



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMEEL MUHAMMAD,)	
)	
Defendant Below,)	
Appellant,)	
)	No. 7, 2020
v.)	
)	
STATE OF DELAWARE,)	
)	
Plaintiff Below,)	
Appellee.)	

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
DELAWARE IN AND FOR NEW CASTLE COUNTY

APPELLANT’S REPLY BRIEF

**THE LAW OFFICE OF
BENJAMIN S. GIFFORD IV**

BENJAMIN S. GIFFORD IV, ID No. 5983
14 Ashley Place
Wilmington, DE 19804
(302) 304-8544

Attorney for Defendant Below - Appellant

DATED: September 3, 2021

TABLE OF CONTENTS

TABLE OF CITATIONS ii

ARGUMENT1

I. THE SUPERIOR COURT VIOLATED MR. MUHAMMAD’S CONSTITUTIONAL RIGHT TO SELF-REPRESENTATION BY FORCING HIM TO UTILIZE THE SERVICES OF THE OFFICE OF THE PUBLIC DEFENDER, DESPITE THAT MR. MUHAMMAD KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WAIVED HIS RIGHT TO COUNSEL, FILED AND ARGUED MOTIONS IN HIS DEFENSE, AND ADAMANTLY EXPRESSED THAT HE DID NOT WANT THE PUBLIC DEFENDER’S REPRESENTATION1

CONCLUSION20

TABLE OF CITATIONS

Cases

<i>Brathwaite v. State</i> , 2006 WL 1911132 (Del. Supr. July 10, 2006).....	8
<i>Christopher v. State</i> , 930 A.2d 894 (Del. 2007).....	8-11
<i>Class v. United States</i> , 138 S.Ct. 798 (2018).....	4-6
<i>Haring v. Prosise</i> , 462 U.S. 306 (1983)	7
<i>Indiana v. Edwards</i> , 554 U.S. 164 (2008)	2
<i>Jarrett v. Shinn</i> , 836 Fed. Appx. 538 (9th Cir. 2020).....	2
<i>Lafler v. Cooper</i> , 566 U.S. 156 (2012)	7
<i>McKaskle v. Wiggins</i> , 465 U.S. 168 (1984).....	3
<i>Mitchell v. United States</i> , 526 U.S. 314 (1999)	6
<i>Payne v. State</i> , 367 A.2d 1010 (Del. 1976)	15
<i>United States v. Broce</i> , 488 U.S. 563 (1989).....	5-7
<i>United States v. Hernandez</i> , 203 F.3d 614 (9th Cir. 2000)	2-4, 17-18
<i>United States v. Montgomery</i> , 529 F.2d 1404 (10th Cir. 1976)	1

ARGUMENT

CLAIM I. THE SUPERIOR COURT VIOLATED MR. MUHAMMAD’S CONSTITUTIONAL RIGHT TO SELF-REPRESENTATION BY FORCING HIM TO UTILIZE THE SERVICES OF THE OFFICE OF THE PUBLIC DEFENDER, DESPITE THAT MR. MUHAMMAD KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WAIVED HIS RIGHT TO COUNSEL, FILED AND ARGUED MOTIONS IN HIS DEFENSE, AND ADAMANTLY EXPRESSED THAT HE DID NOT WANT THE PUBLIC DEFENDER’S REPRESENTATION.

Mr. Muhammad’s Claim Is Not Waived By Means of His Guilty Plea.

The State, in its Answering Brief, contends that Mr. Muhammad waived the claim that his constitutional right to self-representation was violated when he knowingly, intelligently, and voluntarily entered a guilty plea.¹ The State also argues that Appellant waived such claim by allowing Trial Counsel to negotiate a plea on his behalf, and by stating during his plea colloquy that he was satisfied with Trial Counsel’s representation.² The State is wrong as to both contentions.

The State relies in part on *United States v. Montgomery*,³ a case out of the Tenth Circuit, for its contention that Mr. Muhammad waived the instant claim.⁴ What the State does not mention is that the Circuit Courts are split as to this issue, and that the Ninth Circuit has explicitly held that the entry of a guilty plea does not

¹ Ans. Br. at 13-18.

² Ans. Br. at 17-18.

³ 529 F.2d 1404 (10th Cir. 1976).

