No. _____

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2020

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STEPHON LINDSAY,

*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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# PETITION FOR A WRIT OF CERTIORARI

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March 22, 2021

## CAPITAL CASE

## QUESTION PRESENTED

After identifying Stephon Lindsay as the only suspect in the disappearance of his daughter, Maliyah, at least half a dozen law enforcement officers confronted Mr. Lindsay on the porch of a friend's residence. Without advising Mr. Lindsay of his Miranda rights, officers began questioning him and obtained an inculpatory statement implicating Mr. Lindsay in Maliyah's death. It was not until Mr. Lindsay was transported to the police station in Gadsden, Alabama, and placed in an interrogation room with his left wrist handcuffed to the wall that he was advised of his constitutional right not to incriminate himself. After waiving his Fifth Amendment rights, Mr. Lindsay confessed to killing Maliyah. Mr. Lindsay's inculpatory statements to police were admitted against him at both phases of his capital trial.

Assuming that Mr. Lindsay was in custody, the Alabama Court of Criminal Appeals held that the statements made on his friend's porch were admissible at Mr. Lindsay's capital trial despite the lack of Miranda warnings, pursuant to the "public safety exception" set forth by this Court in New York v. Quarles, 467 U.S. 649 (1984), and that Mr. Lindsay's post-waiver statements were properly admitted because "[t]his is not one of those extreme cases where [Mr.] Lindsay's mental condition rendered his confession involuntary." Lindsay v. State, No. CR-15-1061, 2019 WL 1105024, at *17 (Ala. Crim. App. March 8, 2019).

The lower court's holdings give rise to the following important question:

> Can a court, consistent with Miranda v. Arizona, 384 U.S. 436 (1966), and its progeny, expand the narrow public safety exception to Miranda set forth in New York v. Quarles to include custodial interrogations aimed at locating a missing person?

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**PETITION FOR A WRIT OF CERTIORARI**

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Stephon Lindsay respectfully petitions for a writ of certiorari to review the judgment of the Alabama Court of Criminal Appeals in this case.

## OPINIONS BELOW

Stephon Lindsay was indicted on a single count of capital murder pursuant to Alabama Code Section 13A-5-40(a)(15), in connection with the tragic death of his 21-month-old daughter, Maliyah Lindsay. (C. 21.)[1] On March 2, 2016, the jury convicted

[1]References to the clerk's record are cited herein as "C. __." The reporter's transcript at trial is cited as "R. __." References to the supplemental reporter's

Mr. Lindsay of capital murder. (C. 96; R. 2125.) The jury returned a verdict sentencing Mr. Lindsay to death on March 4, 2016, (C. 99-101; R. 2458-59), and the trial court sentenced Mr. Lindsay to death at a hearing on June 3, 2016, (C. 114-19).

The opinion of the Alabama Court of Criminal Appeals affirming Mr. Lindsay's conviction, but remanding for a new sentencing order, is not yet reported and is attached as Appendix A, Lindsay v. State, No. CR-15-1061, 2019 WL 1105024 (Ala. Crim. App. March 8, 2019), and the opinion on return to remand is attached as Appendix B, Lindsay v. State, No. CR-15-1061, 2020 WL 597353 (Ala. Crim. App. Feb. 7, 2020). On May 15, 2020, the Alabama Court of Criminals overruled Mr. Lindsay's application for rehearing and that order is attached as Appendix C. The order of the Alabama Supreme Court denying Mr. Lindsay's petition for a writ of certiorari is also unreported and is attached as Appendix D. Ex parte Lindsay, No. 1190668 (Ala. Oct. 23, 2020).

## JURISDICTION

The decision of the Alabama Court of Criminal Appeals affirming Mr. Lindsay's conviction and sentence on return to remand was issued on February 7, 2020. See Appendix B. On May 15, 2020, the Court of Criminal Appeals denied rehearing. See Appendix C. The Alabama Supreme Court denied Mr. Lindsay's petition for a writ of certiorari on October 23, 2020. See Appendix D. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

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transcript are cited as "S. __." References to relevant portions of Mr. Lindsay's interrogation are cited as "State's Ex. 160 at __."

## RELEVANT CONSTITUTIONAL PROVISIONS

The Fifth Amendment to the United States Constitution provides, in pertinent part:

> [N]or shall any person . . . be compelled in any criminal case to be a witness against himself.

