No. 25-

IN THE SUPREME COURT OF THE UNITED STATES

Mikal Mahdi,

Petitioner,

v.

Bryan P. Stirling, Commissioner, South Carolina,
Department of Corrections,

Respondent.

CAPITAL CASE

Execution of Petitioner Mahdi scheduled for
April 11, 2025, 6:00 p.m.

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Mikal Mahdi faces execution even though the mitigating evidence presented by his defense counsel filled barely 15 transcript pages. The state supreme court has upheld Mikal's death sentence only because it has never properly applied this Court's Sixth Amendment precedent, which explicitly deems capital trial counsel deficient when they uncover indications of childhood trauma and look no further.

Had Mahdi's trial counsel not given up before they began, the sentencing judge would have learned that Mahdi's earliest memories include his father slamming his mother through a glass table. When Mahdi was only four, his mother fled the abuse, and Mahdi's father told him she was dead. In second grade, Mahdi's father kidnapped his mother at gunpoint and assaulted her while Mahdi looked on. Mahdi's father later pulled him from school in fifth grade rather than allow him the support school officials wanted to provide. This resulted in Mahdi entering the prison system at 14, and instead of receiving mental health care, between 14 and 21, Mahdi endured 8,000 hours in solitary confinement, often for petty violations like refusing to tuck in his shirt. The capital crimes followed only two months after his release from these brutal conditions.

The question presented is:

1. Did Mikal Mahdi receive ineffective assistance of counsel when his trial attorneys abandoned their investigation after deciding Mahdi's family members would not make helpful witnesses, resulting in a mitigation presentation that lasted less than 30 minutes and failed to convey the lifelong childhood trauma Mahdi endured.

LIST OF PARTIES TO THE PROCEEDING

All parties appear in the caption of the case on the cover page.

STATEMENT OF RELATED CASES

This petition arises from a petition for a writ of habeas corpus filed by Mikal Mahdi before the Supreme Court of South Carolina in its original jurisdiction. The Respondent is Bryan P. Stirling, Commissioner of the South Carolina Department of Corrections. There are no additional parties to this litigation.

State v. Mahdi, 2004-GS-09-243, Calhoun County, South Carolina, sentenced on December 8, 2002.

Mahdi v. State, No. 26671, South Carolina Supreme Court denial of direct appeal relief on June 15, 2009.

Mahdi v. State, 2009-CP-09-164, Calhoun County, South Carolina, amended denial of state post-conviction relief on August 20, 2009.

Mahdi v. State, No. 2014-2131, South Carolina Supreme Court denial of petition for writ of certiorari on September 8, 2016.

Mahdi v. State, No. 16-741, U.S. Supreme Court denial of a petition for writ of certiorari on February 21, 2017.

Mahdi v. Stirling, CA 8:16-3911-TMC, U.S. District Court for the District of South Carolina, denial of petition for writ of habeas corpus on September 24, 2018.

Mahdi v. State, 2017-CP-09-00004, Calhoun County, South Carolina, denial of successive post-conviction relief on July 6, 2017.

Mahdi v. Stirling, No. 2017-2212, South Carolina Supreme Court order dismissing appeal on April 19, 2018.

Mahdi v. State, No. 18-6110, U.S. Supreme Court denial of petition for writ of certiorari on December 3, 2018.

Mahdi v. Stirling, No. 19-3, U.S. Court of Appeals for the Fourth Circuit, opinion and order affirming the District Court order issued on December 20, 2021, and order denying rehearing *en banc* issued on April 8, 2022.

Mahdi v. Stirling, No. 22-5536, U.S. Supreme Court denial of a petition for writ of certiorari on January 9, 2023.

Mahdi v. Stirling, No. 2025-524, South Carolina Supreme Court denial of a petition for writ of habeas corpus in the court's original jurisdiction on April 7, 2025.

Mikal Mahdi, a South Carolina prisoner under sentence of death, respectfully petitions this Court for a writ of certiorari to review the Supreme Court of South Carolina's denial of his petition for a writ of habeas corpus in its original jurisdiction.

OPINION BELOW

The decision of the Supreme Court of South Carolina in its original jurisdiction is unreported but is attached in the Appendix to this petition. App. A, 1a-13a.

JURISDICTION

The state court issued its opinion on April 7, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Sixth Amendment right "[i]n all criminal prosecutions . . . to have the assistance of counsel," and the Fourteenth Amendment right to be free from the deprivation "of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

This petition raises two principal claims of trial counsel deficiency. First, counsel failed to identify and call mitigation witnesses outside of Mahdi's family. Second, counsel pursued a strategy of describing Mahdi's life through a social history expert's testimony, but failed to have that expert convey anything remotely resembling a full account of Mahdi's childhood trauma. Exercising its authority to consider habeas petitions in its original jurisdiction, on April 7, 2025, the South

Carolina Supreme Court addressed Mahdi's ineffectiveness claims on the merits. The state court found that Mahdi's counsel were not deficient because they "attempted to build the best mitigation case possible from the circumstances presented to them." The state court then found no prejudice from any arguable deficiency because the unpresented evidence was "merely cumulative" and "unlikely" to have influenced the sentencing outcome. "[I]n light of the overwhelming evidence of aggravation . . . . we find Mahdi has failed to prove prejudice." App. A, 9a.[1] As detailed here, that conclusion cannot be reconciled with decades of this Court's precedent. Certiorari should follow.

I. Mikal Mahdi committed a series of tragic violent crimes that demanded a competent, thorough defense to the death penalty.[2]

In July 2004, Mahdi—who was two months removed from nearly seven years in juvenile and adult prison, and was just 21 years old—stole a gun and car and fled his home in Lawrenceville, Virginia, because of his alleged involvement in the death of a drug dealer. Mahdi was planning to go to Florida. On July 15, the day after he

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[1] This Court may address Mahdi's claims on the merits because they were decided on the merits this week in state court. The state supreme court elected to undertake merits review, although Mahdi's non-family witness claim was previously addressed in state post-conviction and federal habeas. *See Mahdi v. Stirling*, 20 F.4th 846, 898 (4th Cir. 2021); *Mahdi v. South Carolina*, 137 S. Ct. 1081 (2017); *Mahdi v. Stirling*, 143 S. Ct. 582 (2023). The second ineffectiveness claim, about presenting inadequate testimony from a social history expert, was raised in state post-conviction but has never been heard in federal court. *See Mahdi*, 20 F.4th at 898.

[2] The facts recounted here are a summary of the state post-conviction review (PCR) court's description of the capital crimes, found at 2025APP 1330-1334.

Citations to 2025APP __ refer to the appendix filed in the South Carolina Supreme Court, available online: https://tinyurl.com/ms5kua8b.

left Virginia, Mahdi attempted to rob a convenience store in Winston-Salem, North Carolina, and shot the store clerk, Christopher Boggs, twice, killing him.[3]

On July 17 in Columbia, South Carolina, Mahdi car-jacked Corey Pitts at gunpoint. Shortly afterwards, clerks at a gas station in Calhoun County called the police when they noticed Mahdi trying and failing to buy gas with a credit card. As the police arrived, Mahdi fled into the woods near the gas station. Mahdi made it on foot to a farm about a half-mile from the station, where he came upon a work shed, broke into it, and stayed for the rest of the day. The next day, the owner of the farm, Orangeburg Public Safety Captain James Myers, returned home from vacation and encountered Mahdi, who shot him with a rifle he found in the work shed. After Myers was dead, Mahdi poured fuel on him and set his body on fire. Mahdi then stole Myers' truck, a license plate, and several guns.

