**II. Facts relating to claims 2, 3 and 4**

Jones was taken into custody on September 11, 1999. Rex Barnett was appointed as lead counsel on October 5. (1 CR 15.) A month later, an investigator, E.D. Loven, was appointed with an initial budget of $1,000. (1 CR 20.) Co-counsel Larry Moore was appointed on March 1, 2000. (1 CR 23.) In June of 2000, trial was set for February 12, 2001. (1 CR 28.) In August of 2000, counsel filed more than fifty pretrial motions, including a motion for evidence "relative to diminished mental capacity of the defendant" at the time of the alleged offense and at the time he made any statements, a motion for grand-jury transcripts, and a motion to discover punishment evidence including expressions of remorse by the defendant. (1 CR 43-106; 2 CR 1-208.) Also in August, Loven was replaced by investigator Janie Brownlee, who had a budget of $2,500. (2 CR 157.)

Five months before trial, on September 8, 2000, counsel advised the trial court that he had reason to believe Jones was not competent to stand trial. The trial court ordered a competency examination by Dr. Ann Turbeville. (2 RR 5-6; 2 CR 209-10.) Dr. Turbeville examined Jones on September 16, 2000, and concluded, among other things, that he was competent. She provided a written report detailing Jones's learning disabilities, drug abuse, self-injuries, psychiatric hospitalization, fighting and truancy, drop-ping out of school, playing with fire when he was young, extreme alienation from his family, and feeling like he had two personalities. (2 CR 211.)

Four months before trial, defense expert Dr. Raymond Finn examined Jones for competency, intelligence, suggestibility, and psychopathy, and also administered the Rorschach Inkblot Test and the Violence Risk Assessment Test. (2 CR 236-37; 35 RR 113-17.)

On December 21, 2000, the prosecutor notified defense counsel that Jones had complained of hearing voices in his head. (2 CR 261.) On January 19, 2001, the prosecutor notified counsel of potentially mitigating information received from Jones's twin brother, Benjamin, including information that Jones had different personalities known as David and John, talked to himself, heard voices, severely injured himself, was not alone when he killed his aunt, and that they had never had a good relationship with their mother, whom Ben described as a crack head who once beat Jones with a broom. The prosecution provided additional potential *Brady* information from Blaine Holliman that Roosa was with Jones when he beat his aunt to death, that both men killed Peoples and Sanders, that Jones cried when he confessed to Holliman, that Jones talked to himself, and that Holliman believed Jones was "slow, not crazy." (2 CR 280-81.)

Two days before trial, on February 13, 2001, trial counsel retained another psychologist, ***644** Carol Wadsworth, to evaluate Jones. (Doc. 129-13). Dr. Wadsworth diagnosed Jones with heroin and cocaine dependence, dysthymic disorder, reading disorder, borderline personality disorder, and antisocial personality disorder. She summarized his academic, emotional, and behavioral problems from childhood to present, including early substance abuse and minimal contact with treatment facilities. She described Jones as impulsive and self-destructive. (Doc. 129-13, p. 2-4.)

Trial began on February 15, 2001. (29 RR.) Testimony showed that, despite her meager monthly income, the victim occasionally made small loans to various people, including Jones. (29 RR 30-32; SX 1.) On September 10, 1999, Bryant told her sister, Mattie Long, that she had refused Jones's request for a loan earlier in the day. Long testified that Bryant had seemed uneasy about her conversation with Jones. (29 RR 51-52.) The next morning, neighbors discovered Bryant deceased. (29 RR 95-96.) She had suffered defensive bruising to her wrists and arms, a 9′ by 12′ bruise on her upper back, a 9′ by 6′ bruise on her upper arm, a broken collar bone, a broken shoulder blade, two fractured ribs, lacerations and an abrasion over her left ear, and a crushed skull. (30 RR 113-138.) A bloody, broken baseball bat was recovered at the scene, with a Raggedy Ann doll oddly placed on top of it. (29 RR 104, 153.) Blood and brain matter covered the floor, furniture, and ceiling. (29 RR 147-49.) There was no sign of forced entry, and shoe impressions found in the dirt around the victim's carport had class characteristics consistent with the tread of Jones's shoes. (29 RR 138-39, 30 RR 49-50.)