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## STATEMENT OF THE CASE

Stephon Lindsay succumbed to a delusional fit of severe mental illness and killed his 21-month-old daughter on March 5, 2013. (R. 2293-96, 2316.) Mr. Lindsay suffers from paranoid schizophrenia, but was not diagnosed or treated until after the tragic death of his daughter. (R. 1861.) From infancy to adulthood, Mr. Lindsay never received the professional and consistent help that he needed. (See, e.g., R. 2103, 2182-89, 2203-05, 2256-58.)

As an adult, Mr. Lindsay sought salvation in "Yahweh," who he believed to be the true and only god. (See, e.g., State's Ex. 160, at 19:50.) Prior to Maliyah's death, as a result of his paranoid schizophrenia, Mr. Lindsay's belief in Yahweh transformed into a grandiose delusion that he was Yahweh's son. (R. 1856, 1862-63.) Mr. Lindsay's severe mental illness led him to believe that he could bring about Yahweh's return to

the world and that he was required to follow Yahweh's commands in order to do so. (R. 1889; see also State's Ex. 160, at 29:30, 47:20.)

As Mr. Lindsay's mental health deteriorated further, his delusions included a command from Yahweh to kill his daughter Maliyah because she had become an "idol," who Mr. Lindsay loved "too much," and to deliver a message: "I, Yahweh, am coming to destroy the world." (State's Ex. 160 at 46:00, 01:06:00, 01:07:45; C. 115.) However, as Mr. Lindsay later told detectives, he loved his daughter immensely and did not want to kill her. (State's Ex. 160, at 01:06:00; R. 2053-54.) He "couldn't get away" from his delusions about Yahweh's commands though, (State's Ex. 160, at 01:35:40), and believed he had "no choice" but to do what his delusions told him Yahweh demanded, (Id.; R. 2053-54). Mr. Lindsay's mental illness led him to believe that killing Maliyah was "the only way" he could avoid being "in hell." (State's Ex. 160, at 09:20.)

On March 5, 2013, Mr. Lindsay paced the floor of his apartment and mumbled incoherently. (R. 2293-96, 2316.) Hours later, as he wept, Mr. Lindsay succumbed to his mental illness and killed his daughter in the apartment he shared with his children's mother, Tasmine Thomas. (State's Ex. 160, at 01:37:00; C. 115.) Mr. Lindsay's delusions included a command from Yahweh to "get rid of" Maliyah's body, so he "put her in a bag and took her away" to the woods because graveyards were "abominable" to Yahweh. (State's Ex. 160, at 14:00; C. 115-16.) When Mr. Lindsay returned home, he cleaned up and told Ms. Thomas for the next several days that Maliyah was with his sister. (C. 115-16.)

## I. FACTS MATERIAL TO THE QUESTION PRESENTED

After calling Mr. Lindsay's sister on March 11, 2013, and learning that Maliyah had not been with her, Ms. Thomas called police and reported that her daughter was missing. (R. 1569-73.) Mr. Lindsay was immediately named as a suspect in his daughter's disappearance. (C. 115.) Around 2 a.m. on March 12, 2013, the State of Alabama issued a "flyer out to all law enforcement" to search for Mr. Lindsay and Maliyah. (R. 1595.) Later in the morning, Detective Wayne Hammonds with the Etowah County Sheriff's Office called in the "special projects team," U.S. Marshals, and several other officers to instruct them on the search for Mr. Lindsay "because he was the last person seen with the child." (R. 1596.)

Law enforcement received a warrant to locate and track Mr. Lindsay's phone, and obtained an address on Clayton Avenue, where they believed he might be located. (R. 1596-98.) When officers arrived at the residence around 4:30 or 5:00 p.m. on March 12, 2013, they were unable to make contact with anyone, but patrol officers remained stationed at the location and called Detective Hammonds when a vehicle appeared around 6:45 p.m. (R 1599.) Shortly thereafter, at least half a dozen law enforcement officers confronted Mr. Lindsay on the porch of his friend's residence on Clayton Avenue. (R. 1599-1600.) Without advising Mr. Lindsay of his Miranda rights, officers began questioning him about Maliyah's whereabouts and if she was okay. (R. 1600.) Mr. Lindsay gave an inculpatory response and was placed in a police car before being transported to the police station in Gadsden. (R. 1600-01.)