A nationwide alert issued for Mahdi's arrest. On July 21, police in Satellite Beach, Florida, spotted Mahdi in Myers' truck and attempted to pull him over. Mahdi jumped out of the still-moving truck and fled, dropping an assault rifle taken from Myers. Mahdi was arrested in a nearby condo complex. The arresting officer testified that Mahdi said he would have shot the officer had his gun not jammed.

These crimes were horrifying and reprehensible. In their clumsiness and recklessness, they also reveal the immature and despairing youth who committed them. Mikal Mahdi had little regard for the lives of others at that point in his life,

[3] Mahdi pled guilty to the first-degree murder of Mr. Boggs and was sentenced to life imprisonment without parole in North Carolina. *See Mahdi v. Stirling*, No. 8:16-3911-TMC, 2018 WL 4566565, at *1, n.1 (D.S.C. Sept. 24, 2018).

but he also had no regard for his own life. In his self-destructive flight, Mahdi, who had struggled with suicidal feelings for virtually all of his young life, allowed his disregard for his own life to lure him into violence. But the upbringing that left him so reeling and damaged would be only hinted at during the trial that would determine whether he lived or died.

II. Rather than conducting the thorough social history investigation this case needed, Mahdi's inexperienced trial attorneys gave up after deciding Mahdi's family members would not make helpful witnesses.

Mahdi was initially represented by Carl Grant and Glenn Walters. When Grant was injured in a motorcycle accident, Joshua Koger was appointed as his replacement only four months before trial began. At the PCR hearing, Grant could only recall being involved in one death penalty case prior to Mahdi's. (2025APP 1126.) Koger testified this was his first capital case serving as second chair. (2025APP 1234.) Walters, who was lead counsel, also had only tried a single capital case prior to Mahdi's. (2025APP 7, 2025APP 1168.) Their inexperience became obvious.

Mahdi's trial team included a mitigation investigator and a testifying social worker who met with Mahdi; obtained school, hospital, and prison records; gathered additional information that had been assembled by Mahdi's North Carolina defense team; and spoke with various members of Mahdi's family. *Mahdi v. Stirling*, 20 F.4th 846, 901 (4th Cir. 2021).

However, the investigation stalled when Mahdi's counsel decided his family members could not or would not provide helpful testimony. During the post-

conviction hearing, trial counsel and the mitigation investigator testified that Mahdi's close family members either refused to participate or were only willing to discuss subjects that were unhelpful to Mahdi's defense. *See* 20 F.4th at 874-79 (Fourth Circuit's full summary of the trial-level mitigation investigation).[4]

Even assuming this is an accurate description of the challenges trial counsel encountered, it is uncontested that trial counsel made only minimal efforts to identify witnesses beyond Mahdi's family who could have provided meaningful testimony about Mahdi's background. Mitigation investigator Paige Haas "visited schools and spoke with several teachers who knew and remembered Mahdi but had not spent significant amounts of time with him." 20 F.4th at 901; *see also id.* at 874-75; (2025APP 699 A001825.) The testifying social worker, Marjorie Hammock, met with a single community member who "didn't know much about" Mahdi. *Id.* And trial counsel themselves did not extend their search for non-family witnesses beyond those Mahdi's family identified, even though the family was "not helpful" in that regard. 20 F.4th at 901-02; *see also* (2025APP 1176.) Trial counsel Walters conceded that he did not speak with any of Mahdi's special education teachers. (2025APP 1167.) Thus, faced with what they perceived as an unhelpful family, trial counsel made only the most minimal efforts to identify other potential witnesses.

[4] This Court should note, however, Fourth Circuit Chief Judge Gregory's observation (in dissent) that trial counsel exhibited tremendous disrespect for the Mahdi family when considering the information they had to offer, including the assumption that "many Black families are dysfunctional." *Mahdi*, 20 F.4th at 919.

III. Counsel's anemic investigation carried over to the sentencing presentation, where their only mitigating evidence was a superficial summary of Mahdi's tumultuous life, lasting less than 30 minutes.

Mahdi's jury selection began in November 2006 before The Honorable Clifton Newman. After the jury was selected, Judge Newman held an in-chambers conference to address a possible guilty plea. (2025APP 21-22.) Judge Newman allowed Mahdi to consider his options overnight. The next morning, Judge Newman explained to Mahdi that, under state law, if he pled guilty, the judge would determine the sentence, not the jury. When courtroom proceedings resumed, trial counsel announced that Mahdi would plead guilty. (2025APP 21-65.)

The sentencing hearing began with defense counsel's superficial opening statement, which offered little to humanize him. Counsel noted that Mahdi was 21 at the time of the crime and summarized his life experience in two brief sentences: "Mother left him at age four, left him with his father to raise he [sic] and his brother . . . . [H]is father was ill-equipped for this responsibility . . . [so] Mr. Mahdi was left to raise himself." (2025APP 72.)

Next, over more than two days, the State proceeded to call 28 witnesses to establish the facts of the crimes, the aggravating circumstances, Mahdi's prior criminal record and other bad acts, his behavior in custody, and the impact of the death of Captain Myers on his family, friends, and colleagues. (2025APP 74-400); *see also* (2025APP 1330-1338) (summarizing the State's evidence concerning the capital crime and additional aggravating evidence, including prior crimes and poor conduct in prison).

In contrast, the defense called two witnesses. Trial counsel relied on one expert witness—Hammock, the social worker—to present a summary of Mahdi's life experiences. Hammock's testimony, excluding the explanation of her credentials and methodology, *spanned just 15 pages of transcript* and provided only a broad, detached overview of Mahdi's upbringing. (2025APP 445-460, 1311.) Hammock's description of Mahdi's life lasted at most 30 minutes and was probably even shorter.[5]

In terms of documentary evidence, Hammock prepared only two exhibits for the judge: a two-page biographical timeline, only half of which covered Mahdi's life (2025APP 444-445, 536-537); and a "school experience summary" that was only half a page. (2025APP 444-445, 451, 538.)

The only other defense witness was James Aiken, who testified as a prison adaptability expert and focused on Mahdi's disciplinary record. (2025APP 411.) The entirety of Aiken's direct examination testimony, after reciting qualifications, spanned 13 transcript pages. (2025APP 411-423.) Worse yet, instead of humanizing Mahdi, Aiken dehumanized him, repeatedly emphasizing to the sentencing judge the many ways that Mahdi could be brutalized, or even killed, in prison. Aiken described in excruciating detail how prison staff could give him electrical shocks with a stun belt, tie him down in a restraint chair or on a bed, put him into a "dog

[5] Hammock's testimony describing Mahdi's life is about 2,800 words. There does not appear to be any authoritative source on the average words spoken per minute. Various internet sources indicate it ranges from 100 to 200. For example, the Wikipedia entry on words per minute (https://tinyurl.com/yksrn2z7) states that presentations range from 100 to 125, while audiobooks are generally about 150.

run" during his limited time outside, order a pack of dogs to attack him, and even have snipers kill him. (2025APP 419, 421-422.)

During closing argument, defense counsel continued their abdication. Trial counsel's closing remarks concluded after only 16 transcript pages. (2025APP 490-506.) The portion addressing Mahdi's upbringing was even quicker, lasting no more than three paragraphs and a single transcript page. Trial counsel said little more about Mahdi's childhood, other than vaguely alluding to the fact that it was "troubled" and lacked "family structure." (2025APP 497.) Counsel went so far as to credit the prosecution's contention that Mahdi's background didn't matter, agreeing with the State that the mitigation did not supply any "excuse" or explanation for the crimes. (2025APP 497-498.) At no point did Mahdi's own attorneys offer a reason why his traumatic upbringing mattered when it came to deciding the appropriate punishment. Counsel instead relied on Mahdi's guilty plea, arguing repeatedly that he had accepted responsibility.