Bryant's car was located a half-mile from her house. In the passenger seat was a canvas car cover, under which was found a step rug, the victim's purse and wallet, a Bible, and a square piece of cloth. (29 RR 119, 123, 204-07.) Fingerprints were lifted from the vehicle, the purse, and a pink receipt inside the purse, but the police were unable to determine who made them. (29 RR 208, 223-24.) Trial counsel elicited testimony from the State's crime lab technician that the wallet contained three tithing envelopes with $60 that were apparently overlooked by the perpetrator. (30 RR 87-90.) A DNA analyst testified that the victim's blood was on clothing

  

belonging to Jones that had been seized from Freeman's home. (30 RR 192-93.)

Freeman testified that she gave Jones a ride to Bryant's neighborhood on the evening before the murder and he did not come home that night. (29 RR 270; 31 RR 66.) Tiffany Jones, an acquaintance, testified that she and Blaine Holliman had spent the evening with Jones snorting cocaine and smoking marijuana while they packaged cocaine for resale. (31 RR 68-71.) Tiffany testified that Holliman had fronted Jones some money for drugs, but Jones wanted more and Holliman refused. Jones asked Tiffany for a ride to his aunt's house. (31 RR 70-73.) At Jones's direction, Tiffany dropped him off some distance down the street from her house. Tiffany testified that, when Jones returned a couple hours later, he was sweaty, wide-eyed, and scared, with $30 cash that he used to buy more drugs from Holliman. (31 RR 74-79.)

The Gates statement was admitted. (SX 85; 31 RR 164.) Mattie Long also testified that Jones called her from jail after his arrest and apologized for killing her sister. (29 RR 55-56.)

The defense recalled Tiffany, who testified that she saw a white man who could have been Roosa walking down the street earlier in the evening, and that she did not see any blood on Jones's clothes when he returned from Bryant's house. (31 RR 102, 233-34.) Defense counsel also recalled ***645** Freeman, who testified that she spoke to Jones about what happened and that she is now afraid of Roosa. (31 RR 239-40.) Counsel presented testimony from a neighbor who had seen a white van parked at the victim's house between 2:45 and 3:15 a.m. on the night she died. (32 RR 9-11.) Finally, trial counsel elicited testimony that Roosa, a white man, had been doing yard work for the victim during the summer, and that Detective Gates thought this was suspicious. (31 RR 198-99; 32 RR 22-31.)

In jury argument, the prosecutor theorized that Jones had killed his aunt because she decided not to let him take advantage of her anymore. The prosecutor emphasized Jones's confessions to the police and to Mattie Long, as well as his actions on the night of the murder and the presence of the victim's blood on his clothing. (33 RR 11-21.) The State argued that the victim gave Jones money only to keep him from stealing and that Jones's behavior after finding the detective's card on his door was indicative of guilt. (33 RR 38-46.)

Trial counsel acknowledged that Jones was present at the time of the murder based on the blood evidence, but argued that the State did not bring the proof necessary to conclude beyond a reasonable doubt that he was the killer. Counsel emphasized the State's failure to explain the presence of the white van, failure to identify a footprint in the driveway that did not match Jones's shoes, failure to exclude the victim and her sister from finger-prints on the car, even though they were the only two people allowed to drive it, failure to lift any prints from the house, failure to use a blood spatter expert, and failure to determine a time of death. Counsel argued that the State's theory did not fit the facts because Bryant had refused to give Jones money on previous occasions, Tiffany did not testify that Jones was acting surreptitiously but thought Jones wanted to go to Bryant's house to sleep, Tiffany had seen a man in the street earlier in the evening who looked like Roosa, and the victim's neighbor was concerned about Roosa's being at the victim's house. Counsel also pointed out that the police failed to investigate the doll that was left at the scene and mini-blinds that were found on the hood of the victim's car. Counsel argued that if the purpose of the murder was theft, it did not make sense that the victim still had $60 in her wallet. Counsel argued that all these unanswered questions existed because the police stopped trying after they got a confession out of Jones. (33 RR 21-33.)