Mr. Lindsay was not advised of his constitutional rights until he was placed in

an interrogation room on the second floor of the police station with his left wrist handcuffed to the wall.[2] (C. 232; R. 1601-04.) He told Detective Hammonds he was "scared" (State's Ex. 160, at 15:25), but signed an "Advice of Rights" form. (C. 232.) Handcuffed to the wall for the next two hours, Mr. Lindsay ranted about being Yahweh's son and gave a lengthy inculpatory statement. (See State's Ex. 160.) Mr. Lindsay told detectives that he had killed his daughter, but that "Yahweh told me this is the only right thing I've ever done." (Id. at 01:14:40.) During breaks, while alone in the interrogation room, Mr. Lindsay talked to himself, asking aloud, "Yahweh, please, did I do right?" (Id. at 1:45:40.)

Mr. Lindsay was charged with one count of capital murder pursuant to Alabama Code Section 13A-5-40(a)(15), and counsel was appointed. On April 8, 2013, defense counsel filed a motion for a court ordered mental evaluation based on concerns over Mr. Lindsay's competency. (S. 50-52.) The trial court issued an order of commitment for evaluation of competency to stand trial and mental state at the time of the offense on April 11, 2013. (S. 57-59.)

Over six months later, on October 29, 2013, Mr. Lindsay was committed to the Taylor Hardin Secure Medical Facility for psychological evaluation and treatment. (C. 43.) Upon his commitment, Taylor Hardin staff observed that Mr. Lindsay was "unmotivated to participate actively in his defense, suggesting that his arrest and

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[2]The exact time that he was advised of his constitutional rights is unknown. Police first made contact with Mr. Lindsay at his friend's residence around 6:45 **p.m.** on March 12, but the "Advice of Rights" form incorrectly lists the time of Mr. Lindsay's waiver of Miranda rights as 7:47 **a.m.** on March 12. (C. 232.)

possible execution would be Yahweh's will and would fulfill his destiny according to Yahweh's plan." (Id.) Mr. Lindsay reported visual hallucinations, including a woman with light shining out of her head and demons coming out of the walls. (R. 1856.) He was also observed punching at the air at "something that wasn't there." (R. 1873-74.) Dr. Robert L. Bare, a psychologist at Taylor Hardin, diagnosed Mr. Lindsay with paranoid schizophrenia. (R. 1861.) Mr. Lindsay was prescribed oral and injectable anti-psychotic, mood stabilizing, and anti-depressant medications, which improved his symptoms. (R. 1869, 1871.) Mr. Lindsay was returned to the Etowah County Jail on March 20, 2014. (C. 43.)

On December 10, 2015, only two months before trial was to begin, defense counsel filed another motion for a court ordered mental evaluation of Mr. Lindsay's competency. (C. 43-44; R. 151-54.) While back at the Etowah County Jail, Mr. Lindsay's mental health had deteriorated so much that he was no longer able to assist his attorneys and was having the "very same psychotic symptoms" he had exhibited previously. (C. 44.) The State had offered Mr. Lindsay a plea bargain for a life without parole sentence, but defense counsel reported that Mr. Lindsay was not able to work with his defense team to accept the plea. (Dr. Bare letter to Judge Ogletree, Dec. 18, 2015, filed under seal (hereinafter "Bare Dec. 18 Letter").)

The trial court ordered an out-patient psychological evaluation of Mr. Lindsay on December 11, 2015. (C. 46-47; R. 161.) Dr. Bare met with Mr. Lindsay for an hour and a half at the Etowah County Jail, on December 17, 2015. (Bare Dec. 18 Letter.) Although Mr. Lindsay acknowledged failing to take his medication "occasionally" and

voiced his concerns that his attorneys were working with the prosecution, Dr. Bare opined that Mr. Lindsay was competent to stand trial. (R. 211; Bare Dec. 18 Letter.) There was no competency hearing and, without a legal determination regarding Mr. Lindsay's competency, the trial proceeded as scheduled. (See R. 226.)

