No. 21-

IN THE
Supreme Court of the United States

Kamau Alan Israel

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Trial counsel in this case failed to investigate Mr. Israel's mental illness before his case was adjudicated. But Mr. Israel has been mentally ill for his entire life—and even now, under the care of the Bureau of Prisons, he suffers from severe schizophrenia. Because counsel failed, Mr. Israel was left without an insanity defense, did not seek a hearing on competency, and was not able to present proof of his illness during his sentencing.

The question presented is whether, under *Strickland* and *Hinton,* counsel for a person suffering severe mental illness throughout his entire life (including on the day he allegedly committed his crimes) should have taken minimal steps to investigate his mental illness before agreeing to a plea bargain that resulted in a far-above Guidelines sentence?

PARTIES TO THE PROCEEDING

Kamau Alan Israel was the Petitioner below. The United States is respondent. The parties are named in the caption.

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PETITION FOR A WRIT OF CERTIORARI

Kamau Alan Israel respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The United States Court of Appeals' decision denying relief is not published, but is available at *Israel v. United States*, 838 Fed. App'x 856 (5th Cir. 2020). Pet. App. 10B-38B. The district court's opinion is not published. It is available at Pet. App. 1A-9A and at *Israel v. United States*, No. 4:17-cv-409-A, 2017 WL 3412099 (N.D. Tex. 2017).

JURISDICTION

The Fifth Circuit denied rehearing without comment in this case on March 30, 2021. On March 19, 2020, this Court extended the deadline to file a petition for writ of certiorari to 150 from the date rehearing is denied. This Court has jurisdiction to review the Fifth Circuit's final decision under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

This case involves the Sixth Amendment:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. amend. VI.

INTRODUCTION

Kamau Alan Israel is a diagnosed schizophrenic. He has been severely mentally ill his entire life, starting from when his mother committed suicide in front of him when he was a boy. When he is sick, he hears whispers commanding him to harm himself;

he suffers from hallucinations; he even once tore out one of his own teeth with pliers to stop aliens from communicating with him. There is no reasonable question that he struggles with and lives with one of the most severe mental illnesses imaginable.

The day he committed the crime in this case, he told his wife he was being pursued by demons. And since he entered the care of the Bureau of Prisons, he has taken powerful medications to control his disease, and even those have not consistently worked. He remains, from time to time, "psychotic."

Yet, despite this profound mental illness—a mental illness that was *worse* when he committed his crime than it is today—Mr. Israel's trial counsel did *nothing* to investigate Mr. Israel's competence, suggest an insanity defense, or mitigate his guilt by presenting evidence of his tragic condition. As a result, Mr. Israel pleaded guilty without a plea agreement and was sentenced to twenty years in prison, far above his Guidelines range of 155 to 184 months. Had trial counsel investigated Mr. Israel's mental illness, that devastating result might have been avoided. Rather than receive the most severe penalty available under the law, Mr. Israel might have been put on a path to treatment and

reincorporation into society. Instead, he will languish in prison for two decades unless he receives relief from this Court.

To be sure, in most circumstances trial lawyers have broad discretion to make strategic decisions. Even so, those decisions must be based on good and complete information. Trial counsel here had reason to know that Mr. Israel was mentally ill—indeed, the record is undisputed that counsel was told exactly that, both by the Government and by Mr. Israel and his family. Yet, he did not investigate. He spoke to no independent doctors. He hired no experts. To the contrary, he told the court there was no reason to worry about Mr. Israel's mental competence, explained he had no firsthand knowledge about the nature of Mr. Israel's mental disease, and mischaracterized his illness as "historical."

This is a prototypical inadequate assistance of counsel claim. Crucially, as a result of trial counsel's failures, Mr. Israel was severely prejudiced. He lost the opportunity to raise the defense that he was not guilty by reason of insanity, he was deprived of his chance to argue that he was incompetent at the time of trial, and was not allowed to present powerful evidence of mitigation

during his sentencing. In short, trial counsel's decision to remain ignorant of the scale and severity of Mr. Israel's mental illness infected the entire proceeding below. As a result, the district court's decision to deny Mr. Israel's § 2255 motion—and the court of appeals' decision affirming that denial—clashes directly with the mine-run of this Court's inadequate assistance of counsel cases, especially in the context of mental illness. This Court should grant review to ensure that the Fifth Circuit's mistake is not replicated across the country in defiance of this Court's long string of cases holding that lawyers must investigate their client's mental illness before trial.

