

No. 20-1125  
(CAPITAL CASE)

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In The  
**Supreme Court of the United States**

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Antonio Devoe Jones,

*Petitioner,*

v.

State of Alabama,

*Respondent.*

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE ALABAMA COURT OF CRIMINAL APPEALS

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**REPLY IN SUPPORT OF PETITION FOR WRIT OF  
CERTIORARI**

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Steven A. Miller\*  
REED SMITH LLP  
10 South Wacker Drive  
Chicago, IL 60606-7507  
Telephone: +1 312 207 1000  
Facsimile: +1 312 207 6400  
samiller@reedsmith.com

*\*Counsel of Record, Member of Supreme  
Court Bar, Counsel for Petitioner*

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Petitioner Antonio Devoe Jones (“Jones”) replies to the new arguments raised in the Brief of Respondent in Opposition to the Petition for Certiorari filed by the State of Alabama (“State”).

**I. The State Attempts for the First Time to Distinguish *Hinton* and Does So Only by Misrepresenting the Record Below**

For the first time since the post-conviction proceedings began in this case, in its Opposition to Jones’s Petition for Certiorari, the State attempts to directly address the application of this Court’s prior rulings in cases involving trial counsel’s ignorance of the law. But the State remains unable to deal with the actual facts pleaded in the Amended Petition.

Instead, the State claims falsely that, “Jones does not cite, nor does the record reflect, that trial counsel admitted he misunderstood the law in this case.” Brief in Opp. at 12. However, the record in this case includes the Amended Petition for Relief under Rule 32 of the Alabama Rules of Criminal Procedure (“Amended Petition”). That pleading alleged that “Mr. Parker has admitted that it was only after making this argument that he later found out the law only requires intent and not an actual theft.” Amended Petition, p. 132, ¶ 345. If that was not clear enough, the Amended Petition also asserted, “Mr. Parker later admitted that he had simply misunderstood the elements of the crime of burglary.” Amended Petition, p. 15, ¶ 42. These allegations are precisely what the State claims was not alleged.

The point of this Petition is that the Constitution entitles Jones to a hearing on his allegations of ineffective assistance of counsel. The denial of discovery or any evidentiary hearing on this pleading is why the circuit court did not hear the testimony of Parker making the admissions that were alleged.

Thus, the State's disingenuous attempt for the first time to distinguish *Hinton v. Alabama*, 571 U.S. 263 (2014), fails. The State's argument is that "the *Hinton* decision is distinguishable. In *Hinton*, at an evidentiary hearing, trial counsel testified that he was unaware that Alabama law no longer imposed specific funding limitations." Brief in Opp. at 14.

That is no distinction when, as here, there was no evidentiary hearing in the pending case. This case was decided on the State's motion to dismiss the Amended Petition on the pleadings, and the pleading here contains allegations that trial counsel was unaware of the Alabama law regarding burglary. Those allegations must be treated as true.

## **II. The State Fails to Address that Jones was Prejudiced by Failure of Counsel to Present the Legally Valid Bystander Defense.**

Nowhere does the State ever discuss or challenge the fact that Jones had an effective legal defense based on the considerable evidence he was not the killer, and in Alabama felony-murder does not support a death penalty. The State includes only a conclusory paragraph that Jones "failed to allege . . . actual prejudice resulted," Brief in Opp. at 14.

The Amended Petition alleged Jones's trial counsel failed to argue the facts or legal significance of this legitimate defense, and also failed to request jury instructions on this topic. Amended Petition p. 66, ¶¶ 162-67. Instead, they wasted their efforts on a legally bogus defense. As detailed in the Petition for Certiorari, this failure to assert that felony-murder is not a capital offense led to obvious prejudice against Jones. The State's silence regarding this valid but unasserted defense shows it is unable to refute the prejudice that resulted.

## CONCLUSION

Given the extensive and well-pleaded claims of Jones's Amended Petition, the failure of the State's Opposition to address them, and the issues raised in this Reply, this Court should grant the petition for certiorari. In the alternative, this Court should *per curiam* reverse the decision of the Alabama Court of Criminal Appeals with directions for the court to grant an evidentiary hearing on the Amended Petition.

Respectfully submitted,

/s/ Steven A. Miller  
REED SMITH LLP  
10 South Wacker Drive  
Chicago, IL 60606-7507  
Telephone: +1 312 207 1000  
Facsimile: +1 312 207 6400  
samiller@reedsmith.com  
*Counsel of Record, Counsel for  
Petitioner*

Date submitted: April 30, 2021

**CERTIFICATE OF SERVICE**

This certifies that, pursuant to Supreme Court Rule 29 and the Court's "GUIDANCE CONCERNING CLERK'S OFFICE OPERATIONS" issued on November 13, 2020, one copy of this document was sent by overnight mail to the Clerk of The Supreme Court, and one copy of this document was sent by overnight mail to:

Audrey Jordan  
Assistant Attorney General  
ALABAMA OFFICE OF THE ATTORNEY GENERAL  
501 Washington Avenue  
Montgomery, AL 36130-0152

Dated: April 30, 2021

/s/ Steven A. Miller  
Steven A. Miller