Mr. Lindsay's trial began in front of Judge Ogletree in Etowah County Circuit Court on February 18, 2016. Mr. Lindsay never disputed that he killed his daughter. (See, e.g., R. 1529.) At trial, the parties agreed that Mr. Lindsay suffered from severe mental illness. (See, e.g., R. 2074, 2080-81.) The parties also agreed that Mr. Lindsay was using cocaine and marijuana at the time of the offense. (See, e.g., R. 1512, 1554, 1891, 1913, 2081.) The defense theory was that Mr. Lindsay was not guilty of capital murder by reason of mental disease or defect. (See, e.g., R. 1527-28, 2072.) The defense relied on evidence of Mr. Lindsay's severe mental illness and delusional state of mind at the time of the offense, as well as evidence that he did not want to kill his daughter, but his delusions led him to believe that he was commanded by Yahweh to do so. (See, e.g., R. 1643.) In support of this defense, Mr. Lindsay presented the testimony of Dr. Bare, who testified that Mr. Lindsay had paranoid schizophrenia, and that his hallucinations and grandiose delusions were characteristic of his severe mental illness. (See, e.g., R. 1861-63, 1873-74.)

For its part, the State introduced Mr. Lindsay's inculpatory statements made on his friend's porch, (R. 1596-1601), as well as a redacted version of the statement

given at the police station, (State's Ex. 25).[3] In support of a capital murder conviction, the State relied heavily on Mr. Lindsay's inculpatory statements to police and the prosecution began their closing arguments by stating, "I hope everybody remembers those words from the beginning of that man's confession to this ugly crime." (R. 2044.) The prosecution specifically highlighted Mr. Lindsay's statement to police that he was "scared" to argue that Mr. Lindsay was not fearful of police, but instead "[h]e was scared that someone would find out" about Maliyah's death. (R. 2045-46; see also R. 2077.) The State drew the jury's attention to Mr. Lindsay's comments to police about his own mental health: "I'm not crazy. . . . I hope everyone remembers that too." (R. 2050.)

The State also argued that if Mr. Lindsay's drug use contributed in any way to his delusional state of mind, his voluntary intoxication was no "excuse" or defense, and he was guilty of capital murder. (See, e.g., R. 1527-28, 2065-67, 2081.) On cross-examination and over defense objection, the State elicited Dr. Bare's opinion on the ultimate issue in the case, whether Mr. Lindsay was "legally insane" and able to appreciate the nature and quality or wrongfulness of his actions at the time of the offense. (R. 1941.) Dr. Bare testified that he could not conclude that Mr. Lindsay was "legally insane" based on his erroneous belief that voluntary intoxication foreclosed such a defense. (R. 1942-43.) The jury subsequently found Mr. Lindsay guilty of capital murder on March 2, 2016. (C. 96; R. 2125.)

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[3] The full recording was introduced at the penalty phase over defense objection. (See State's Ex. 160.)

Mr. Lindsay's statement to police was also the centerpiece of the State's case in the penalty phase, and the prosecution argued that Mr. Lindsay's statement demonstrated that he was "a man who cannot control himself," and that he should therefore be sentenced to death. (R. 2368-69; see also R. 2364-65, 2377.) At the conclusion of the penalty phase, the jury found two aggravating circumstances and voted twelve to zero to sentence Mr. Lindsay to death on March 4, 2016. (C. 99-101; R. 2458-59.) Notwithstanding Mr. Lindsay's severe mental illness and the breadth of other mitigating evidence, the trial court found that the mitigating circumstances were "insufficient to outweigh the aggravating circumstances," and sentenced Mr. Lindsay to death. (C. 114-19.)

## II. PROCEDURAL HISTORY AND THE STATE COURT RULING ON REVIEW

On appeal to the Alabama Court of Criminal Appeals, Mr. Lindsay argued that the admission of the inculpatory statement he made to detectives outside of his friend's residence on March 12, 2013, was a violation of his Fifth Amendment rights because he was not given Miranda warnings before detectives initiated questioning. Mr. Lindsay also argued that his post-waiver inculpatory statements to detectives at the police station should have been suppressed because his mental illness, combined with the coercive tactics of the officers who interrogated him, rendered such statements involuntary.

In rejecting Mr. Lindsay's arguments, the Alabama Court of Criminal Appeals first found that the admission of Mr. Lindsay's un-Mirandized inculpatory statement on the porch was not error. The court assumed that Mr. Lindsay was subject to a

custodial interrogation for purposes of Miranda but held that "the public safety exception applies to the circumstances in this case," Lindsay v. State, No. CR-15-1061, 2019 WL 1105024, at *16 (Ala. Crim. App. March 8, 2019). Second, in holding that Mr. Lindsay's subsequent statement to police obtained at the station was "correctly received into evidence irrespective of his mental health," the court failed to consider the totality of the circumstances surrounding his post-warning inculpatory statement and found that "this is not one of those extreme cases where [Mr.] Lindsay's mental condition rendered his confession involuntary." Id. at *17.

