No. 18-8666

IN THE SUPREME COURT OF THE UNITED STATES

TREMANE WOOD, Petitioner

vs.

MIKE CARPENTER, Warden, Oklahoma State Penitentiary, Respondent.

*****CAPITAL CASE*****

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Respondent devotes his Brief in Opposition ("BIO") to either trivializing the seriousness of the questions that Mr. Wood's petition for writ of certiorari ("Petition") presents, or to misconstruing the facts and the law. Those tactics must be rejected. Mr. Wood presents important questions that raise core issues of federal habeas law: how to correctly evaluate an ineffective-assistance-of-counsel claim under *Strickland v. Washington*, 466 U.S. 668 (1984), and how to determine whether a state-court decision is reasonable under AEDPA. The Tenth Circuit ignored this Court's well-established precedent on both fronts. As a result, two ineffective-assistance claims related to Mr. Wood's death sentence were not properly adjudicated.

This capital case is an ideal vehicle for this Court to make clear what *Strickland* and AEDPA require because it highlights the importance of effective counsel. Here, two brothers were accused of the same crime. Mr. Wood was sentenced to death, while his brother, who the prosecutor admitted was the more culpable of the two,[1] was sentenced to life. By far the biggest difference in the two brothers' cases? Their legal representation. (Pet. 4–8.) To prevent injustice, certiorari is warranted.

I. The Tenth Circuit's rejection of Mr. Wood's penalty-phase ineffective-assistance-of-trial-counsel claim flatly contravened this Court's decisions in *Strickland* and its progeny.

Respondent attempts to transform the important first question presented in Mr. Wood's Petition into one allegedly undeserving of this Court's review by trivializing it as "no[t] compelling" and as "amount[ing] to nothing more than

[1] Dist Ct. ECF No. 35-4, Ex. 28A at 25 (*State v. Zjaiton Wood*, CF-02-46, Tr. 9/20/04).

disagreement with the Tenth Circuit's application" of federal law. (BIO at 7–8, 12.) In so doing, Respondent fails to appreciate Mr. Wood's argument—plainly set forth in his Petition—and misinterprets it: nowhere in Mr. Wood's Petition did he argue that the Tenth Circuit erred when it erroneously applied *Strickland* and its progeny to the facts of his case, as Respondent contends. (*See* BIO 7–8, 12.) Rather, Mr. Wood argued unequivocally that the Tenth Circuit erred when it "*disregarded* the constitutional analysis required by *Strickland*, *Wiggins* [*v. Smith*, 539 U.S. 510 (2003)], *Rompilla* [*v. Beard*, 545 U.S. 374 (2005)], and *Porter* [*v. McCollum*, 558 U.S. 30 (2009)][,]" and crafted a prejudice standard of its own in evaluating the reasonableness of the state court's decision under 28 U.S.C. § 2254(d)(1). (Pet. 26–29 (emphasis added).)

Pursuant to the Tenth Circuit's newly created standard, trial counsel's failure to investigate and present new mitigating evidence at the penalty phase of Mr. Wood's capital trial could not be considered prejudicial so long as that evidence related to similar mitigation themes that counsel touched upon—regardless of how incredibly or superficially—at trial. (*See* B-20 (determining that the state court's finding of no prejudice under *Strickland* was "objectively reasonable" because it "properly recognized that the themes developed at the evidentiary hearing were also developed at Wood's sentencing, albeit in less detail[]"). Such a standard squarely conflicts with this Court's well-established Sixth Amendment jurisprudence, and cannot be reconciled with the Eighth Amendment's demand for heightened "reliability in the determination that death is the appropriate punishment in a

specific case." *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976); *Eddings v. Oklahoma*, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring) ("[T]his Court has gone to extraordinary measures to ensure that the prisoner sentenced to be executed is afforded process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice, *or mistake*" (emphasis added).). This Court's exercise of its "supervisory power" is thus necessary to correct the Tenth Circuit's contravention of this Court's precedent. *See* Sup. Ct. R. 10(a), (c).