Following the close of evidence, Judge Newman found the murder of James Myers "was committed while in the commission of burglary in the second degree" and "while in the commission of larceny with the use of a deadly weapon," and found additional non-statutory aggravating circumstances based on Mahdi's prior crimes and bad acts. (2025APP 512-516.) As to mitigating circumstances, Judge Newman explained that his general approach was "to temper justice with mercy and to seek to find the humanity in every defendant that I sentence." But in light of the limited defense evidence, Judge Newman believed "[t]hat sense of humanity

seems not to exist in Mikal Deen Mahdi." (2025APP 521.) Judge Newman considered "what the defense contends to be the defendant's turbulent and transient childhood and upbringing," but did "not believe that [it] . . . contributed in any significant way to" the crimes, and thus declined to give it "any significant weight in the Court's ultimate decision as to the sentence to be imposed." (2025APP 517-518.)

IV. If trial counsel had competently investigated Mahdi's background, they could have shown how Mahdi's lifelong trauma resulted in the capital crimes, committed when he was still only 21 years old.

Taking at face value trial counsel's assertion that they made a reasonable strategic judgment in not calling family witnesses to testify, a reasonably competent investigation into Mahdi's background would have yielded ample, available witnesses and evidence documenting the trauma that occurred at nearly every stage of Mahdi's life.

A. Mikal's earliest years were dominated by his abusive, mentally ill father.[6]

Mikal Mahdi's parents—Shareef and Vera Mahdi—were in an arranged marriage. Vera was only 16 at the time of their marriage, while Shareef was a decade older. (2025APP 1369.) Although Vera was not thrilled about an arranged marriage, she wanted to escape the poverty and abuse of her family. (2025APP 1481.) Shareef and Vera married and had their first child, Saleem, who is Mikal's older brother. (2025APP 1481-1482.) Vera later told her sister that Saleem was

[6] First names are used in this discussion because it addresses Mahdi's childhood and teenage years, and to avoid confusion among family members with the same last name.

conceived when Shareef raped her. (2025APP 1481.) About a year after Saleem's birth, Vera became pregnant with Mikal. (2025APP 1482), who was born in 1983. (2025APP 4221.)

Shareef was controlling and abusive with Vera. (2025APP 1458.) Mikal has reported that one of his earliest memories was of his father slamming his mother through a glass table and yelling, "Bitch, you wanted the God damn table, you got it." Mikal remembers pleading with his dad to stop. (2025APP 1483.)

Vera was forced to flee the abusive relationship when Mikal was only about four years old. (2025APP 624-625, 635.) Shareef had told her that he would kill his sons before letting her take them. (2025APP 1483.) Thus, Vera fled without the children; Shareef later told them that she had left them behind because she did not love them. (2025APP 1464.) Shareef did not allow Vera to visit her sons, and he eventually lied to them and told them that she had died. (2025APP 1484.)

Shareef's instability was not surprising in light of his own challenging background. Shareef's parents had an abusive relationship. His mother (Mikal's grandmother) was known to say that all of her five children were conceived through rape. Throughout her kids' upbringing, she was depressed and despondent, and had a difficult time engaging with her children. When he was in elementary school, Shareef, who is black, was sent to an all-white school that was just beginning the process of integration. He experienced racism, name-calling, and twice saw his sister victimized by sexual assault. Shareef had been born Thomas Burwell, but as an adult, he joined the Nation of Islam and changed his name, in part, because of

the intense distrust of white people he developed from his childhood years. (2025APP 1482.) Shareef's volatility would malform Mikal's upbringing.[7]

Shareef did not have the skills to be a single parent. He was depressed, constantly moving, and unable to keep a job. (2025APP 578.) Mikal's family members, including his Uncle Carson, recalled Shareef failing to meet Mikal's most basic needs. (2025APP 578, 580.) Between the ages of five and eight, Mikal was frequently left completely unsupervised by Shareef and was forced to look after himself. Shareef had no regard for his sons' stability and moved them constantly from school to school. (2025APP 551, 578.) When Mikal did attend school, his records show irregular attendance and major gaps in his education and abilities. (2025APP 1486-1487) At one point, Shareef moved out of his mother's house with both boys, choosing instead to live in a house in the woods on her rural property rather than live with her in the town of Lawrenceville, Virginia. (2025APP 822.)

B. Mikal's depression emerged when he was only eight years old.

It became apparent to Shareef's family that he could not care for the children. Mikal could not read and was not getting proper nutrition. (2025APP 1357, 673-674.) Mikal's Uncle Carson and Aunt Lawanda Burwell took him to live with them in Baltimore, and Saleem went to live with family members in Texas. (2025APP 581-582.) In Baltimore, Carson spent a lot of time with Mikal, teaching him to read and helping him with his schoolwork. (2025APP 589-590.)

[7] Later in life, after Mikal was sentenced to death, Shareef would be diagnosed with schizophrenia. (2025APP 1507; mental health records are available at 2025APP 1597, 1600.)

Nonetheless, Mikal continued to struggle with his mental health. When he was in second grade, Mikal's principal contacted Carson, informing him that Mikal had said, "[W]hy doesn't someone just shoot me? If I had a gun, I would shoot myself." (2025APP 585.) School officials recommended psychiatric treatment, which Mikal did not receive. (2025APP 603.)

The summer following his second-grade year, Mikal visited his father in Virginia, where he learned his mother was in fact alive. (2025APP 1421.) Shareef used Mikal and his brother as bait to kidnap Vera. (2025APP 1489.) When Shareef saw Vera, he immediately started to abuse her and threatened to kill her in front of the children. Shareef then took Vera to the woods and assaulted her. (*Id.*) When Vera escaped the vicious beating, Shareef's mother and sister quickly drove her out of town to her family in Richmond. (*Id.*)

Mikal returned to Baltimore with his Uncle Carson and Aunt Lawanda. (*Id.*) Even away from his father, Mikal continued to struggle. One day, Mikal's Aunt Lawanda got upset because he would not finish his homework, and she whipped him. (2025APP 596.) After she finished, Mikal called the police. (2025APP 597.) Mikal asked the officer for his gun so he could shoot himself. (2025APP 1490.) Mikal was then committed to a psychiatric facility, the Walter Carter Center, and hospitalized for two months. (2025APP 600.) He was nine years old.

At the hospital, Mikal was asked what he would want if he was granted three wishes. (2025APP 552.) His only wish was for his family to be reunited. (*Id.*) When he was asked what he would wish for if he could not have his family back together,

Mikal told the doctor that he would "jump off a bridge, shoot myself, or kill myself with my bow and arrows." (2025APP 965.) Mikal's treating physician noted anxiety and trauma, and recommended a structured and safe residential and educational environment. (2025APP 755, 773.) Mikal was diagnosed at the age of nine with major depression and a rule-out diagnosis of post-traumatic stress disorder. (2025APP 1577.) However, after Mikal was released from the Walter Carter Center, there is no indication that any of his family members sought any further counseling or treatment for him, even though it was recommended. (2025APP 904-905.)

The next year, when Mikal's brother Saleem was sent back to live with their father, Mikal felt unwanted and acted out. Mikal's Aunt Lawanda became frustrated with his behavior and sent him back to live with Shareef again. (2025APP 1491-1493.) Shareef again failed to meet Mikal's most basic needs. (2025APP 1496-1498.) Mikal began his fourth-grade year in Lawrenceville, where he was put in special education classes due to disruptive behaviors. (2025APP 1493-1494.) He was again diagnosed by a school psychologist as having depression. (2025APP 1465-1467.)

C. Mikal's father refused support for him, pulled him out of school, and then neglected Mikal and subjected him to conspiracy-laden rants.