Mr. Lindsay then filed a timely application for rehearing, which the Court of Criminal Appeals denied on May 15, 2020. See Appendix C. The Alabama Supreme Court denied Mr. Lindsay's petition for a writ of certiorari on October 23, 2020. See Appendix D.

## REASONS FOR GRANTING THE WRIT

In this capital case, the lower court erroneously upheld the admission of Mr. Lindsay's un-Mirandized inculpatory statement to police by expanding the narrow public safety exception to Miranda v. Arizona, 384 U.S. 436 (1966), set forth in this Court's decision in New York v. Quarles, 467 U.S. 649 (1984), to include custodial interrogations aimed at locating a missing person. Because the lower court's decision in this case conflicts with this Court's decisions in Miranda, Quarles, and Oregon v. Elstad, 470 U.S. 298 (1985), as well as the decisions of several federal circuit courts, certiorari is appropriate. See Sup. Ct. R. 10.

## I. CERTIORARI SHOULD BE GRANTED BECAUSE THE LOWER COURT'S DETERMINATION THAT MR. LINDSAY'S UN-MIRANDIZED INCULPATORY STATEMENT TO POLICE WAS ADMISSIBLE PURSUANT TO THE PUBLIC SAFETY EXCEPTION CONFLICTS WITH MIRANDA AND ITS PROGENY.

The Fifth and Fourteenth Amendments to the United States Constitution protect criminal suspects against self-incrimination. Miranda v. Arizona, 384 U.S. 436, 436 (1966). As such, a defendant's statements "stemming from custodial interrogation,"[4] are inadmissible at trial unless the State "demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." Id. at 444. "The Miranda Court . . . **presumed** that interrogation in certain custodial circumstances is inherently coercive and held that statements made under those circumstances are inadmissible unless the suspect is specifically informed of his Miranda rights and freely decides to forgo those rights." New York v. Quarles, 467 U.S. 649, 654 (1984) (emphasis added). While this Court has held that there is a "'public safety' exception to the requirement that Miranda warnings be given[,]" Quarles, 467 U.S. at 655-56, this "narrow exception [is permitted] only where pressing

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[4]This Court has further explained that "custodial interrogation" means "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." Miranda, 384 U.S. at 444. Here, the facts establish, consistent with the lower court opinion, that Mr. Lindsay was subjected to custodial interrogation when at least half a dozen law enforcement officers surrounded him on the porch of the residence on Clayton Avenue, and questioned him about the whereabouts of his daughter. (R. 1599-1601.) See also Lindsay, 2019 WL 1105024, at *14-16 (focusing analysis on whether exception to Miranda applies). Under these circumstances, a reasonable person would not have felt he was "at liberty to terminate the interrogation and leave." See Thompson v. Keohane, 516 U.S. 99, 112 (1995).

public safety concerns deman[d]." Oregon v. Elstad, 470 U.S. 298, 318 (1985).

The facts that gave rise to the public safety exception in Quarles, and the subsequent dicta in Elstad, 470 U.S. at 318, illustrate that this Court contemplated this exception as a narrow one, geared toward empowering police offers to respond instinctually and with spontaneity toward immediate threats involving deadly weapons to themselves or the general public. In Quarles, officers responded to allegations that a man who had just committed a rape entered a supermarket with a gun. 467 U.S. at 651-52. An officer pursued the suspect in the supermarket, and upon capturing him, found that his gun holster was empty. Id. at 652. Before giving Miranda warnings, the officer asked the suspect where the gun was located. Id. The suspect then nodded toward empty cartons and responded that "the gun is over there." Id. The officer then retrieved the gun, formally arrested the suspect, and read him his Miranda rights. Id. In holding that the suspect's statement, "the gun is over there," should have been admitted, this Court reasoned that "in a kaleidoscopic situation such as the one confronting these officers" spontaneity was necessary, and that the officers "were confronted with the immediate necessity of ascertaining the whereabouts of a gun which they had every reason to believe the suspect had just removed from his empty holster and discarded in the supermarket[,]" therefore posing an immediate danger to public safety. Id. at 656-57.