Respondent claims to demonstrate that the Tenth Circuit did not contravene *Strickland* by cherry-picking a portion of that court's decision related to a challenge Mr. Wood raised under 28 U.S.C. § 2254(d)(2), but that portion of the Tenth Circuit's decision is not at issue here. (*See* BIO 9–10.) Quite obviously, whether the Tenth Circuit correctly found that the state court made a reasonable factual determination under § 2254(d)(2) is an entirely different inquiry from whether the Tenth Circuit contravened *Strickland* and its progeny in finding the state court's prejudice determination reasonable under § 2254(d)(1).

Respondent erects a straw man where he asserts that Mr. Wood is asking this Court to recognize what it has never held—that is, "*Strickland* prejudice is established whenever a habeas petitioner is able to uncover 'new' evidence." (BIO 10.) This is <u>not</u> Mr. Wood's argument. Rather, Mr. Wood's argument—set forth in plain terms throughout his Petition—is that the Tenth Circuit crafted a prejudice standard that contravened *Strickland* and has no basis in this Court's precedent. (*See* Pet. 26.) The Tenth Circuit recognized that some of the evidence that Mr. Wood introduced at

an evidentiary hearing to support his ineffective-assistance claim was new—including that Mr. Wood and his brothers had been abused by their father.[2] The court nonetheless found, however, that the state court reasonably concluded that Mr. Wood was not prejudiced by its omission from his penalty phase because the new evidence "still related to the same *themes* that counsel developed at trial[,]" and was "thus cumulative." (B-20 (emphasis added).) That determination is flatly inconsistent with the commands of *Strickland* and its progeny.

The prejudice inquiry for a claim of ineffective assistance of counsel requires that "a court hearing an ineffectiveness claim must consider the totality of the *evidence* before the judge or jury." *Strickland*, 466 U.S. at 695 (emphasis added); *Wiggins*, 539 U.S. at 534 ("In assessing prejudice, we must reweigh the evidence in aggravation against the totality of available mitigating evidence."); *Rompilla*, 545 U.S. at 393 ("[T]he undiscovered mitigating evidence, taken as a whole, and the likelihood of a different result *if the evidence* had gone in is sufficient to undermine confidence in the outcome actually reached at sentencing" (emphasis added) (citation and internal quotation marks omitted)); *Porter*, 558 U.S. at 41 (explaining that in

[2] Respondent's claim that the new evidence presented at the evidentiary hearing of Mr. Wood's abuse by his father "was not credible" is disingenuous. (BIO 11 n.6.) Mr. Wood's eldest brother, Andre Wood, whom Respondent nowhere disputes was a credible witness, was not asked to testify at Mr. Wood's penalty phase despite having highly relevant mitigation information. Andre testified at the evidentiary hearing that their father was "[v]ery, very mean" and abusive not only to their mother but to all three of his sons. (E.H. Tr. 2/23/06 at 157–58.) Andre testified that not only did their father make his sons watch as he beat their mother (E.H. Tr. 2/23/06 at 158), but he would also whip his sons to the extreme. (E.H. Tr. 2/23/06 at 158.) Andre even specifically recalled that their father once beat Mr. Wood so hard with "a leather strap that you would sharpen a razor on," that he left bruises and welts all over Mr. Wood's legs and back—all because Mr. Wood would not say grace at the dinner table. (E.H. Tr. 2/23/06 at 161.)

order to assess whether there is a reasonable probability of a different outcome, courts must "consider the totality of the available mitigating evidence"). As *Strickland* and its progeny make clear, the prejudice inquiry turns on whether "there is [ ] [a] reasonable probability that [ ] omitted *evidence* would have changed the conclusion that the aggravating circumstances outweighed the mitigating circumstances and, hence, the sentence imposed." *Strickland*, 466 U.S. at 700 (emphasis added).

Respondent insists that neither the state court nor the Tenth Circuit disregarded these constitutional principles. (BIO 11.) Tellingly, however, Respondent ignores the aspects of the state court's and Tenth Circuit's decisions where they did precisely that. *See Wood v. State*, 158 P.3d 467, 481 (Okla. Crim. App. 2007) (finding that evidence presented at evidentiary hearing "could have provided further detail to support the mitigation evidence" at trial but evidence "covering these areas . . . was nonetheless presented to the jury" which precluded a finding of prejudice (emphasis added)); *see also* B-20 to B-24 (recognizing that some of the evidence introduced at Mr. Wood's evidentiary hearing was new, but because it "still related to the same themes counsel developed at trial[,]" it was "thus cumulative" and the state court's conclusion that Mr. Wood suffered no prejudice from its omission at sentencing was therefore objectively reasonable).