⁴ Ans. Br. at 16-17.

waive a claim on direct appeal that a defendant's right to self-representation was violated.⁵

In *United States v. Hernandez*, the Ninth Circuit was confronted with the question of whether the defendant had waived his ability to challenge the denial of his right to self-representation by the trial court.⁶ Hernandez was charged with two counts related to his reentry into the country following a deportation and felony convictions.⁷ Approximately six weeks after his arrest, Hernandez requested that the trial court appoint him new counsel due to his dissatisfaction with his current attorney.⁸ When the judge refused, the defendant said that he would like to represent himself, saying "Well, I mean, if you can't change him, I'd like to represent myself, with an interpreter, if you don't want to assign [another attorney]."⁹ The judge asked Hernandez how much jail time he could receive if he was convicted, and further inquired what the prosecution would have to prove in order to convict the defendant.¹⁰ Unsatisfied with Hernandez's answers, the judge

⁵ See *United States v. Hernandez*, 203 F.3d 614 (9th Cir. 2000), *overruled on other grounds by Indiana v. Edwards*, 554 U.S. 164 (2008), *as recognized in Jarrett v. Shinn*, 836 Fed. Appx. 538, 540 (9th Cir. 2020).

⁶ *Hernandez*, 203 F.3d at 617.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 618.

denied the defendant's request to proceed *pro se*.¹¹ Weeks later, the defendant entered a guilty plea with the assistance of the same attorney he previously sought to discharge.¹²

On appeal, the Ninth Circuit first determined that the trial court had violated Hernandez's right to self-representation when it failed to properly explain the consequences of self-representation to the defendant before denying his request to proceed *pro se*.¹³ It next moved on to whether the defendant's guilty plea proved an impediment to relief.¹⁴ The Circuit Court wisely looked to the nature of the right of self-representation and denial thereof when it invoked Supreme Court precedent that violation of such right "is a structural error—an error that undermines the integrity of the trial mechanism itself."¹⁵ The Court found that when the trial judge improperly denied Hernandez the right to proceed *pro se*, the defendant was forced "to choose between pleading guilty and submitting to a trial *the very structure of which would be unconstitutional.*"¹⁶

¹¹ *Id.*

¹² *Id.*

¹³ *See id.* at 621-26.

¹⁴ *Id.* at 626-27.

¹⁵ *Id.* at 626 (citing *McKaskle v. Wiggins*, 465 U.S. 168, 177 n.8 (1984)).

¹⁶ *Hernandez*, 203 F.3d at 626 (emphasis in original).

The Circuit Court concluded that the trial court’s structural error “imposed ‘unreasonable constraints on [the defendant’s] decision whether to plead guilty.’”¹⁷ Comparing Hernandez’s guilty plea to a scenario where a criminal defendant who did not plead guilty would be forced to proceed to trial without counsel, the Ninth Circuit ultimately held that the plea was not voluntarily offered.¹⁸ Accordingly, the guilty plea did not serve to bar his claim on appeal and the Court reversed Hernandez’s conviction.¹⁹

Recent president of the Supreme Court of the United States also defeats the State’s claim that Appellant’s guilty plea barred the instant claim. In *Class v. United States*, the High Court was called upon to determine when the entry of a guilty plea serves to act as a waiver for particular issues on direct appeal.²⁰ In *Class*, the defendant was arrested for possessing firearms in his locked jeep on the grounds of the United States Capitol in Washington, D.C. in contravention of federal law.²¹ Class entered a guilty plea to resolve the matter and, shortly thereafter, appealed his conviction, alleging that the statute under which he was

¹⁷ *Id.*

¹⁸ *Id.* at 627.

¹⁹ *Id.*

²⁰ 138 S.Ct. 798 (2018).