Trial counsel argued that Jones's confession was involuntary based on his drug use, youth, lack of sophistication and education, history of suicide and mental illness, and counsel complained that law enforcement failed to record the confession. Counsel argued that the confession did not comport with the physical evidence. Finally, counsel concluded that there was no evidence Jones intended to rob his aunt because she had always given him money before. (33 RR 33-39.)

At punishment, the State introduced evidence that Jones had been on juvenile probation for carrying a handgun and for assaulting a teacher. (33 RR 55-83.) Jones's juvenile records, which were in evidence, also showed a referral for arson and for assault. (SX 99, 100.) The State introduced evidence of Jones's drug problems, his gang tattoos and gang membership, and testimony about his involvement in the Peoples/Sanders murders that the Court previously discussed. (33 RR 90-91; 34 RR 29-45, 52-58, 85-148.)

The defense witnesses at sentencing included Freeman and Keisha, who testified about Jones's dysfunctional, transient child-hood, childhood abuse, his severe drug addiction and

  

self-injuring behavior, and his alternate personality, "James," who appeared when Jones was on drugs or ***646** in trouble. Keisha specifically testified that, when Jones was seven and she was ten, her stepbrothers made her and Jones have sex while they watched. The sexual abuse continued at the hands of an older brother, Michael. Freeman and Keisha also testified that Jones was no longer active in a gang. (34 RR 208-09; 35 RR 6-34, 49-111.) Freeman's son, called by the State, testified on cross-examination that he was close to Jones, who acted like a father to him. He said Jones told him not to do drugs and never join a gang because once you join, you cannot get out. (34 RR 62-64.)

Magistrate Judge Allan Butcher also testified for the defense. Jones appeared before Butcher in connection with the Bryant capital murder charge. Butcher testified that Jones appeared to be remorseful and that his eyes filled with tears as soon as he told Jones what he was charged with. (35 RR 38-41.)

Psychologist Raymond Finn testified for the defense that he has particular expertise in dealing with dissociative or multiple personality disorders. He diagnosed Jones with a milder form of dissociative identity syndrome that consists of amnesia and depersonalization, which is a coping mechanism for dealing with the self-loathing that results from severe and repeated childhood trauma and sexual abuse. Jones's drug abuse was a way of deadening himself emotionally. Dr. Finn said "James" murdered Bryant and that Jones knew what "James" did but had no control over it. Dr. Finn said that, with dissociative disorders, it is not unusual for the milder personality to be very remorseful and apologetic and that Jones was, in fact, tearful, upset, and very distressed about what James had done. He said Bryant was the one person who had treated Jones decently, and Jones loved the victim "as much as he probably loved anybody in his life." (35 RR 133-59.)

Dr. Finn described Jones's family life as very unstable, involving a good deal of abuse of most of the younger siblings. (35 RR 159, 221-22.) He explained that when a chid's parents fail to provide positive guidance and actually hurt the child or allow the child to be hurt, the child learns a world view that life is dangerous, people are no good, and nobody can be trusted. Dr. Finn testified that when Keisha reported the abuse to their mother, the mother basically said she was a liar and threw her out of the house. Dr. Finn said a mother's disregard is in many ways worse than the original abuse, and the child grows up believing they will not be treated fairly or protected by anybody. (35 RR 160-61.)