Respondent attempts to distinguish *Wiggins*, *Rompilla*, and *Porter* from Mr. Wood's case by arguing that, in those cases, trial counsel either presented "no evidence," "almost no mitigating evidence," or "virtually no mitigating evidence" at the penalty phase of the petitioners' trials. (BIO 11–12.) Respondent reads these cases

too narrowly. In each of these cases, as in Mr. Wood's case, trial counsel presented or touched upon *some* mitigating evidence at the penalty phase of petitioners' trials. *Wiggins*, 539 U.S. at 526 (finding that the theme of Wiggins's "difficult life" had been touched on by his attorney at trial, but "counsel never followed up on that suggestion with details of Wiggins' history"); *Rompilla*, 545 U.S. at 381 (recognizing that this "is not a case in which defense counsel simply ignored their obligation to find mitigating evidence"); *Porter*, 558 U.S. at 32 (recognizing that trial counsel put on some mitigating evidence at the penalty phase). But because trial counsel failed to investigate and present "considerable mitigating evidence" to the sentencer, this Court found "a reasonable probability that [the sentencer] would have returned with a different sentence." *Wiggins*, 539 U.S. at 536; *see also Rompilla*, 545 U.S. at 381 (finding counsel constitutionally ineffective because "the undiscovered mitigating evidence, taken as a whole, might well have influenced the jury's appraisal of [Rompilla's] culpability"); *Porter*, 558 U.S. at 40 (finding counsel ineffective because he "failed to uncover and present any evidence of Porter's mental health or mental impairment, his family background, or his military service"). As in *Wiggins*, *Rompilla*, and *Porter*, "there is [ ] [a] reasonable probability" in Mr. Wood's case that, despite trial counsel's presentation of some mitigating evidence, "the omitted evidence would have changed the [jury's] conclusion that the aggravating circumstances outweighed the mitigating circumstances and, hence, the sentence imposed." *Strickland*, 466 U.S. at 700.

Even assuming, however, that *Wiggins*, *Rompilla*, and *Porter* were concerned only with trial counsel's omission of mitigating evidence from the penalty phase, as Respondent argues (BIO at 11–12), Respondent does not challenge Mr. Wood's assertion that not a single witness at trial provided credible testimony about the horrific abuse and resulting trauma that Mr. Wood witnessed and endured as a youth. (OR1 at 355–56; Tr. 4/5/04 at 12–13, 33–102.) Nor does Respondent dispute that Mr. Wood's jurors never learned that he was diagnosed with Post-traumatic Stress Disorder (PTSD)[3] and other mental illnesses that predated the crime (C-3, C-5 to C-6); and they never heard expert testimony on how Mr. Wood "being biracial—and light skinned—has had a significant impact on who he was and how he would respond to expectations and conditions of acceptance and rejection by others" in the predominantly white, rural community where he grew up (C-6; E.H. Tr. 2/27/06 at 204–05). *Wiggins*, *Rompilla*, and *Porter* are thus directly on point, contrary to Respondent's contention otherwise.

Respondent claims that the Tenth Circuit "properly applied AEDPA" in rejecting Mr. Wood's trial-ineffectiveness claim where it determined that "we cannot

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[3] Although Respondent speculates that "[i]t also *appears* that Dr. Hand diagnosed Petitioner with Post-Traumatic Stress Disorder," Respondent carefully avoids stating that Dr. Hand actually informed the jury of that diagnosis. (BIO 31 (emphasis added).) That is because Dr. Hand never testified that Mr. Wood suffered from PTSD, much less that he suffered PTSD as a result of the abuse endured in his childhood. The portion of the transcript Respondent cites contains the only mention of PTSD in the whole trial, and the prosecutor is the one who mentioned it:

> Q: Post traumatic stress disorder. Can he get that from stabbing and killing a man in a robbery?
>
> A: Possibly. Possibly. And all of the outcomes following that. Sure. It's a possibility.