Between Mikal's depression and Shareef's interference, it was difficult for Carol Wilson, his fifth-grade teacher, to help Mikal. (2025APP 683.) Mikal was quiet and kept to himself, Ms. Wilson recalled; she could not get any "joy," "interest," or "motivation" out of him. (*Id.*) Ms. Wilson and the school psychologist

"really wanted to help [him]," but it "wasn't able to materialize" because Shareef "yanked" Mikal out of Ms. Wilson's class. (2025APP 684) After meeting with teachers who reported that Mikal was having emotional problems and needed special services, Shareef stormed out. (2025APP 1494.) Shareef declared that he didn't want any white man (the school psychologist) writing negative reports about his son—an odd reaction, as the majority of the staff in the meeting were black—and claimed he would homeschool Mikal. (2025APP 670.) Ms. Wilson lamented later that after Shareef pulled Mikal out of school, he "just got lost in the cracks." (2025APP 685.) An evaluation from this period showed that he was depressed, lacked self-esteem, and felt hopeless. (2025APP 1005-1006, 1465-1467.)

Mikal was only eleven years old, (2025APP 1494.) when Shareef removed him from the school system, even though he provided no structure for Mikal or his brother. (2025APP 1492-1494.) Shareef's treatment of Mikal and his brother during these years of "home schooling" was tantamount to abuse and neglect. They lived in an isolated, rural area of Virginia, where Shareef would take Mikal and his brother on trips into the woods, teach them how to fight, and train them for the "New World Order" in which there were "white folks coming to kill them." Shareef spent hours upon hours "ranting and raving" about religious matters and "the evil empire of robber barons" who had stripped the land. Meanwhile, Shareef had no job and lived off public assistance and money his mother gave him, prompting Mikal to begin stealing to help support his father. Mikal was only 11 to 15 years old during these years. (2025APP 1495-1497.)

Events that occurred outside the family would confirm just how unstable Shareef was during this period. In addition to storming out of the school when asked by teachers to allow Mikal to receive extra support, Shareef was fired from his substitute teaching position for yelling at and belittling students and school staff alike, and calling fifth grade girls "bitches" and "whores," and telling them they should use birth control. (2025APP 1495.)

Within a few months of Mikal being pulled from school, Shareef was referred for mental health treatment after he jumped in a local, segregated all-white pool.[8] (2025APP 1496.) Law enforcement officers were unable to get him out of the pool; eventually, a local African American leader, George Smith, was called to talk him out. (2025APP 711-175, 1496.) Mr. Smith recalled Shareef "swimming around and cursing, using extremely vile language." (*Id.*) Smith also described how out of control Shareef was after his arrest, throwing the furniture in his jail cell. (2025APP 714.)

Mental health evaluators found that Shareef suffered from a personality disorder and discharged him from mental health treatment, sending him back to jail. (2025APP 1495-1496.) Not long after, Shareef became so enraged by comments his sister made about his living circumstances that he smashed her car windows with a cinderblock, resulting in him being sent back to jail yet again. (2025APP 1497-1498.)

[8] Apparently formal segregation persisted in Lawrenceville even in 1995.

D. Mikal was incarcerated as a teen, isolated for hundreds of hours, and essentially never left prison for the remainder of his adolescence.

Around age fourteen, Mikal began to have run-ins with the law for various property crimes. (2025APP 1531, 1579.) He entered the Virginia Juvenile Justice system in December 1997, after Shareef failed to take Mikal to his required court and other program meetings. Mikal was initially in the juvenile prison system for seven to eight months. (*Id.*) A psychologist found that Mikal's problems could be traced back to incompetent parenting, poor guidance, and a dysfunctional family. (2025APP 1585.)

After being released, Mikal wanted to go back to school and straighten his life out. (2025APP 1500.) However, through a number of clerical errors and his father's failure to take him to court dates, Mikal ended up spending nearly all of his adolescence in juvenile facilities. (2025APP 1473-1474, 1500-1501.) At one point, when Mikal was fifteen, Shareef even provoked an eight-hour standoff with law enforcement when they came to take Mikal to court for a sentencing hearing. The situation Shareef created was so tense that the police sent an armored truck and tactical team; the conflict ended only after the sheriff and his team entered the home with a battering ram. (2025APP 1459-1462.)

Mikal was sent back to a juvenile facility where he was held from ages fifteen to seventeen. (2025APP 1499-1502.) While incarcerated, Mikal continued to suffer from depression. (2025APP 1000, 1006-1009, 1501-1502, 1587-1589.) At one point, Mikal was placed in protective custody on suicide watch because he was threatening

to harm himself. (*Id.*) At another point Mikal said that he wanted to electrocute himself, and at yet another he said he would hang himself with a bedsheet. (2025APP 1588, 1590.)

Several psychologists examined Mikal, noting that he thought everyone was against him and was preoccupied with conspiracy theories (a misguided lesson he learned from his father). (2025APP 1501-1502.) Mikal had suicidal ideations frequently throughout his incarceration and attempted suicide at least once. Evaluators diagnosed him with Major Depression. (2025APP 1502, 1589.)

From the ages of 14 to 17, Mikal spent over 1800 hours in solitary confinement. Those 1800 hours included ten instances in which Mikal, as a teenager, was isolated for four or five consecutive days. In an additional seven instances, Mikal was isolated for two to three consecutive days. The isolation started when Mikal was only 14 years old, and was often imposed for minor transgressions, such as refusing to take part in physical training, shouting and cursing, and ripping pages out of a book. (2025APP 1784-1786.)

In total, there were forty separate instances of isolation imposed on Mikal during his adolescence. Of those forty, at least 16 were imposed for merely disruptive and non-assaultive behavior that posed no threat to anyone. Several others were imposed for relatively minor outbursts, such as destroying property in his cell, throwing a book at an officer, or throwing a shower shoe at an officer. In a school setting, misbehavior like this would get a child sent to detention or the

principal's office, and sometimes suspended. Yet Mikal was subjected to one of the most physically and mentally harmful punishments imaginable.[9]

As Mikal neared age 18, he was released without any provision "of aftercare or therapy or group home placement." (2025APP 915.) As a result, Mikal at 17 had the same problems he had at age fourteen, "arguably worsened by the fact that he had been in this institutional setting." (2025APP 917.) Mikal still had severe depression, felt hopeless about his future, and experienced worsening paranoia. (*Id.*)

After Mikal was released, he attempted to reunite with his mother, but the reunion did not go well, with his mother showing almost no emotion.[10] (2025APP 1503.) In another incident, Mikal's mother would not let him into her house, and he became angry and slashed her car tires. When officers arrived to take Mikal into custody, he resisted and reached for an officer's gun. After the situation was under control and Mikal was arrested, he told the officers he wished they would shoot him, which they interpreted as an attempt at suicide called "death by cop[.]" (2025APP 154-160.)

Within five months of being released from the juvenile institution, Mikal pled guilty and was convicted of assault, and was sentenced to 15 years in the Virginia

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[9] To be sure, on some occasions, isolation was imposed for more serious infractions, such as punching an officer. However, the more serious, anger-driven conduct is better understood in the context of the overall harsh treatment that Mikal, a mentally ill teenager, often received for minor transgressions.

[10] Mikal's mother Vera grew up with an alcoholic and verbally abusive father who constantly reminded her that she was not his biological daughter. As a result, Vera became emotionally withdrawn. (2025APP 615-619.)