Dr. Finn testified that Jones's likelihood of engaging in future violent acts if released into the community was moderate to low. (35 RR 163-165.) He believed that the risk of violence was lower, however, in a highly controlled prison environment where Jones would have less access to drugs and could take advantage of treatment programs. Dr. Finn believed Jones could be managed in prison. (35 RR 165-167.)

On rebuttal, the State offered testimony from four additional witnesses. Jones's probation officer from 1994 testified that Jones had been an eighth grader doing ninth-grade work, was a star pupil with leadership qualities, and was charming and engaging. He said Jones was selected to go to Georgia as a representative of his school, that Jones did not seem weak, meek, or mentally ill, and he never noticed "James." (35 RR 229-43.) A corrections officer in the jail testified that Jones refused to comply with a verbal command, swore at the officer, and told him, "You don't need to know my name." (36 RR 5-11.) A deputy sheriff testified that he arrested both Roosa and Jones at a gas ***647** station in June of 1999, and the men appeared to be friends. (36 RR 25-29.)

Finally, Dr. J. Randall Price testified for the State that, in his opinion, Jones did not have any mental illness or dissociative disorder but had psychopathic personality disorder. He testified that he was in agreement with Dr. Turbeville on this point. (36 RR 42-47, 58.) Dr. Price said that Jones did not hesitate to talk about the sexual abuse he had experienced and did not appear to have been dramatically impacted by it, such that it would have led to a dissociative problem. (36 RR 48-51.) Dr. Price believed Jones was malingering about having two personalities because Jones's simplistic good/evil split is not consistent with what the experts know about identity problems. He said that the fact that "James" manifested before the murder occurred could be explained by Jones's drug abuse or his desire to explain away other wrong acts. Dr. Price said that, when mental illness truly leads to crime, rarely is a partner involved. Furthermore, Dr. Price said that amnesia is one of the classic earmarks for dissociative identity disorder but there was no "lost time" apparent in the materials or in Jones's interview. (36 RR 52-58.)

Dr. Price agreed that some of Jones's self-injuring behavior was suicidal because he was depressed and on a lot of drugs. Other times, like when he was striking himself on the head or burning himself on the arm, could be attributed to attention-seeking or being under the influence of alcohol or other substances. Dr. Price said that self-injury can also trigger

  

endorphin production in the brain, which makes a person feel good. Dr. Price did not think Jones's expressions of remorse were genuine. (36 RR 59-71.) He opined that, when it comes to predicting future violence, instrumental violence, such as the robbery/murder in this case, is a more stable trait than reactive violence, which results from an emotional reaction. (36 RR 73-74.) He believed there was a significant probability that Jones would continue to commit criminal acts of violence. (36 RR 90–91.)

In addition to the foregoing summary of evidence in the record, Jones attached several exhibits to his amended petition.[10] They include a police report, medical records showing a 1998 admission into John Peter Smith Hospital for suicidal ideations and drug problems, a written report from Dr. Wadsworth, orders related to the appointment of investigators and experts, billing statements from counsel, and an invoice from Dr. Wadsworth. There is also an itemized billing statement from Investigator Brownlee and Jones's analysis of it, along with a "prospective witness interview list."

### III. Law applicable to claims 2, 3, and 4

Jones's allegations concern the timing and extent of counsel's investigation into Jones's life history and mental health, including counsel's use of experts. Such claims of ineffective assistance are governed by *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Under that well-known standard, a petitioner must first demonstrate that counsel's representation fell below an objective standard of reasonableness, considering all the circumstances. *Strickland*, 466 U.S. at 687–88, 104 S.Ct. 2052. A petitioner must also demonstrate prejudice, meaning a reasonable probability, sufficient to under-mine confidence in the outcome, that but for counsel's unprofessional ***648** errors the result of the proceeding would have been different. *Strickland*, 466 U.S. at 694, 104 S.Ct. 2052.