²¹ *Id.* at 802.

charged was violative of the Second Amendment and the Due Process Clause as it failed to “give fair notice of which areas fall within the Capitol Grounds where firearms are banned.”²² His appeal in the Court of Appeals was denied, as the appellate court ruled Class had waived his constitutional claim by pleading guilty.²³

The Supreme Court reversed the Court of Appeals, ruling that Class did not waive his right to appeal the constitutionality of the statute by entering a guilty plea.²⁴ While a portion of the *Class* Court’s reasoning was that the defendant’s challenge implicated the constitutionality of the offending statute and called into question the “Government’s power to ‘constitutionally prosecute’” Class, the Court also pointed to other considerations in which its decision was rooted.²⁵ The Court, relying upon its prior decision in *United States v. Broce*,²⁶ held that where an appeal after a guilty plea does not require the reviewing court to contradict the “knowing, voluntary, and intelligent admission that [the defendant] did what the

²² *Id.*

²³ *Id.* at 803.

²⁴ *Id.*

²⁵ *Id.* at 803-05.

²⁶ 488 U.S. 563 (1989).

indictment alleged,” but rather can be “resolved without any need to venture beyond that record,” such issue is not waived.²⁷

The Court reiterated the importance of this consideration later in its decision, writing that “a valid guilty plea relinquishes any claim that would contradict the ‘admissions made upon entry of a voluntary plea of guilty.’”²⁸ Stated differently, the issue raised cannot call into question whether the defendant committed the offense to which he pled guilty and, if it does, then such claim is considered waived.²⁹

The *Class* Court also looked to the nature of guilty pleas themselves to assess what rights a defendant waives when a plea is entered.³⁰ The Court observed that a guilty plea requires a defendant to waive “the privilege against compulsory self-incrimination, the jury trial right, and the right to confront accusers,” guilty pleas “do not include ‘a waiver of the privileges which exist beyond the confines of the trial.’”³¹ Because the defendant’s claim expanded

²⁷ *Class*, 138 S.Ct. at 804 (internal citations omitted).

²⁸ *Id.* at 805 (quoting *Broce*, 488 U.S. at 573-74.)

²⁹ *Id.* at 805-06.

³⁰ *Id.* at 805.

³¹ *Id.* (quoting *Mitchell v. United States*, 526 U.S. 314, 324 (1999)).

beyond being merely “part of the trial,” the Court ruled that he retained his right to challenge the constitutionality of the statute.³²

Finally, the Supreme Court distinguished what types of claims *are* waived upon entry of a valid guilty plea: the constitutionality of case-related conduct by the Government that takes place prior to the entry of a plea.³³ By way of example, the Court reiterated that a defendant cannot challenge the admissibility of evidence obtained in violation of the Fourth Amendment after pleading guilty.³⁴

The factors contemplated by the *Class* Court weigh in favor of Mr. Muhammad. Consideration of whether the Superior Court violated Appellant’s right to self-representation does not contradict the admissions made by Mr. Muhammed when he pled guilty. The right to self-representation is not a right concomitant with a trial, such as the right to confront witnesses or decide whether to testify, and it was not expressly waived during the plea colloquy or within any of the plea paperwork executed by Mr. Muhammad.³⁵ Instead, the right to represent one’s self is a right that extends “beyond the confines of the trial” and permeates the entirety of the life of a case. Finally, Appellant does not seek to

³² *Id.* (quoting *Lafler v. Cooper*, 566 U.S. 156, 165 (2012)).

³³ *Id.*

³⁴ *Id.* (citing *Haring v. Prosise*, 462 U.S. 306, 320 (1983)).

³⁵ *See* A398-401; A405-07.

challenge any conduct by the State, such as charging decisions or searches under the Fourth Amendment, but rather the trial court's decision not to allow the defendant to represent himself. Under *Class*, Mr. Muhammad has not waived the instant claim.

The State also argues in its Answering Brief that Mr. Muhammad waived his claim that the Superior Court denied his right to self-representation by allowing Trial Counsel to negotiate a plea on his behalf, and by stating during his plea colloquy that he was satisfied with Trial Counsel's representation, relying predominantly on this Court's decision in *Christopher v. State*.³⁶ The State oversimplifies the conduct necessary to waive such a claim, however, and is consequently mistaken.

This Court has repeatedly held that a defendant can waive his assertion of his right to self-representation by his subsequent actions, and that "[w]aiver may be established by a defendant's failure to reassert the request, if it would not be futile to do so."³⁷ However, "mere acquiescence to a trial judge's denial of a proper invocation of the right to self-representation is insufficient to constitute a waiver."³⁸

³⁶ Ans. Br. at 14-16 (discussing *Christopher v. State*, 930 A.2d 894 (Del. 2007)).