(Tr. 4/5/04 at 80.)

conclude that 'all fairminded jurists would agree' that the [state court] *unreasonably* applied *Strickland*." (BIO 8–9 (quoting B-39) (emphasis added).) Respondent fails to mention, however, that the Tenth Circuit's determination directly contradicts this Court's decision in (*Terry*) *Williams v. Taylor*, 529 U.S. 362, 377 (2000), where this Court held that, for purposes of review under § 2254(d)(1), for an application of law to be unreasonable does not require that "all reasonable jurists would agree that the state court was unreasonable." *Williams*, 529 U.S. at 377; *id.* at 76–77 (holding that "[w]e are convinced" that the Fourth Circuit's interpretation of § 2254(d)(1) as allowing a federal court to issue habeas relief "only if the state courts have decided the question by interpreting or applying the relevant precedent in a manner that reasonable jurists would all agree is unreasonable, . . . is incorrect"); *id.* at 409 (O'Connor, J., concurring) (considering the Fourth Circuit's determination that "a state-court decision involves an unreasonable application of . . . clearly established Federal law only if the state court has applied federal law in a manner that reasonable jurists would all agree is unreasonable," and finding that the court's "placement of this additional overlay on the 'unreasonable application' clause was erroneous" (citation and internal quotation marks omitted)). Indeed, in rejecting the very standard of review under § 2254(d)(1) employed by the Tenth Circuit in Mr. Wood's case, this Court in *Williams* made it clear that,

> [T]he statute says nothing about 'reasonable judges,' presumably because all, or virtually all, such judges occasionally commit error; they make decisions that in retrospect may be characterized as 'unreasonable.' Indeed, it is most unlikely that Congress would deliberately impose such a requirement of unanimity on federal judges.

> As Congress is acutely aware, reasonable lawyers and lawgivers regularly disagree with one another. Congress surely did not intend that the views of one such judge who might think that relief is not warranted in a particular case should always have greater weight than the contrary, considered judgment of several other reasonable judges.

529 U.S. at 377-78. Justice O'Connor's concurrence further elucidated what the proper inquiry under § 2254(d)(1) requires:

> Stated simply, a federal habeas court making the 'unreasonable application' inquiry should ask whether the state court's application of clearly established federal law was objectively unreasonable. The federal habeas court *should not transform the inquiry into a subjective one* by resting its determination on the simple fact that at least one of the Nation's jurists has applied the relevant federal law in the same manner the state court did in the habeas petitioner's case. The 'all reasonable jurists' standard would tend to mislead federal habeas courts by focusing their attention on a subjective inquiry rather than on an objective one.

Id. at 409–10 (emphasis added). Far from "properly applying" AEDPA, as Respondent contends (BIO 8–9), the Tenth Circuit's analysis expressly contravened it.

II. The decision below disregarded a fundamental tenet of AEDPA review.

Respondent's arguments related to Mr. Wood's second question presented are likewise unavailing. In ruling on Mr. Wood's case, the Tenth Circuit eschewed a basic premise of federal court habeas review: if a state court explains its decision for denying a claim, federal courts must evaluate those actual reasons to determine if a state court's decision is unreasonable under AEDPA. This principle was most recently reaffirmed in *Wilson v. Sellers*, 138 S. Ct. 1188 (2018).

Respondent suggests Mr. Wood created this fundamental rule out of whole cloth, asserting that Mr. Wood "relies upon a single," "isolated sentence . . . pluck[ed]

from *Wilson*." (BIO 13–14.) To realize how mistaken Respondent is, this Court need not look further than the first two paragraphs of *Wilson* where that "isolated" sentence is contained:

> Deciding whether a state court's decision "involved" an unreasonable application of federal law or "was based on" an unreasonable determination of fact requires the federal habeas court to "train its attention on the particular reasons—both legal and factual—why state courts rejected a state prisoner's federal claims," *Hittson v. Chatman,* 576 U.S. ——, ——, 135 S.Ct. 2126, 2126, 192 L.Ed.2d 887 (2015) (GINSBURG, J., concurring in denial of certiorari), and to give appropriate deference to that decision, *Harrington v. Richter,* 562 U.S. 86, 101–102, 131 S.Ct. 770, 178 L.Ed.2d 624 (2011).
>
> This is a straightforward inquiry when the last state court to decide a prisoner's federal claim explains its decision on the merits in a reasoned opinion. In that case, a federal habeas court simply reviews the specific reasons given by the state court and defers to those reasons if they are reasonable. We have affirmed this approach time and again. See, *e.g., Porter v. McCollum,* 558 U.S. 30, 39–44, 130 S.Ct. 447, 175 L.Ed.2d 398 (2009) (*per curiam*); *Rompilla v. Beard,* 545 U.S. 374, 388–392, 125 S.Ct. 2456, 162 L.Ed.2d 360 (2005); *Wiggins v. Smith,* 539 U.S. 510, 523–538, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003).