STATEMENT

Mr. Israel's long history of mental illness. Mr. Israel is mentally ill today, and he has been mentally ill for many years. His mother "committed suicide in front of him" when he was just seventeen years old. USCA5.321. As a child, he felt that "the devil would get hold" of him. USCA5.174-75. His father would try to treat him by having their church "congregation [come] to their home [and] perform an exorcism." USCA5.174-75.

This severe mental distress continued into his adult life. He believed he was "being followed by the government." USCA5.175. He "pulled a tooth out of his mouth because some aliens [were] transmitting with him through his teeth" and was saved from pulling out even more teeth only because his wife stopped him. USCA5.175. The record is filled with examples of Israel's severe and continuing mental illness, before his crime, during his crime, and afterwards while in the custody of the Bureau of Prisons.

Mr. Israel's crime. In October 2014, Mr. Israel robbed a Wells Fargo bank in Grapevine, TX. USCA5.234. The record is clear that he was not on any medications to help his mental disease at the time he committed this crime. USCA5.65. Later, as he fled from the scene of the robbery, he allegedly attempted to carjack a woman's vehicle. The potential victim escaped by backing away. Shortly thereafter, a police officer arrived and ordered Mr. Israel to put down his gun. Mr. Israel complied and was arrested. He later stated to the [parole officer] that he "did not know why he decided to rob the bank" but that this "actions may have been caused by his mental health condition." USCA5.63.

The record is also clear—and is at the very least debatable for the purposes of seeking an insanity defense—that Israel's crime here was also driven by mental illness. When he committed the offense in this case, for example, he was not able to sleep because the "felt the devil was out to kill him." USCA5.176. Just before committing the robbery in this case, he confronted his wife and said that "demons" were "chasing him demanding money." USCA5.176.

Mr. Israel's mental illness is not explored during his prosecution. Without a plea agreement, Mr. Israel pleaded guilty to bank robbery. The trial lawyer assigned to the case did not investigate Mr. Israel's mental illness, despite being begged to by Mr. Israel's friends and family. His wife, for example, states that "I called his public defender … multiple times in an attempt to tell him Kamau was mentally ill and needed some help." USCA5.176. His father, for his part, "spoke to his attorney before he was sentenced and explained to them that Stacey [Mr. Israel's birth name] had complained to me of hearing voices since he was a teenager." USCA5.168.

At his rearraignment and guilty plea, the district court perceived that Mr. Israel might be under mental distress. He therefore

asked Mr. Israel whether he was under the treatment of a psychiatrist. Mr. Israel explained that he had been prescribed Haldol[1] and Risperdal,[2] both of which are powerful drugs used to treat schizophrenia. USCA5.381. Trial counsel did not intervene to explain what those medicines were or for what they were prescribed.

When the court directly asked trial counsel whether Mr. Israel might have some mental illness issues that would be relevant to Mr. Israel's plea or sentence, trial counsel essentially said "no." Counsel also disclaimed any "firsthand" knowledge about Mr. Israel's mental illness, incorrectly claimed his illness was "historical," and said that he did not think his illness had any effect on his decision to seek a plea.

> [Trial Counsel]: Your Honor, it's my understanding that

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[1] Haldol, the brand name for the drug Haloperidol, is an antipsychotic that works by rebalancing dopamine "to improve thinking, mood, and behavior." *See Haloperidol (Haldol)*, NAT'L ALLIANCE ON MENTAL ILLNESS, https://www.nami.org/Learn-More/Treatment/Mental-Health-Medications/haloperidol-(Haldol) (last visited Jan. 7, 2019).