³⁷ *Brathwaite v. State*, 2006 WL 1911132 at *2 (Del. Supr. July 10, 2006).

³⁸ *Christopher*, 930 A.2d at 897.

In *Christopher*, the defendant was charged with Assault First Degree and a weapons offense.³⁹ Christopher was represented by counsel through the beginning of trial.⁴⁰ After the State concluded the direct examination of its first witness, defense counsel requested that the jury be excused from the courtroom.⁴¹ Once the jury exited, the attorney informed the trial court that Christopher wanted to cross-examine the witness himself, rather than allowing counsel to do so.⁴² The trial judge engaged in a brief colloquy with Christopher, inquiring as to his level of education, work experience, and whether he had previously been involved in a criminal case.⁴³ The Superior Court ultimately did not allow Christopher to represent himself, and trial continued.⁴⁴ At the conclusion of the State's case-in-chief, the following exchange occurred:

COUNSEL: Also, I think we should put on the record I know how we started off with Mr. Christopher here where he was trying to fire me. But I think we could put on the record here right now that he's satisfied with my representation up to this point, and we've passed that, just for the record purposes.

³⁹ *Id.* at 895.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 895-96.

⁴³ *Id.* at 896.

⁴⁴ *Id.*

THE COURT: I understand why you do that. It's wise to bring it out at an early stage of the case . . .

DEFENDANT: I just want to say I'm satisfied. I was just scared. I mean, we're talking about my life here, and I was scared.

COUNSEL: So I think you're satisfied with my representation.

DEFENDANT: Absolutely, absolutely.⁴⁵

The Court found that this exchange acted as a revocation of Christopher's earlier request to proceed *pro se*.⁴⁶

No such exchange occurred here. In *Christopher*, the defendant explained why he requested to proceed *pro se*, stating that he was frightened and was actually happy with his attorney. Based on his representation during the colloquy with the Superior Court, the *Christopher* defendant had never been involved in the criminal justice system prior to that case.⁴⁷ Moreover, the defense attorney specifically referenced the defendant's earlier request and stated the defendant was "satisfied with my representation up to this point, and we've passed that."⁴⁸ The defendant agreed, demonstrating a reconciliation had occurred.⁴⁹

⁴⁵ *Id.* at 898.

⁴⁶ *Id.*

⁴⁷ *Id.* at 896.

⁴⁸ *Id.* at 898.

⁴⁹ *Id.*

Mr. Muhammad, on the other hand, simply answered “yes” when asked if he was satisfied with Trial Counsel’s representation during the plea colloquy.⁵⁰ Unlike in *Christopher*, no one—neither Trial Counsel nor the Superior Court—referenced Appellant’s repeated requests to proceed *pro se* and to have Trial Counsel removed from his case.⁵¹ This was not Mr. Muhammad’s first criminal case, and there is nothing in the record to suggest that his repeated requests to represent himself were rooted in fear of conviction rather than a genuine desire to proceed *pro se*, as was the case in *Christopher*.⁵²

Moreover, this Court’s precedent, as reiterated in *Christopher*, is clear that “mere acquiescence to a trial judge’s denial of a proper invocation of the right to self-representation is insufficient to constitute a waiver.”⁵³ At best, Appellant merely acquiesced to the Superior Court’s ruling that he would not be permitted to proceed *pro se*. Yet, a careful examination of the record demonstrates that even after the judge ruled, Mr. Muhammad still attempted to represent himself. He asked the trial court whether he could assist in his defense and file his own

⁵⁰ A400.

⁵¹ See generally A398-401.

⁵² See A407.

⁵³ See *Christopher*, 930 A.2d at 897.

motions.⁵⁴ Days later, Mr. Muhammad filed a *pro se* Motion to Dismiss with the Court.⁵⁵ While Appellant clearly accepted the trial court's ruling by the time he entered his plea, he continued to try to represent himself before that point.

