
SCOTUS Overturns LA Death-Row Inmate's Conviction in Win for WilmerHale's Seth Waxman

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In a case argued by Partner [Seth Waxman](#) on behalf of a Louisiana death-row inmate, the US Supreme Court on Monday, May 14, 2018, overturned several murder convictions and ordered a new trial after finding that the condemned man's trial attorney violated his constitutional rights by conceding his client's guilt despite the client's objections, and insistence on his innocence.

During oral argument in January, Mr. Waxman, co-chair of WilmerHale's Appellate and Supreme Court Litigation Practice, [told the justices](#) that the Constitution "guarantees a personal defense that belongs to the accused, and whether to admit or contest guilt is the paradigmatic example of that personal defense, not only because it singularly affects the life and liberty of the accused, but also because making that decision requires weighing subjective aspirations and value judgments that are unique to every individual."

In a 6-3 decision, the Court agreed with Mr. Waxman. The majority found that by conceding Robert McCoy's guilt, and against his will at that, in the shooting deaths of several family members, defense attorney Larry English violated the Sixth Amendment guarantee of a defendant's "right to choose the objective of his defense and to insist that his counsel refrain from admitting guilt, even when counsel's experience based view is that confessing guilt offers the defendant the best chance to avoid the death penalty."

Mr. McCoy was convicted and sentenced to death in 2011 by a Louisiana jury for the killings in Bossier City, LA of his estranged wife's mother, stepfather and son. His estranged wife was in Dallas in protective custody with her infant daughter following Mr. McCoy's acts of domestic violence and threats against her.

Because the evidence against his client appeared overwhelming to Mr. McCoy's lawyer, the defense attorney told his client before trial that he planned to concede Mr. McCoy's guilt. That evidence included a recorded 911 call from the victims' house in which a female is heard yelling: "She ain't here, Robert... I don't know where she is. The detectives have her. Talk to the detectives..."

Following a gunshot, the 911 call disconnected. Responding officers saw a man fitting Mr. McCoy's description fleeing the crime scene in Mr. McCoy's car. When Mr. McCoy was arrested while hitchhiking in Idaho, he had in his possession a gun that was later ballistically identified as the

murder weapon.

Facing such seemingly insurmountable evidence, his defense lawyer told Mr. McCoy that conceding his guilt would allow the lawyer to maintain enough credibility to more persuasively advocate during the trial's penalty phase, for a sentence of life without parole instead of a death sentence.

But Mr. McCoy strenuously opposed that strategy, insisting on his innocence. When his defense lawyer followed through on the concession strategy in his opening statement at trial, Mr. McCoy told the court: "I did not murder my family, your honor. I had alibis of me being out of state. Your honor, this is unconstitutional for you to keep an attorney on my case when this attorney is completely selling me out."

Joining Mr. Waxman in Mr. McCoy's Supreme Court appeal was Richard John Bourke of The Justice Center, which is based in New Orleans.