### IV. Claim 2: Analysis

In claim 2, Jones asserts that trial counsel's sentencing investigation was ineffective under *Wiggins v. Smith*, 539 U.S. 510, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003). He complains generally that the investigation was done on the eve of trial, terminated prematurely, and underfunded.

The amount of time or money spent on an investigation is not a litmus test for deficient performance. Moreover, Jones's complaint that the investigation was done on the eve of trial and terminated prematurely is not supported in the record. Trial began February 15, 2001. Ten months before trial, counsel met with counsel for Roosa and spoke with Dr. Finn. Six to eight months before trial, counsel conducted legal research for their pretrial motions, conferred with each other several times, obtained a new investigator, and participated in the pretrial hearing. Mr. Moore began "work on locating defense witnesses" on September 27, 2000, five months before trial. About the same time, counsel received and reviewed the State's witness list. (Doc. 129-8.)

Investigator Brownlee's records show that between October 5 and December 12, 2000, she spoke with or tried to speak with Jones's mother, father, and girlfriend, Mattie Long; and the victim's neighbor, Mrs. Hill; and met or spoke with co-counsel Larry Moore five times. From January 10 to February 16, 2001, Brownlee spoke with or attempted to speak with Jones's father, mother, grandmother, sister Keisha, brothers Ben and Mike, Mike's wife Brandi, Blaine Holliman, Tiffany Jones, Jason Jackson, Paula Freeman, Dr. Finn, Kim Moore, the neighbor who saw the white van ("Mr. Kissentaner"), and "Mrs. Briggs's brother." During that time, Brownlee's records document at least fifteen conferences with counsel, telephone calls to testifying witnesses, the transportation of Ben and Keisha to Dr. Finn, and interviews or attempts to locate seven witnesses or people who are not identified by name. (Doc. 129-10.) Jones has also provided the Court with an undated "prospective witness interview list" containing the names of Tiffany, Blaine, Terri White and Judith Van Hoof (guardians ad litem in the juvenile cases), Donald Murphy (Jones's stepfather), Leeversia Jones (Jones's grandmother), Richard Bone and Mark Turner (teacher assault victims). Attached to the list are notes regarding the conflicting stories of Jones and James regarding the night of the murder, Jones's three juvenile referrals (arson, assault on teacher, and unlawfully carrying a weapon), a referral to an alternative school for setting a girl's hair on fire, three self-inflicted gunshot wounds, and Jones's attendance at Pathways Learning Center. (Doc. 129-11.)

In 2000, Brownlee's initial budget of $2,500 was certainly less than the funds expended today, but her hourly rate was only $35, her voucher exceeded the budget by $440, and there is no indication that she was held to the initial budget or would not have been paid more. As noted, co-counsel Moore also worked on locating witnesses. Trial counsel together logged 587.9 hours of out-of-court time. (Docs. 129-6, 129-8.)

Mr. Moore was in frequent contact with Brownlee, and he documents at least twenty conferences with her before trial. (Doc. 129-8.)

Much of Jones's argument is based on the assumption that trial counsel is ineffective if his billing records and file documentation are not detailed enough to show that counsel conducted a "comprehensive inquiry into the client's life and background," which Jones contends is required under bar-association guidelines and *Wiggins*. (Doc. 129, p. 52-61.) But there are no strict ***649** rules for counsel's conduct beyond the general requirement of reasonableness. *See Pinholster*, 131 S. Ct. 1406–07. The deficiency prong of *Strickland* asks "whether an attorney's representation amounted to incompetence under 'prevailing professional norms,' not whether it deviated from best practices or most common custom." *Richter*, 562 U.S. at 105, 131 S.Ct. 770. Even under the Court's *de-novo* review, the standard for judging counsel's representation is a most deferential one. *Id.* The purpose of the effective-assistance guarantee is not to improve the quality of legal representation, but simply to ensure that defendants receive fair trials. *Strickland*, 466 U.S. at 689, 104 S.Ct. 2052. Standards such as those promulgated by the American Bar Association are "only guides" to what is reasonable, not its definition. *Bobby v. Van Hook*, 558 U.S. 4, 8–9, 130 S.Ct. 13, 175 L.Ed.2d 255 (2009).