Department of Corrections. (2025APP 1504.) Approximately a year and a half into his sentence, Mikal was transferred to Wallens Ridge State Prison, a supermax institution in the rural southwestern Virginia region of Appalachia with a well-earned reputation for brutality and racism. (2025APP 1504-1506.)[11]

Consistent with the documented history of abuse at Wallens Ridge, Mikal reported that he experienced significant mistreatment during his time there. A majority of the inmates were minorities, while the majority of the officers were white. (*Id.*) The atmosphere was charged with racial tension, and officers often used racial slurs and epithets towards the inmates. (*Id.*) Mikal witnessed horrendous abuse of inmates by officers and was himself tasered and shot with rubber bullets on as many as fifteen occasions. (*Id.*) Officers frequently called Mikal racist names, including "camel monkey" and "towelhead." (*Id.*) On top of this abuse, Wallens Ridge offered no programs for inmates to study or prepare themselves for release from prison. (2025APP 1633.)

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[11] Following an investigation, in 2001, the Connecticut Commission on Human Rights recommended that the state end its contract for housing Connecticut prisoners at Wallens Ridge, due in part to the Commission's finding of "deeply troubling" incidents of racial harassment and abuse that were corroborated by white inmates who were not targets of the harassment. (2025APP 1608, 1626-1628.) In 2000, according to news reports (https://tinyurl.com/2wc2ezz2), allegations of physical abuse by New Mexico prisoners at Wallens Ridge prompted the FBI to open an investigation at the request of the New Mexico attorney general. A 2001 report from Amnesty International (https://tinyurl.com/27vc448e), noted the use of stun guns for minor infractions, as well as stripping prisoners to their underwear, putting them in five-point restraints for 48 hours or more, and leaving them to lie in their own waste.

Mikal had to endure this brutal environment for several years, living at Wallens Ridge from age 19 until the time of his release at 21. To make matters worse, Mikal was put in solitary confinement for over 6,000 hours—the equivalent of eight months—during his three-year adult incarceration. This time, the amounts of consecutive time that Mikal was isolated were even longer. On one occasion, he was in solitary for 1,700 hours, which is over two months. Another occasion involved 500 straight hours of isolation, or about three weeks. Mikal had nine additional stints in solitary confinement that lasted between 10 and 15 days each. Many of these instances were for minor, non-violent infractions, such as having an unauthorized radio, not standing up for the prison count, not tucking in his shirt, using vulgar language, or refusing to get a haircut. (APP2025 1787-1788.)

In total, between ages 14 and 21, Mikal spent 86% percent of his time in a juvenile or adult prison. (2025APP 907.) Mikal was released from Wallens Ridge on May 12, 2004, with none of his life-long mental health issues addressed. (2025APP 918-919.)

V. A competent investigation also would have allowed trial counsel to present witnesses from Mahdi's childhood community, who could have described firsthand how Mahdi had potential as a child that was totally derailed by his mentally ill father's abusive behavior.

At trial, the sentencing judge did not hear from any witnesses with firsthand knowledge about Mahdi and his childhood. Many respected community members were available and willing to testify as to why Mikal's life was worth saving; his counsel, however, did none of the work necessary to identify them.

A. Myra Ramsey Harris – third-grade teacher.

Myra Ramsey Harris was Mikal's third-grade teacher. (2025APP 647.) Harris was never contacted by trial counsel and, thus, did not testify at Mikal's sentencing hearing, although she was available and willing to do so. (2025APP 658-659.)

Harris did testify at the PCR hearing. There, she explained that when Mikal entered her class, he was at first "withdrawn," but his socialization improved and she "developed a relationship with him where we would sit and talk." (2025APP 650.) Notably, during third grade, Mikal lived with his aunt and uncle in Baltimore and not with his father Shareef. (2025APP 676.) Removed from the harmful effects of Shareef's supervision and assisted by the supportive environment of Harris's classroom, Mikal began to thrive. (2025APP 655.)

In a recent affidavit offered by Ms. Harris, she explained further how Mikal was an affectionate, smart, and talented child who was struggling because of the difficulties in his home life:

> When Mikal first came to my class, he was quiet and withdrawn. He had trouble with change, and seemed to become anxious when he anticipated that something new was happening. Eventually, though, with support and patience, he started to open up. I remember how Mikal would behave and do his work in class so long as I spoke to him calmly. I remember how, in the beginning, Mikal was hesitant to open up and wouldn't hug me back when I hugged him.
>
> Once Mikal got comfortable with me, it became clear that underneath all the trouble he was having because of his home life, he was a normal child with his own unique personality.

> For example, Mikal could get easily frustrated about equality and being treated fairly, but would calm down when I gave him a chance to share his thoughts. Eventually, Mikal showed his affectionate side by hugging me back when I hugged him. Mikal was smart and had a great memory. He would quietly observe class. I could tell if he understood what was going on just by looking at him. He would often have a smile on his face when he was thinking about something before responding. Mikal was also creative. He enjoyed art, writing, and poetry during his time in my class. I remember in particular how Mikal was unfamiliar with poetry at first, but really grew to like it over the course of that year.

(2025APP 1647.). Had she only been asked, Ms. Harris could have explained that "[w]ith different and stronger support, I feel sure that Mikal could have stayed true to the quiet, smart, thoughtful third-grader that I got to know." *Id.*

B. Carol Wilson – fifth-grade teacher.

The progress that Mikal made in third grade was lost when family members sent him back to live with Shareef in Brunswick County, Virginia. Carol Wilson was Mikal's fifth-grade teacher there (2025APP 666). Like Harris, she was available to testify at sentencing but was never contacted by the defense team, (2025APP 686-687.)

At the PCR hearing, Wilson provided a grim description of Mikal's condition at the start of that school year, when he was under Shareef's care, testifying that "he scored very . . . significant and excessive self-blame, poor impulse control, and excessive resistance. He has also exhibited periods of extreme sadness at times." (2025APP 672.)

Wilson was a special education teacher who was equipped to give Mikal the assistance that he needed in order to overcome his dysfunctional family situation. (2025APP 667.) Her PCR testimony illustrated how Shareef thwarted her efforts from the start. (2025APP 669-670.) Shareef disrupted the very first school assessment team meeting that was called to determine what special education services Mikal might need. Wilson explained how Shareef "became very angry," "cursed us," and then left because "he didn't want any white man writing any negative reports about his son. (2025APP 670.)

Wilson further testified that Shareef refused to permit Mikal to receive recommended mental health counseling. (2025APP 678.) She nonetheless recognized that "[Mahdi] had the ability to go ahead and do well, even to excel." (2025APP 681.) However, his profound sadness and depression made it difficult for him to progress. Wilson testified:

> I will never forget him. He did like to draw and he was able to do well, but it came a point of time that I had to sit him next to me in order for him to get his work done. He was never disrespectful. The thing that I noticed about Mikal was that he was depressed and he was very sad.

Id.

That sadness and depression made it difficult for Wilson to help Mikal. Her efforts were aggressively hampered by Shareef, who would come in and observe the class:

> Then I think that Mikal was sort of tight. I don't know if he was nervous, but that didn't last too long because Ms. Wynn [the principal] did put a stop to [Shareef's interference], but I felt he was flat. I felt Mikal – You

> couldn't get any real like joy out of him, any interest, any motivation. He was just like always to his [sic] self and quiet, little interaction with the other students. He was not a behavior problem. I just had him next to me to keep him on task, but he was never disrespectful or anything like that.

(2025APP 683.)

Mikal made a powerful impression on Wilson. As she explained at the PCR hearing:

> From the time that I started teaching in '84 – and even taught at a prison up through '06 – I will never forget Mikal. He just – I felt that we could have help [sic] him because really and truly Mr. Vecker [the school psychologist] really wanted to help Mikal and I just feel so lost about the fact that it wasn't able to materialize because after Mikal was just I felt he was sort of yanked out of my class by his dad and I would see his dad and his dad would say, Look, I am homeschooling him, you know.