Wilson, 138 S. Ct. at 1192. This Court went on to apply this "straightforward" principle to a specific, "more difficult" factual situation that was before the Court. *Id.* But to get to the end result, this Court had to start with the foundational principle that the Tenth Circuit in this case, like the Respondent, ignored.

Respondent's "vehicle" arguments are also easily refuted. Having "affirmed this approach" to reviewing state court decisions "time and again," *id.*, it is far from "premature," as Respondent contends (BIO 14), for this Court to address the question of whether the Tenth Circuit contravened this Court's precedent by failing to analyze

the state court's actual reasons for denying Mr. Wood's ineffective-assistance-of-appellate-counsel claim.

Moreover, Respondent's assertion that Mr. Wood raised this issue for the first time in his petition for rehearing is incorrect. Yes, Mr. Wood raised the issue *again* in that petition, but the issue was fully briefed and argued by both parties in the original briefing before the Tenth Circuit panel. Respondent argued in his brief that the appellate-ineffectiveness claim was denied because the state court here, "the OCCA[,] determined that there was no reasonable probability Dr. Allen's report would have made a difference at trial." (Resp. Br. 68 n.36.) Mr. Wood rebutted that argument in his reply brief, explaining that "[t]he OCCA never analyzed whether the report would have made a difference at trial. [The OCCA] found no prejudice because 'appellate counsel did provide this Court with the expert's findings by admitting the expert's report below.'" (Reply Br. 8.) Mr. Wood did not cite *Wilson* for support because, as Respondent concedes (BIO 14), that case had not yet been decided. Mr. Wood instead quoted from *Hittson*—which this Court quoted in *Wilson*—explaining that courts must evaluate the state court's "actual" reasoning. (Reply Br. 8-9 (quoting *Hittson*, 135 S. Ct. at 2127-28).) This case is therefore an excellent vehicle for the question presented.

The question presented here is also one of importance because Mr. Wood is facing the death penalty, *see Woodson*, 428 U.S. at 305; *Eddings*, 455 U.S. at 118, and in denying habeas relief, the Tenth Circuit is disregarding this Court's holding on a fundamental aspect of federal habeas review. This Court's exercise of its "supervisory

power" is thus necessary because of the Tenth Circuit's departure from this Court's precedent. *See* Sup. Ct. R. 10(a), (c).

In sifting through Respondent's other reasons for denying certiorari, it is important to note what Respondent does not argue or contest. Respondent nowhere argues that the state court properly excluded Dr. Allen from the evidentiary hearing. Further, Respondent agrees that the OCCA provided reasoning for its decision denying Mr. Wood's appellate-ineffectiveness claim related to Dr. Allen, and (at BIO 16) quotes the paragraph containing those reasons. (BIO 15-16.) Respondent also does not contest (BIO 16) that the Tenth Circuit found that the OCCA's prejudice analysis was reasonable because "Dr. Allen's testimony would have been substantially cumulative" (B-27).

Moreover, Respondent does not (and cannot) argue that the paragraph in which the OCCA denies Mr. Wood's appellate-ineffectiveness claim—the one Respondent quotes in the BIO—contains any suggestion that the OCCA found that Dr. Allen's testimony would have been cumulative of other mitigation evidence, much less that its denial rested on that finding. (BIO 16; PC Op. at 14.) Although Respondent contends that Mr. Wood "mischaracterizes" the state court's opinion (BIO 12, 15), Respondent cannot escape one simple fact: the only reason provided by the OCCA for its prejudice finding was that "appellate counsel did provide this Court with the expert's findings by admitting the expert's report below" (BIO 16; PC Op. at 14, 6/30/10). The remainder of the reasoning contained in that paragraph related to

whether appellate counsel's performance was strategic, i.e., deficient.[4] (BIO 16; PC Op. at 14, 6/30/10.)