Moreover, the presumption is in counsel's favor. Counsel is "strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Pinholster*, 131 S.Ct. at 1403 (quoting *Strickland,* 466 U.S. at 690, 104 S.Ct. 2052). This standard not only gives trial counsel the benefit of the doubt, but affirmatively entertains the range of possible reasons counsel may have had for proceeding as they did. *Id.* at 1407. Therefore, Jones's suggestion that the absence of sufficiently detailed billing records demonstrates deficient performance is unavailing.

Jones also alleges that counsel overlooked "red flags" that indicated a need for further investigation. The asserted red flags are issues that were obviously investigated or known to counsel, but Jones asserts that counsel should have done "more." Counsel is not required to investigate every conceivable line of mitigating evidence no matter how unlikely the effort would be to assist the defendant at sentencing. *Wiggins*, 539 U.S. at 533, 123 S.Ct. 2527. "Counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland*, 466 U.S. at 691, 104 S.Ct. 2052. Strategic decisions made by counsel following a thorough investigation are virtually unchallengeable, while decisions made after a less-than-complete investigation are reasonable "precisely to the extent that reasonable professional judgments support the limitations on investigation." *Id.* at 690–91, 104 S.Ct. 2052.

Jones fails, for the most part, to specify the people and information counsel overlooked, much less provide evidence of them. This alone is a basis to deny the claim. *Koch,* 907 F.2d at 530 (holding that conclusory allegations are not sufficient to raise a constitutional issue). The Court will nevertheless examine the whole record to determine whether the red flags support Jones's conclusion that counsel unreasonably limited their investigation.

A. Pretrial Red Flags

**[14]** Jones first contends that the reports of Dr. Turbeville and Dr. Wadsworth signified that further investigation was needed regarding (1) Jones's educational disabilities, including what was meant by "emotional disturbance" in his school records, how Jones's behaviors manifested on a daily basis, and the dates the behaviors first appeared; (2) what testing was administered by the school; (3) whether Jones had Attention Deficit Disorder ("ADD") and if so, whether he was medicated for it; (4) whether Jones's drug dependency was caused by childhood sexual abuse and other instances of abuse and neglect; (5) whether Jones was genetically predisposed to drug and alcohol addiction; (6) a possible involuntary intoxication defense, using the expert opinion of an addiction specialist; (7) whether the prison could provide an ***650** adequate structured environment if Jones were given a life sentence; and (8) possible brain damage due to polysubstance abuse. (Doc. 129, p. 61-70.) Jones also contends that counsel had an obligation to request his own competency expert, rather than rely on the trial court's expert, Dr. Turbeville, and he complains that Dr. Wadsworth evaluated Jones only two days before trial began. (Doc. 129, p. 56.)

First, defense counsel did, in fact, hire their own competency expert. Dr. Finn first evaluated Jones four months before trial. He administered the Georgia Court Competency Test and, like Dr. Turbeville before him, found Jones competent to stand trial. (35 RR 138, 142, 145.)

  

Furthermore, Jones's complaint that Dr. Wadsworth evaluated Jones only two days before trial, which implies that counsel received her report too late to investigate any further, overlooks Dr. Finn's participation in this case. Although he did not provide a written report (which made his cross-examination more difficult for the State, 35 RR 168), the record reveals the breadth of Dr. Finn's contributions. Counsel first contacted Dr. Finn in April of 2000, ten months before trial, and he conferred with Dr. Finn about ten times throughout the case, including concerning counsel's preparation for the cross-examination of Dr. Price. (Doc. 129-8, p. 5-15.) In addition to the competency test, Dr. Finn administered the WAIS-III intelligence test, the Rorschach Inkblot test, the Gudjohnnson Interrogative Suggestibility Scale, the Hare Psychopathy Checklist, and the Violence Risk Appraisal Guide. (35 RR 138-49.) Dr. Finn testified that he was specifically looking for "any kind of emotional or psychological illnesses or problems that played any role at all in his actions." (35 RR 141-42.)