(2025APP 684.) Unfortunately, Mikal never was home-schooled, (2025APP 1459); instead, in Wilson's words, "he just got lost in the cracks." (2025APP 685.)

C. George Smith – community member who knew Mikal's father.

George Smith was a lifelong resident of Brunswick County, Virginia, who could have provided testimony of bizarre and violent behavior by Shareef. (2025APP 711-714.) Smith was willing and available to testify at sentencing, but was never contacted by trial counsel. (2025APP 714.) Because he had known Shareef for many years, Smith could have offered both testimony about his pathological hatred of white people generally and a specific example of the wild, erratic behavior this hatred engendered. (2025APP 709-711.) At the PCR hearing, Smith testified:

> [Shareef Mahdi] hated white people. I mean, he just hated them with a passion, and, you know, I remember once – I watch the military channel sometime. I am not fascinated with Hitler, but I am interested in him, you know, and sometimes I wonder, you know, to myself how he led these people to destruction being the kind of person he was and I remember once he [Shareef] told me, when he killed those Jews he knew what he was doing – something to that effect.

(2025APP 709.)

Smith also recounted the incident where he assisted law enforcement in removing Shareef from a racially-segregated pool where he was causing a disturbance. (2025APP 711-714.) Smith testified:

> He was in the pool swimming around and cursing, using extremely vile language, and I do remember it was in the timeframe of maybe after the O.J. Simpson trial and he was making disparaging remarks about Nicole and why [O.J.] killed her and cursing and hollering as loud as he possibly could as to try to inflame these policemen that were standing around.

(2025APP 711-712.)

Shareef was arrested, and Smith went with him into his jail cell. (2025APP 714.) Smith's testimony about Shareef Mahdi's behavior in that cell vividly illustrated Shareef's crazed and violent nature:

> When we got into the cell he just went wild. He took the furniture and started throwing the chairs against the wall, breaking the tables, not directed at any individual at the time, but it was just wild, you know. I wondered why I had gone in there because I hadn't seen that side of him before, but it was just as violent as anything I have ever seen in my life.

(2025APP 714.)

REASONS FOR GRANTING THE PETITION

I. Mahdi's trial counsel provided ineffective assistance by abandoning their investigation when Mahdi's family members proved unhelpful.

In *Strickland v. Washington*, 466 U.S. 668 (1984), this Court held that a conviction or sentence must be vacated when a trial attorney's conduct falls below an objective standard of reasonableness, in the absence of which, there is a reasonable probability the trial would have had a different result. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* at 694.

"It is unquestioned that under prevailing professional norms at the time of [Mahdi's] trial, counsel had an 'obligation to conduct a thorough investigation of the defendant's background.'" *Porter v. McCollum*, 558 U.S. 30, 39 (2009) (per curiam) (quoting *Williams v. Taylor*, 529 U.S. 362, 396 (2000)). Given that Mahdi faced the death penalty, trial counsel had "'a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.'" *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (quoting *Strickland*, 466 U.S. at 691). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Wiggins*, 539 U.S. at 521–522. But an attorney's decision to end an investigation into their client's case is only reasonable to the degree that the factual basis for that decision is also reasonable. "[S]trategic choices made after less than complete investigation are reasonable precisely to the extent

that reasonable professional judgments support the limitations on investigation." *Strickland*, 466 U.S. at 690-91.

As this Court explained in *Wiggins*, 539 U.S. at 522-23, the "focus is on [the issue of] whether the investigation supporting counsel's decision not to introduce mitigating evidence of Wiggins' background *was itself reasonable*." (emphasis in original). In *Wiggins*, trial counsel's conduct was deficient because they ended their investigation prematurely, prior to becoming sufficiently informed about their client's life: "counsel abandoned their investigation of petitioner's background after having acquired only rudimentary knowledge of his history from a narrow set of sources." *Id.* at 524.

Wiggins also established that trial counsel merely having "*some* information with respect to [their client's] background" does not necessarily mean "they were in a position to make a tactical choice" regarding their mitigation defense. (emphasis in original). 539 U.S. at 527. When "assessing the reasonableness of an attorney's investigation . . . a court must consider not only the quantum of evidence already known to counsel, but also whether the known evidence would lead a reasonable attorney to investigate further." *Id.* Critically, "*Strickland* does not establish that a cursory investigation automatically justifies a tactical decision with respect to sentencing strategy. Rather, a reviewing court must consider the reasonableness of the investigation said to support that strategy." *Wiggins*, 539 U.S. at 691.

A. Trial counsel unreasonably ended their investigation after identifying only the most general information about Mahdi's childhood trauma, and identifying no lay witnesses to testify.

If this Court does not grant certiorari review and stay Mahdi's execution, he will be put to death even though his trial attorneys mishandled his capital defense in ways that are clearly prohibited by Sixth Amendment precedent. Not only have the state courts failed to remedy these deficiencies, they have addressed them in ways that violate federal law.

In the first place, "counsel performed almost no mitigation investigation, overlooking vast tranches of mitigating evidence." *Andrus v. Texas*, 590 U.S. 806, 814 (2020). Indeed, "the scope of counsel's investigation into petitioner's background" was not only unreasonable, but indefensible. *Wiggins*, 539 U.S. at 528); *Porter*, 558 U.S. at 39. Trial counsel's deficiencies are patent in their proceeding to trial without a single lay witness who could speak from personal experience about the trauma Mahdi endured at the hands of his volatile, mentally ill father. As far back as *Skipper v. South Carolina*, 476 U.S. 1, 7-8 (1986), this Court recognized (in the context of future dangerousness) that the "testimony of more disinterested witnesses" regarding a particular mitigation subject, "who would have had no particular reason to be favorably predisposed" to the defendant, "would quite naturally be given much greater weight by the jury." Thus, trial counsel were deficient here because they made no meaningful effort to identify disinterested lay witnesses who could persuasively corroborate Mahdi's evidence of an abusive upbringing at his father's hands.

The ABA Guidelines confirm that lay witnesses are an essential component to a competent capital mitigation case. *See* Commentary to 2003 ABA Guideline 10.11 ("[c]ommunity members . . . who interacted with the defendant or his family, or have other relevant knowledge or experience often speak to the [sentencing authority] with particular credibility."). Decisions from the Courts of Appeals applying *Strickland* likewise demonstrate that a capital defense lawyer's failure to identify available lay witnesses is objectively unreasonable. *See, e.g., Sowell v. Anderson*, 663 F.3d 783, 790-95 (6th Cir. 2011) (holding that reliance on expert evaluations was deficient where available lay witness testimony about the defendant's background was "stronger than anything" learned from expert reports); *Lambright v. Schriro*, 490 F.3d 1103, 1120 (9th Cir. 2007) (holding that although the court was aware of the defendant's "bleak childhood," counsel was ineffective for failing to offer testimony from lay witnesses about the specifics of the abuse).

Next, trial counsel were deficient because they "ignored pertinent avenues for investigation of which they should have been aware," *Porter*, 558 U.S. at 40. Counsel had numerous red flags about the complex trauma that had misshapen Mahdi's life, yet they made very little effort to move beyond their initial perceptions that Mahdi's family members were unwilling to provide helpful testimony. After speaking with Mahdi's family, they knew that his childhood was unstable. They were aware of the "dysfunction" stemming from Mahdi's father Shareef, that Shareef was an "oppressive husband," and that, as a child, Mahdi was "severely beat[en] . . . over and over again" by another family who was supposed to be taking

care of Mahdi when his father could not. (2025APP 1154-1157, 1160.) Trial counsel acknowledged that they had difficulty obtaining assistance from Mahdi's family "to discuss his upbringing, his family, what shaped and molded and resulted in Mr. Mahdi." (2025APP 1165.) But counsel recognized that "what you want to show to the [sentencer] is that Mikal Mahdi didn't have a chance in life and perhaps you shouldn't take his life." (2025APP 1166.) Given all this, there was no good reason for counsel to stop their investigation without investigating whether there was another way of relaying the full scope of Mahdi's tumultuous background. And counsel had no reason at all not to do so. During the PCR hearing, counsel could offer no explanation for why they abandoned their search for mitigation when Mahdi's family proved uncooperative.

