of record. “You are the attorney,” the court told trial counsel when he expressed disagreement with Petitioner’s wish to put on a defense case, and “you have to make the trial decision of what you’re going to proceed with.” At the beginning of his opening statement at the guilt phase of the trial, trial counsel told the jury there was “no way reasonably possible” that they could hear the prosecution’s evidence and reach “any other conclusion than Robert Petitioner was the cause of these individuals’ death.” Petitioner protested; out of earshot of the jury, Petitioner told the court that trial counsel was “selling [him] out” by maintaining that Petitioner “murdered [his] family.” The trial court reiterated that trial counsel was “representing” Petitioner and told Petitioner that the court would not permit “any other outbursts.” Continuing his opening statement, trial counsel told the jury the evidence is “unambiguous,” “my client committed three murders.” Petitioner testified in his own defense, maintaining his innocence and pressing an alibi difficult to fathom. In his closing argument, Trial counsel reiterated that Petitioner was the killer. On that issue, trial counsel told the jury that he “took [the] burden off of [the prosecutor].” The jury then returned a unanimous verdict of guilty of first-degree murder on all three counts. At the penalty phase, trial counsel again conceded [Petitioner] “committed these crimes,” but urged mercy in view of Petitioner’s “serious mental and emotional issues.” The jury returned three death verdicts. Represented by new counsel, Petitioner unsuccessfully moved for a new trial, arguing, as he did on direct appeal, that the trial court violated his constitutional rights by allowing trial counsel to concede Petitioner “committed three murders,” over Petitioner’s objection. The Louisiana Supreme Court affirmed the trial court’s ruling that defense counsel had authority so to concede guilt, despite the defendant’s opposition to any admission of guilt. See [State v. McCoy](#), 218 So. 3d 535 (La. 2016). The concession was permissible, the Louisiana Supreme Court concluded, because counsel reasonably believed that admitting guilt afforded Petitioner the best chance to avoid a death sentence. The Supreme Court granted certiorari “in view of a division of opinion among state courts of last resort on the question whether it is unconstitutional to allow defense counsel to concede guilt over the defendant’s intransigent and unambiguous objection.”

Holding: We hold that a defendant has the right to insist that counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty. Guaranteeing a defendant the right "to have the Assistance of Counsel for his defence," the Sixth Amendment so demands. With individual liberty -- and, in capital cases, life -- at stake, it is the defendant's prerogative, not counsel's, to decide on the objective of his defense: to admit guilt in the hope of gaining mercy at the sentencing stage, or to maintain his innocence, leaving it to the State to prove his guilt beyond a reasonable doubt. *** As this Court explained [in *Faretta v. California*, 422 U. S. 806 (1975)], "the right to defend is personal," and a defendant's choice in exercising that right "must be honored out of 'that respect for the individual which is the lifeblood of the law.'" *** The choice is not all or nothing: To gain assistance, a defendant need not surrender control entirely to counsel. For the Sixth Amendment, in "granting to the accused personally the right to make his defense," "speaks of the 'assistance' of counsel, and an assistant, however expert, is still an assistant." *** Trial management is the lawyer's province: Counsel provides his or her assistance by making decisions such as "what arguments to pursue, what evidentiary objections to raise, and what agreements to conclude regarding the admission of evidence." *** Some decisions, however, are reserved for the client -- notably, whether to plead guilty, waive the right to a jury trial, testify in one's own behalf, and forgo an appeal. *** Counsel may reasonably assess a concession of guilt as best suited to avoiding the death penalty, as [trial counsel] did in this case. But the client may not share that objective. He may wish to avoid, above all else, the opprobrium that comes with admitting he killed family members. Or he may hold life in prison not worth living and prefer to risk death for any hope, however small, of exoneration. *** If, after consultations with [trial counsel] concerning the management of the defense, [Petitioner] disagreed with [trial counsel]'s proposal to concede [Petitioner] committed three murders, it was not open to [trial counsel] to override [Petitioner]'s objection. [Trial counsel] could not interfere with [Petitioner]'s telling the jury "I was not the murderer," although counsel could, if consistent with providing effective assistance, focus his own collaboration on urging that [Petitioner]'s mental state weighed against conviction. *** Because a client's autonomy, not counsel's competence, is in issue, we do not apply our ineffective-assistance-of-counsel jurisprudence, *Strickland v. Washington*, 466 U.S. 668 (1984), or *United States v. Cronin*, 466 U.S. 648 (1984), to [Petitioner]'s claim. *** Structural error "affects the framework within which the trial proceeds," as distinguished from a lapse or flaw that is "simply an error in the trial process itself." *** [Trial counsel's] admission of a client's guilt over the client's express objection is error structural in kind. *** Such an admission blocks the defendant's right to make the fundamental choices about his own defense. And the effects of the admission would be immeasurable, because a jury would almost certainly be swayed by a lawyer's concession of his client's guilt. [Petitioner] must therefore be accorded a new trial without any need first to show prejudice.

Concurring / Dissenting Opinions: Justice Alito delivered a dissenting opinion (P. 17). He was joined by Justice Thomas and Justice Gorsuch, and argued that defense counsel "did not admit that petitioner was guilty," even though he admitted that petitioner "killed the victims."

Specifically, he wrote, "The Court overturns petitioner's convictions for three counts of first-degree murder by attributing to his trial attorney, Larry English, something that English never did. The Court holds that English violated petitioner's constitutional rights by "admit[ting] h[is] client's guilt of a charged crime over the client's intransigent objection." *** But English did not admit that petitioner was guilty of first-degree murder. Instead, faced with overwhelming evidence that petitioner shot and killed the three victims, English admitted that petitioner committed one element of that offense, i.e., that he killed the victims." Justice Alito also argued that there is no constitutional right to direct a particular trial strategy.

([David A. Schulman](#)) Justice Alito's entire argument is premised on the idea that trial counsel didn't admit Petitioner was guilty, he only admitted he had committed the "acts" involved. That is beyond delusional, bordering on being disingenuous. What part of "my client committed three murders" and "Robert McCoy committed these crimes," would he suggest doesn't constitute an absolute admission of guilt. I submit that trial counsel most certainly admitted his client's guilt at both guilt-innocence and punishment stages of trial. Moreover, I am 100% on-board with RBG and the majority. Admitting your client "committed" the crimes with which he is charged is not determining the trial strategy even if it would be a valid punishment phase strategy. In my mind, there is a substantive difference in affirmatively putting on perjurious testimony and not admitting your client is guilty when you believe they are. This holding should be read to say that defense counsel may not admit their client's guilt without their permission. This is not that complex or difficult to follow.