Relevant to Jones's first complaint about the deficiently investigated school records, counsel provided Dr. Finn voluminous school records from about age four up through the time that Jones dropped out of high school. (35 RR 123-24, 140, 169.) Dr. Finn testified that Jones had academic problems in grade school, attended special education classes for problems with language skills, received speech therapy for a stutter, and had behavior problems beginning in middle school. Jones was expelled from almost every school he attended after that. (35 RR 218-19.) Dr. Finn assessed Jones's IQ at 79 but acknowledged on cross-examination that Jones's IQ scores throughout his school career were higher. (35 RR 144-45, 170-72.)

It is apparent from counsel's billing activity that Dr. Finn also assisted trial counsel in preparing to cross-examine the State's expert, Dr. Price. (Doc. 129-8, p. 15.) Counsel elicited testimony from Dr. Price that people with dissociative disorders are likely to have problems with behavior, conduct, and school performance, that Jones was in special education until about eighth grade due to a speech impediment and learning disability, and that Jones was eventually placed in a self-contained classroom. (36 RR 123-25.)

In addition to the foregoing, the report of Dr. Wadsworth describes Jones's being held back in elementary school, special education classes, varying grades, problematic classroom behavior, impulsivity, attention-seeking behavior, short attention span, low tolerance for frustration, disruptive behavior, assault, truancy, tardiness, and dropping out. (Doc. 129-13, p. 3.) There is no question that defense counsel were aware of Jones's difficulties in school.

Jones contends, however, that counsel should have interviewed teachers and administrators regarding Jones's emotional disturbance, his early behaviors, testing administered by the school, whether Jones had ADD, and school referrals to the Parents Guidance Center and the YMCA. ***651** (Doc. 129, p. 62.) According to Dr. Wadsworth, the school records showed that Jones was evaluated for emotional disturbance in fourth grade. (Doc. 129-13, p. 3.) Although Dr. Wadsworth does not state the test results, the fact that she does not report a diagnosis of emotional disturbance suggests that the tests ruled it out. In fact, Dr. Price testified, based on the school records, that emotional disturbance **was** ruled out. (36 RR 78-79.) Similarly, Dr. Wadsworth reported that ADD was suspected and that Jones's parents were asked to have him evaluated. There is no indication in any record before this Court indicating, and Jones does not suggest, that he was ever diagnosed with ADD. [11] Likewise, there is no suggestion that the school referrals were related to something distinct and unknown to counsel.

In short, counsel possessed a significant body of information about Jones's education, as well as significantly more valuable mitigating evidence of childhood abuse, deprivation, and mental illness that formed the basis of counsel's defensive strategy. A competent attorney could elect a strategy that did not include running down additional minutiae about Jones's behavior in school, emotional disturbance, possible ADD, and parent referrals. *See Richter*, 562 U.S. at 89, 131 S.Ct. 770 (holding that counsel is entitled to "balance limited resources in accord with effective trial tactics and strategies"). The asserted red flags in Jones's school records do not suggest a deficient investigation by counsel.

Next, Jones contends counsel should have investigated a correlation between Jones's drug dependence and possible long-term changes to Jones's brain caused by childhood sexual abuse and neglect. He asserts that counsel never explored or obtained expert witness testimony to explain to the jury the significance of adverse childhood experiences, including especially the link between the childhood sexual molestation, (among many other instances of abuse and neglect), and Petitioner's escalating drug dependence and addiction. (Doc. 129, p. 63.) This claim is contradicted by the record. The connection between Jones's difficult childhood