Capital mitigation investigations cannot be curtailed precipitately when the attorneys know full well that additional, important information is available. *See Wiggins*, 538 U.S. at 525 ("The scope of their investigation was also unreasonable in light of what counsel actually discovered in the DSS records" and "any reasonably competent attorney would have realized that pursuing these leads was necessary to making an informed choice among possible defenses"); *Rompilla v. Beard*, 545 U.S. 374, 389 (2005) (counsel are not required to search for "a needle in a haystack," but they may not short circuit their investigation when they "truly [have] reason to" believe that mitigating evidence is available). Similarly, a lack of cooperation by a client's family does not excuse counsel from making reasonable efforts to investigate and present a persuasive mitigation case. *See Porter*, 558 U.S. at 40 ("Porter may

have been fatalistic or uncooperative, but that does not obviate the need for defense counsel to conduct *some* sort of mitigation investigation.") (emphasis in original); *Rompilla*, 545 U.S. at 381-82 (finding capital defense counsel deficient even though both the client and his family were not helpful to the mitigation investigation).

The third and final reason why trial counsel's representation was deficient is that they selected a particular trial strategy—relaying Mahdi's life story through the testimony of a social history expert—but implemented that strategy only halfheartedly. The testifying social worker, Marjorie Hammock, only offered the trial judge broad generalities about Mahdi's upbringing. Hammock described Mahdi's childhood as "rather chaotic" and involving "conflict" and "abuse" between his parents, but provided no further description. Hammock said Mahdi's father had a "limited . . . ability to parent effectively" and was "extremely troubled;" Hammock said Mahdi had a "poor history of school progress;" yet she never described what actually happened to Mahdi in the school setting. Hammock referenced the fact that Mahdi was sent to a "juvenile facility," but never described anything about his institutional history. (2025APP 445-460.)

The Sixth Amendment does not permit capital trial lawyers to adopt a defense strategy, implement it halfheartedly, and insulate their performance from review. *See Wiggins*, 539 U.S. at 526-27 (holding that trial counsel's explanation for their decisionmaking was "more *post hoc* rationalization . . . than an accurate description of their deliberations," in part because trial counsel presented mitigation but did so in a "halfhearted" fashion); *Harrington v. Richter*, 562 U.S. 86,

109 (2011) ("courts may not indulge '*post hoc* rationalization' for counsel's decisionmaking that contradicts the available evidence of counsel's actions"); *Jefferson v. GDCP Warden*, 941 F.3d 452 (11th Cir. 2019) (finding deficient performance in the "halfhearted mitigation case" counsel presented, which omitted "further neuropsychological testing" that "would have powerfully bolstered the limited mitigation case [that] counsel did present"). Mahdi's trial attorneys cannot reasonably justify the limited mitigation relayed to the sentencing judge through their social history expert when their entire strategy was to use that expert as a conduit for Mahdi's life story. It was objectively unreasonable for counsel to choose this course but then fail to conduct or direct the reasonable investigation necessary to implement it, and to convey Mahdi's uniquely challenging upbringing.

"[C]ounsel's failure to uncover and present [the] voluminous mitigating evidence" in this case cannot "be justified as a tactical decision." *Wiggins*, 539 U.S. at 522; *see also Williams*, 529 U.S. at 396. "Instead, the overwhelming weight of the record shows that counsel's 'failure to investigate thoroughly resulted from inattention, not reasoned strategic judgment.'" *Andrus*, 590 U.S. at 816-17 (quoting *Wiggins*, 539 U.S. at 526). And counsel's "failure is all the more alarming given that counsel's purported strategy was to concede guilt and focus on mitigation." *Andrus*, 590 U.S. at 816–17.

While the state supreme court addressed whether Mahdi's trial counsel were deficient, it did so in ways that were nonresponsive to the arguments raised. The state court said that "many of the potential witnesses that counsel sought out to

testify on Mahdi's behalf . . . were reluctant to help, plainly hostile to his defense team, or only had unhelpful information to share about Mahdi." App. A, 7a. But this did not apply to the elementary teachers and local community leader George Smith. Trial counsel never spoke with them at all, and their post-conviction testimony did not include any unhelpful or "double-edged" information.

As to Mahdi's second ineffectiveness contention—that trial counsel unreasonably truncated the testimony from their social history expert—the state court's reasoning has even less relevance. The heart of Mahdi's claim is that counsel were deficient for failing to have their expert provide a full, detailed inventory of the childhood trauma he lived through. This has nothing to do with lay witness reluctance or hostility, nor does it connect with the state court's point that some lay witnesses may have offered unhelpful information. Simply put, the state court offers no relevant rejoinder to Mahdi's claim of deficient performance.

The state supreme court also suggested that trial counsel could not have been deficient because they "attempted to build the best mitigation case possible from the circumstances presented to them," including an unflattering personality disorder diagnosis from their retained experts. App. A, 7a-8a. Yet again, the state court misses the point. Mahdi's claim is not that mental health experts should have been called. Nor is it that his trial attorneys should have made stronger efforts to persuade Mahdi's family members to testify. The claims of deficient performance focus on the failure to identify non-family witnesses, and the failure to prepare their

social history witness to fully describe Mahdi's upbringing. None of the state court's reasoning speaks to these concerns.[12]

Boiled down, the state supreme court's view seems to be that trial counsel must have acted reasonably because this case had challenging facts. Given the considerable hurdles they faced, the state court asks, how could trial counsel have done anything more? But the challenging nature of Mahdi's case does not render his attorneys' conduct reasonable. It renders it unreasonable. Faced with a difficult set of facts, and tragic crimes, counsel went to sentencing nearly emptyhanded. They presented nothing more than a fleeting, general outline of Mahdi's complex trauma. If this wasn't objectively unreasonable, what is?

"Although counsel nominally put on a case in mitigation in that counsel in fact called witnesses to the stand after the prosecution rested, the record leaves no doubt that counsel's investigation to support that case was an empty exercise." *Andrus*, 590 U.S. at 815. Accordingly, trial counsel provided deficient performance that cannot be countenanced.

B. If trial counsel had presented the full scope of Mahdi's traumatic background, there is a reasonable probability he would have received a life sentence.

Rejecting the argument that Mahdi was prejudiced by trial counsel's failure to put on the unpresented evidence, the state supreme court offered only a cursory, one-sentence observation that the aggravating evidence was "overwhelming." The

[12] Similarly, the state court discusses a string of *Strickland* decisions involving antisocial personality disorder even though Mahdi has not raised a claim that an expert should have testified to a different mental health diagnosis.

state court cited to a state *Strickland* decision, derisively asserting that Mahdi is not entitled to a "fancier" mitigation presentation. App. A, 9a. Similarly, the state supreme court claimed, without analysis, that Mahdi's unpresented mitigation is "merely cumulative" of the evidence the trial judge heard. App. A, 7a. These assertions are not moored in the actual facts of this case. As illustrated below, the chasm between the trial evidence and the unpresented post-conviction evidence could not be wider.