Respondent concedes that the OCCA did not review Dr. Allen's report on direct appeal. (BIO 18-19.) Respondent attempts to sow confusion by arguing that an unrelated section in OCCA's opinion—seven pages earlier—about a supplemental report that Dr. Allen had written exclusively for postconviction proceedings, shows the state court's reasoning as to the appellate-ineffectiveness claim. (BIO 17.) The OCCA ruled that the *supplemental* report was not "newly discovered evidence" under Oklahoma law. (PC Op. at 7, 6/30/10.) Putting aside that this section of the opinion is about an entirely different report, the OCCA does not even determine that the supplemental report is cumulative, only that it is "not newly discovered." (PC Op. at 7, 6/30/10.)

Dr. Allen's report and testimony, if admitted and considered, would not have been cumulative for all the reasons explained in the Petition (Pet. 32-34.) Respondent also erroneously assumes that Dr. Allen would have offered no further detail in her testimony than was contained in her report, even though her report was a summary of her findings. (*See, e.g.*, C-6 ("Without going into a lengthy explanation, I will briefly state . . . .").) Respondent also gives much more credence to Dr. Hand's testimony than

[4] In *Strickland v. Washington*, 466 U.S. 668, (1984), this Court set out the two components of an ineffective-assistance claim: deficient performance and prejudice. This Court explained that the deficient-performance analysis includes a determination whether counsel made a sound strategic choice. 466 U.S. at 687-91. Counsel's chosen strategy, however, is not relevant to the prejudice inquiry. *See id.* at 691-96; *id.* at 695 ("Although these factors may actually have entered into counsel's selection of strategies and . . . may thus affect the performance inquiry, they are irrelevant to the prejudice inquiry.").

it deserves, ignoring all the times Dr. Hand speculated or said "I don't know" and omitting the devastating cross-examination from the summary of his testimony. (BIO 20-25.) As detailed in the Petition (Pet. 14-15), Dr. Hand was not well prepared and gave little concrete insight into Mr. Wood's character, background, and behavior. The prosecutor in fact told the jury that trial counsel presented "weak mitigation." (Tr. 4/5/04 at 156; Tr. 4/5/04 at 158 (stating again that the "[m]itigation is weak").)

Finally, Respondent gets ahead of the questions presented by evaluating Mr. Wood's ineffective-assistance claim de novo in this Court. (BIO 20-35.) De novo review is properly conducted first by a lower court, where Mr. Wood may have the opportunity to present evidence supporting his claims. *See Wellons v. Hall*, 558 U.S. 220, 225-26 (2010) (noting that a lower court's consideration of an issue "assists this Court by procuring the benefit of the lower court's insight before we rule on the merits" (quoting *Lawrence on Behalf of Lawrence v. Chater*, 516 U.S. 163, 167 (1996))).

If certiorari is granted, this Court need only determine whether the Tenth Circuit's *Strickland* and AEDPA analyses were flawed. If this Court answers that question in the affirmative, then de novo review is properly conducted by the lower court on remand. And there, Mr. Wood will present further evidence to support his claim, such as appellate counsel's declaration that he had "no strategic reason for not challenging the trial court's failure to allow Dr. Kate Allen's testimony" in the supplemental brief, and that the exclusion of her testimony was:

> a very harmful ruling because Dr. Allen was going to testify in detail regarding the impact that Tremane's childhood had on him. She would have testified that she diagnosed Tremane with post-traumatic stress disorder as a result of the domestic abuse he witnessed as a small child. Because she had reviewed his juvenile records, she would have been able to put the records in context. She could have also explained the impact of abuse on Tremane. Dr. Allen's expert testimony was a large part of our proof that trial counsel's failure to investigate and prepare Dr. Hand during trial resulted in prejudice. Without her testimony, Tremane's life story and the supporting records went unexplained.

(Dist. Ct. ECF 35-1, Ex. 10, ¶¶ 9-10).

III. Conclusion

Because Respondent has advanced no meritorious argument in opposition to Mr. Wood's request for this Court to consider the important questions presented by his case, the petition for a writ of certiorari should be granted.

Respectfully submitted: June 5, 2019.

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