No. _____

IN THE

Supreme Court of the United States

GABRIEL PAUL HALL,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

On Petition for Writ of Certiorari to the
Court of Criminal Appeals of Texas

PETITION FOR A WRIT OF CERTIORARI

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CAPITAL CASE

QUESTION PRESENTED

Officials at a Texas jail admitted a nine-person film crew led by actor and professional insult comic Jeff Ross to the high-security areas of their facility for the purpose of interviewing inmates. Ross interviewed Petitioner, who was awaiting trial after being indicted on a high-profile capital murder charge. Petitioner's counsel were not advised of the interview, despite having previously sent the Sheriff a "no contact" letter instructing him to give no one access to Petitioner without their consent. The filmed interview, which included numerous vulgar provocations by Ross and damaging responses from Petitioner, was later introduced against Petitioner at the penalty phase of his trial, and he was sentenced to death.

The Court of Criminal Appeals of Texas (TCCA) found no violation of Petitioner's Sixth Amendment right to counsel. Under its decisions, absent some explicit agreement between the State and Ross for Ross to gather evidence against Petitioner, Ross was not a "State agent" and thus the protections of the Sixth Amendment were not triggered. In the TCCA's view, the Sixth Amendment's guarantees were not implicated by the affirmative steps State officials took to grant Ross special access to Petitioner and their failure to notify Petitioner's counsel of the planned filming even though they had received a "no contact" letter requiring counsel's approval for any communication with Petitioner.

The question presented is:

Did the TCCA err in holding that the State upheld its "affirmative obligation to not act in a manner that circumvents the [Sixth Amendment] protections afforded the accused," *Maine v. Moulton*, 474 U.S. 159, 176 (1985), when, without notice to Petitioner's counsel and despite a "no contact" letter barring uncounseled access to Petitioner, the State gave a third-party civilian otherwise unobtainable physical access to Petitioner and then used the statements that civilian elicited from Petitioner as evidence against Petitioner at the penalty phase of his capital murder trial?