When selecting Mahdi's sentence, the trial judge explained that his general approach was "to temper justice with mercy and to seek to find the humanity in every defendant that I sentence." However, as he was provided only a meager look at Mahdi's background, the sentencing judge concluded, inaccurately, that this "sense of humanity seems not to exist in Mikal Deen Mahdi." (2025APP 521.) A comparison between the information presented at trial and the information that could have been presented reveals more than a reasonable probability that Judge Newman would have found Mikal's damaged, tenacious humanity many times over.

In assessing whether Mahdi can show prejudice, a reviewing court must consider "the totality of the available mitigation evidence . . . [and] reweig[h] it against the evidence in aggravation." *Williams*, 529 U.S. at 397–398. The totality of evidence here underscores the difference in both quality and quantity between what Judge Newman knew and what reasonable counsel could have presented. Regarding Mahdi's parents, Judge Newman was told only that there was "a great deal of conflict" between them that "the children witnessed," ultimately resulting in

Mahdi's mother "leav[ing] the family . . . trying to get away from the abuse." (2025APP 449.) Judge Newman was not told:

- Mahdi's older brother Saleem was conceived when his father raped their mother.
- One of Mahdi's earliest childhood memories is of his father slamming his mother through a glass table, with young Mikal pleading with his dad to stop.
- When Mikal was four years old and his mother left the home because of the physical abuse, his father threatened to kill his mother if she took the kids with her.
- Mikal's father told four-year-old Mikal his mother left because she didn't love him, and later falsely told Mikal his mother was dead.
- When Mikal was in second grade, he witnessed his father kidnap his mother at gunpoint and physically assault her.

As to Mahdi's father, he was described to the sentencing judge in general terms as having "outbursts and problems," and "known to be at odds with people in the community, with his own family and with law enforcement." (2025APP 458.) Judge Newman was not told:

- Shareef Mahdi was fired from a substitute teaching position for yelling at students and staff, including calling fifth grade girls "bitches" and "whores."
- When Mikal was eleven years old, his father was arrested and referred for mental health treatment after he jumped into a segregated all-white pool, shouted expletives, and refused to leave. At the jail following his arrest, Shareef was out of control, throwing the furniture in his cell.
- Not long after the pool incident, Shareef's sister was criticizing his lifestyle. Shareef responded by smashing in her car windows with a cinder block.

When Mahdi was nine years old, he was committed to a mental health facility for several months. Judge Newman was told about the commitment and that Mahdi had "poor self-esteem," "difficulty with relationships with others," and was diagnosed with depression and suicidal ideation. 2025APP 453, 537. Judge Newman was not told:

- Mikal's elementary school principal expressed concern when Mikal said, "If I had a gun I would shoot myself."
- Before he was committed for treatment, Mikal asked a police officer for his gun so he could shoot himself.
- At the mental health facility, Mikal told a doctor, if he could not have his family back together, he would "jump off a bridge, shoot myself, or kill myself with bow and arrows."
- Even in the throes of a mental health crisis at age nine, while Mikal was away from his volatile father with relatives in Baltimore, a teacher reported that Mikal was able to make progress and improve his behavior in school.

Regarding school history, Judge Newman was informed that Mahdi was removed from school by his father in the fifth grade. 2025APP 538. Judge Newman was not told:

- When Mikal was in fifth grade, his teachers tried to get him extra support for the emotional problems he was having as a result of the trauma in his home. Instead of accepting the help, Mikal's father became enraged and pulled Mikal from school.
- During the school meeting, Shareef became angry because he didn't want white men telling him how to raise his son, even though most school staff members in the meeting were black.
- Shareef subjected Mikal and his brother to survivalist training in the woods, which Shareef pretended was "home-schooling."

- During the "home-schooling," Shareef would "rant and rave" about "white folks coming to kill them" and "the evil empire of robber barons" coming for their land.

- Mikal, still only between 11 and 15 years old, began stealing to help support his father, who was unemployed.

Regarding incarceration history, Judge Newman was only informed that Mikal entered the juvenile justice system at age 14. He was not told:

- A psychologist in one juvenile prison found that Mikal's problems could be traced to incompetent parenting and a dysfunctional family.

- Mikal was diagnosed with depression while in juvenile facilities.

- He had to be placed in protective custody due to suicide threats, including statements that he would electrocute himself or hang himself.

- During juvenile incarceration from 14 to 17, Mikal lived through nearly 2,000 hours in isolation, often as punishment for minor transgressions like refusing do his daily exercise or ripping out book pages.

- During his late adolescent incarceration from 18 to 21, Mikal lived through 6,000 more hours in solitary confinement, again, often for petty reasons like not tucking in his shirt or refusing a haircut.

- Mikal spent almost two years at Wallens Ridge, a brutal supermax prison with a documented history of racism and human rights violations.

- In total, between the ages of 14 and 21, Mikal lived 86% of his life in prison facilities, receiving only minimal mental health treatment, if any.

And, of course, Judge Newman did not hear from a single lay witness about their firsthand observations of Mikal's childhood. Judge Newman could have heard from Myra Harris, the elementary teacher who found Mikal "withdrawn" at first, but saw how Mikal opened up to new interests in school with time and care. Judge

Newman could have heard from Carol Wilson, the elementary teacher who saw a more depressed, withdrawn version of Mikal while he was living with his dad. Ms. Wilson was there in the meeting room when Shareef angrily disrupted the staff instead of accepting the help they were trying to give his son. Judge Newman could have heard from the local resident, George Smith, who saw Shareef's incident in the all-white pool, and could have vividly described how Shareef "went wild" in an episode that "was just as violent as anything I have ever seen in my life."

Judge Newman heard none of this. He was left to decide Mikal Mahdi's fate with little more than a spare 15 transcript pages of testimony to consider. If Judge Newman had been properly informed of Mahdi's lifelong extraordinary trauma, there is at least a reasonable probability he would have chosen a life without parole sentence over death. *Williams*, 529 U.S. at 397-98. "This evidence might not have made [Mahdi] any more likable to the [judge], but it might well have helped the [judge] understand [him], and his horrendous acts[.]" *Sears v. Upton*, 561 U.S. 945, 951 (2010).

Similarly, the state courts' dismissal of this evidence is irreconcilable with this Court's precedent, which recognizes childhood trauma as highly mitigating, and has ordered new sentencing trials when it was not presented due to trial counsel's deficiencies. *See, e.g., Porter*, 558 U.S. at 43 (holding that it was unreasonable for the state court "to discount to irrelevance the evidence of Porter's abusive childhood"); *Wiggins*, 539 U.S. at 535; *Williams*, 529 U.S. at 397-98.

The superficiality of the state supreme court's prejudice analysis may be best illustrated by its reliance on *Wong v. Belmontes*, 558 U.S. 15 (2009). The state court relied on *Wong* for the proposition that Mahdi's unpresented evidence is "merely cumulative." App. A, 7a. Yet *Wong* is nothing like Mahdi's case. In *Wong*, the capital trial lawyer called nine witnesses to testify over the course of two days. There was testimony about Belmontes's difficult upbringing with an alcoholic and abusive father; his poverty-stricken childhood home; tragic deaths that occurred within his family; evidence of Belmontes's good character even in the face of personal tragedy; and a detailed account of Belmontes's religious conversion. 558 U.S. at 21. Mr. Belmontes was well-represented through a two-day, multi-witness presentation about the full course of his life. Mikal Mahdi got less than 30 minutes from a single testifying social worker. There is no comparison between the two. The fact that the state supreme court thought there was shows how badly it misjudged the prejudice in this case, and erroneously discounted the "blink-and-you'll-miss-it" capital defense that Mikal Mahdi received.

CONCLUSION

Petitioner Mikal Mahdi requests this Court grant the petition for a writ of certiorari.

Respectfully submitted,

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