Conversely, the confrontation between the police and Mr. Lindsay outside the residence on Clayton Avenue was neither kaleidoscopic nor characterized by spontaneity. Instead, the events leading up to Mr. Lindsay's un-Mirandized statement

indicate that officers unquestionably sought Mr. Lindsay as a suspect in the disappearance of his daughter and had a solid understanding of what they would encounter when they arrived at the residence. (R. 1595-1600.) Critically, Mr. Lindsay was not questioned about any suspected deadly weapon that could pose a danger to the interrogating officers or the public; instead, officers questioned Mr. Lindsay to "elicit testimonial evidence" about his role in the disappearance of his daughter. Quarles, 467 U.S. at 659.

The lower court's holding that Mr. Lindsay's statements to police on the porch of his friend's residence were properly admitted at trial under the public safety exception to Miranda impermissibly broadens and undermines the clear purpose of this narrow exception as articulated in Quarles, and conflicts with several federal circuit courts. Indeed, the Sixth and Tenth Circuits have explicitly held that the public safety exception to Miranda is confined to situations involving weapons. For example, in United States v. DeJear, 552 F.3d 1196 (10th Cir. 2009), the Tenth Circuit held that for the "public safety exception" to Miranda to apply, "an officer [must] have a reasonable belief that he is in danger, at a minimum, [and] he must have reason to believe (1) that the defendant might have (or recently have had) **a weapon**, and (2) that someone other than police might gain access to that weapon and inflict harm with it.'" Id. at 1201-02 (citing United States v. Williams, 483 F.3d 425, 428 (6th Cir. 2007) (emphasis added)).

Other circuits have similarly held that the purpose of the exception is to address the immediate dangers of weapons. See, e.g., United States v. Martinez, 406 F.3d 1160,

1165 (9th Cir. 2005) ("In order for the public safety exception to apply, there must have been an objectively reasonable need to protect the police or the public from any immediate danger associated with [a] weapon." (internal citations and quotation marks omitted)); Fleming v. Collins, 917 F.2d 850, 854 (5th Cir. 1990) (holding public safety exception did not apply because officer did not have knowledge suspect possessed a firearm); United States v. Mobley, 40 F.3d 688, 693 (4th Cir. 1994) (holding where there is no immediate danger associated with a weapon, suspicion the questioner is on "fishing expedition" outweighs public safety concerns described in Quarles). Significantly, in no instance has a federal circuit court applied the Quarles public safety exception to missing persons cases or facts analogous to the un-Mirandized, custodial interrogation that occurred in the present case.

This Court and the circuit courts have clearly and consistently held that the public safety exception to Miranda is a narrow one that addresses the immediate dangers of weapons, but Alabama and other states have begun to erode the bright line rule of Miranda to impermissibly expand the public safety exception beyond what the Fifth Amendment permits. See, e.g., Lindsay, 2019 WL 1105024, at *14-16; People v. Manzella, 571 N.Y.S. 2d 875, 879 (N.Y. 1991) (holding Miranda warnings not required before asking suspect questions about missing person); Jackson v. State, 146 P.3d 1149, 1160 (Okla. Crim. App. 2006) (approving "private safety exception" or "rescue doctrine" exception to Miranda for custodial interrogations regarding missing persons based on pre-Miranda decision of People v. Modesto, 398 P.2d 753 (Cal. 1965)).

The Quarles public safety exception to the protections prescribed by Miranda is

narrowly aimed at empowering officers to respond decisively, promptly, and with spontaneity in potentially volatile encounters with criminal suspects. To broaden this exception, as Alabama has done here, runs counter to the spirit of Miranda and would create confusion for law enforcement officers who benefit from the bright line rules governing custodial interrogations that this Court has consistently articulated. See Quarles, 467 U.S. at 662 (O'Connor, J., dissenting) ("Since the time Miranda was decided, the Court has repeatedly refused to bend the literal terms of that decision. . . . As a consequence, the meaning of Miranda has become reasonably clear and law enforcement practices have adjusted. . .") (quotation marks and citations omitted).

Accordingly, this Court should grant review to hold that the public safety exception to Miranda, as outlined in Quarles, does not apply to custodial interrogation aimed at identifying the whereabouts of a missing person.

## CONCLUSION

For the foregoing reasons, Petitioner prays that this Court grant a writ of certiorari to the Alabama Court of Criminal Appeals.

Respectfully Submitted,

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