Mr. Muhammad did not waive his right to challenge the Superior Court's denial of his right to proceed *pro se* by his subsequent conduct. Appellant's representation was discussed at nearly every proceeding for which he was scheduled to appear. He engaged in multiple colloquies with the trial court and repeated his preference to proceed *pro se* rather than be represented by Trial Counsel. Once the Superior Court reversed its original ruling on December 2, 2019 and informed Appellant that he would have to accept the representation of Trial Counsel, any further request to proceed *pro se* was futile. Accordingly, Appellant wisely did not bring up the topic prior to entering his plea in front of the judge who would sentence him mere minutes later. This Court can consider the instant claim.

Mr. Muhammad Did Not Engage in Serious and Obstructive Misconduct.

In its Answering Brief, the State parses through the record to attempt to create the inference that Mr. Muhammad engaged in serious and obstructive

⁵⁴ A394-95.

⁵⁵ See A006; A025.

misconduct that justified the Trial Court's denial of Appellant's right to self-representation.⁵⁶ The State's efforts are unpersuasive.

Much of what the State points to as misconduct is merely a lack of formality that often exists with *pro se* litigants. While the Court of Common Pleas did cite Mr. Muhammad for contempt early in the life of his cases,⁵⁷ no similar incident occurred after the May 28, 2019 proceeding. Instead, the State tries to imbue hostility into innocuous exchanges to mete out a claim that Appellant was engaging in misconduct throughout the pendency of his matters. For example, the State points to the following exchange as problematic:

THE COURT: What are your questions?

APPELLANT: I need to know what kind of court this is. What kind of court, what jurisdiction. What am I dealing with?

THE COURT: Sure. This is the Court of Common Pleas.

APPELLANT: Is it equity court? Is it civil or is it criminal?

THE COURT: These are criminal cases. They're felony cases, and we are the Court of Common Pleas. We have jurisdiction for felony cases only in this context, preliminary hearing, and a preliminary hearing is a hearing to establish whether the State had met its burden of probable cause that the offenses were committed and that you committed them.

⁵⁶ Ans. Br. at 22-38.

⁵⁷ A120-21.

It's not a trial, obviously. At a trial the burden of proof for the State is much higher, it's proof beyond a reasonable doubt, a much higher burden. The standard today is probable cause. Hearsay is admissible. Typically it's one witness, the police officer for the State, and the defendant has a chance to cross-examine. Any other questions?

APPELLANT: That's it. That'll be all.

THE COURT: *Pardon me?*

APPELLANT: That will be all.

THE COURT: So now you have the opportunity and you need to fill out the form and if you need help for example with either the charges, listing the charges you face and/or in that question two the possible period of incarceration, certainly [Trial Counsel], who is an experienced criminal defense attorney, could assist you with that.⁵⁸

The State characterizes the Court's response, "Pardon me?" as one of "seemingly shock," yet nothing about the exchange supports such a conclusion.⁵⁹ Instead, the more likely interpretation of the dialogue is that the judicial officer simply did not hear or understand Appellant's response and asked him to repeat himself. Indeed, once he did so, the Commissioner did not scold him for his tone or demeanor, but simply moved on to another topic that needed to be addressed.⁶⁰

⁵⁸ A156-58 (emphasis added).

⁵⁹ Ans. Br. at 26.

⁶⁰ See A157-58.

The State also points to Mr. Muhammad’s case review in the Superior Court on November 18, 2019 as evidence of misconduct and obstructionist behavior, citing the trial judge’s statement that Appellant does not “run the place.”⁶¹ Yet, the State ignores the remainder of the exchange, where Mr. Muhammad explains that it was not his intent to be discourteous, stating: “I’m sorry if you think I disrespected you, but the way you talking to me, telling me I don’t run the place, and all I did was tell you that I have on paperwork court dates that says [*sic*] January.”⁶² After that statement, the exchange between the case review judge and Appellant proceeded in a collegial manner.⁶³

The fatal flaw of the State’s argument is that in order to be justified in terminating a defendant’s right to self-representation, a trial court must find that a defendant has “deliberately engage[d] in serious and obstructionist misconduct.”⁶⁴ Nothing about any of the interactions cited by the State—or any of Mr. Muhammad’s demeanor throughout his self-representation in general—suggest that he was seeking to obstruct the orderly and efficient administration of justice. His request to proceed *pro se* was not a stalling tactic to delay any court dates. It

⁶¹ Ans. Br. at 34 (citing A366).

⁶² A367.

⁶³ A367-76.

⁶⁴ *Payne v. State*, 367 A.2d 1010, 1017 (Del. 1976).

was not a last-minute request with the intent of having to reschedule trial. From the Preliminary Hearing stage, Appellant made his intent clear: he would prefer to proceed *pro se* rather than be represented by Trial Counsel. Nothing about his conduct was obstructive, and the State's suggestion otherwise is meritless.

Furthermore, this Court's ratification of the trial court's decision in this case to terminate Mr. Muhammad's self-representation would open the door to allow trial judges to attempt to reduce the number of *pro se* litigants. It is unquestionable that the criminal justice system runs more smoothly when defendants are represented by law-trained counsel. *Pro se* litigants do not necessarily know the procedural rules of the courts, and are generally less eloquent and concise than an attorney would be. Judges undoubtedly prefer defendants to be represented by counsel. Here, the trial court made a determination that Mr. Muhammad could proceed *pro se*. Nevertheless, the issue persisted, as the Superior Court raised it multiple times with the defendant after making its initial determination. Such precedent would allow trial judges to simply repeat the *Briscoe* colloquy with defendants each time they appear in court in the hopes that, eventually, the defendant will become frustrated and say something the court can point to so as to terminate self-representation. Such a practice cannot stand, and this Court cannot endorse it by affirming Appellant's conviction.

Mr. Muhammad Clearly and Unequivocally Asserted His Right to Self-Representation.

The State argues that Mr. Muhammad did not clearly and unequivocally assert his right to self-representation “[n]otwithstanding the August 2019 colloquy . . . and his prior self-representation in the Court of Common Pleas.”⁶⁵ The State cannot simply ignore the instances in which Appellant explicitly stated his desire to proceed *pro se* to mete out a claim that he never made such a claim.

The State also contends that Appellant was more “dissatisfied with his appointed,” rather than wanting to proceed *pro se*.⁶⁶ The two notions are not mutually exclusive, however, as Mr. Muhammad’s dissatisfaction with Trial Counsel was the basis for his request to represent himself. The same was true in *Hernandez*, where the defendant unsuccessfully requested a new attorney before stating “if you can’t change him, I’d like to represent myself, with an interpreter, if you don’t want to assign [another attorney].”⁶⁷ The Ninth Circuit found this that such request could not be viewed as “anything other than a sincere and unambiguous request.”⁶⁸

⁶⁵ Ans. Br. at 39.

⁶⁶ Ans. Br. at 39.

⁶⁷ *Hernandez*, 203 F.3d at 617.

⁶⁸ *Id.* at 621.

Moreover, if Mr. Muhammad’s request had not been clear and unequivocal, the subject of his representation would not have been the focus of so many of his court appearances. In determining whether the *Hernandez* defendant’s request was unequivocal, the Ninth Circuit looked to the trial court’s response, noting that “the judge acknowledged the unambiguous character of the request by stating that he was willing to grant it and by then beginning a dialogue with Hernandez to determine whether it was voluntary and intelligent.”⁶⁹ The same is true here, as Mr. Muhammad underwent questioning from multiple judges in the Court of Common Pleas and Superior Court to ascertain whether he knowingly and intelligently was waiving his right to counsel. Such would not be the case with an unclear request to proceed *pro se*.

Appellant attempted to exercise his constitutional right to represent himself. The matter was discussed repeatedly throughout each court appearance related to his cases. He understood the dangers of self-representation and repeatedly answered the questions posed to him by the Court of Common Pleas and Superior Court acceptably. The Superior Court forced Appellant to utilize the services of Trial Counsel only after making Mr. Muhammad participate in *another* colloquy,

⁶⁹ *Id.*

despite that he had already participated in such colloquy successfully earlier in the case with the same judicial officer. Such ruling was error and mandates reversal.

CONCLUSION

For the reasons stated herein and in his Opening Brief, Mr. Muhammad respectfully requests that this Honorable Court reverse the judgment of the Superior Court.

**THE LAW OFFICE OF
BENJAMIN S. GIFFORD IV**

/s/ Benjamin S. Gifford IV
Benjamin S. Gifford IV, ID No. 5983
14 Ashley Place
Wilmington, DE 19804
(302) 304-8544

Attorney for Defendant Below - Appellant

Dated: September 3, 2021