[2] Risperdal is the brand name for the drug Risperidone, another antipsychotic that rebalances dopamine and serotonin. *See Risperidone (Risperdal)*, NAT'L ALLIANCE ON MENTAL ILLNESS, https://www.nami.org/Learn-More/Treatment/Mental-Health-Medications/Risperidone-(Risperdal)-en (last visited Jan. 7, 2019).

Mr. Israel has had prior treatment for mental health issues, and that he has addressed those issues with the treating physicians at the jail, and that is why he's on the medication he's on. So I believe some of the inquiries that the Court has made and responses that Mr. Israel has given should – we would like to clarify them with that historical understanding. Thank you.

…

The Court: Can you give me some indication as to what kind of mental health problems he's had?

[Trial Counsel]: Your Honor, I don't have any firsthand information about that. I have had the information that has been communicated to me through Mr. Israel, as well as the information I received from the government in the form of

> discovery. There were some issues that came up in the investigative materials that Mr. Israel may suffer from mental disease. However, it is not such that we are concerned that he can't proceed with his guilty plea. USCA5.342.

Without any mitigating evidence of his mental illness, Mr. Israel was ultimately sentenced to 240 months' imprisonment, far above his guidelines range of between 151 and 188 months. *See Israel*, 637 Fed. App'x at *1.

The Panel's decision. The Court rejected each of Israel's claims. First, the Panel held that counsel's alleged failure to investigate Israel's mental illness did not prejudice his competence arguments. In the Panel's opinion, Israel needed to show that he was incompetent at the time of his trial. But, the Panel said, Israel's discussions with the trial judge at his rearraignment and afterwards showed "his capacity to understand and [his[overall competency." Pet. App. 24B-26B.

Second, the Panel rejected Israel's claim that counsel's failure to investigate had a "reasonable probability" of making a

difference to the outcome of the case on the basis of his potential insanity defense. Pet. App. 20. This was because, the Panel said, "the record establishes only that [Israel] may have a *diminished capacity* to appreciate the nature … of his actions, not that he was *completely unable*" to appreciate such things as required by 18 U.S.C. § 17. Pet. App. at 31B.

In so holding, the Panel rejected Israel's analogy to *United States v. Long*, 562 F.3d 325 (5th Cir. 2009), a case where this Court held that a man with "schizotypal personality disorder" was entitled to an insanity instruction before a jury. Instead, the Panel relied on *United States v. Eff*, 524 F.3d 712 (5th Cir. 2008), where an insanity instruction was denied because the defendant's Klinefelter's Syndrome simply made him less able to make correct decisions. Pet. App. at 33B. The "critical distinction" Israel missed between those two cases, in the Panel's view, was that Israel's argument focused on his *volition*, and *Long's* successful argument focused instead on the notion that "his illness interfered with thought, rather than with volition." Pet App. 33B-34B. In other words, Israel's argument was more like Eff's than Long's. Because this is so, the Court held, Israel's failure to investigate claim failed.

Finally, the Panel rejected Israel's argument that counsel's failure to investigate prejudiced his sentencing defense. In the Panel's view, the trial judge had enough information at sentencing to make a decision on Israel's culpability. Pet. App. 35B.

The Fifth Circuit denied en banc reconsideration. Pet. App. at 41C.This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Fifth Circuit's decision was wrong and in conflict with this Court's decisions and decisions of other courts of appeals.

This Court has always made clear that the right to counsel "is the right to the effective assistance of counsel," *Strickland v. Washington*, 466 U.S. 668, 686 (1984). Under *Strickland*, the court "first determine[s] whether counsel's representation fell below an objective standard of reasonableness." *Hinton v. Alabama*, 571 U.S. 263, 272 (2014). "Then" the court asks "whether there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.*, citing *Padilla v. Kentucky*, 559 U.S. 356, 366

(2010). Thus, in *Hinton*, this Court held that a trial lawyer's "failure to request additional funding" to replace an expert he knew to be inadequate "constituted deficient performance." *Id.* at 274. This was because counsel knew "that he needed more funding to present an effective defense" yet he failed to make "even the cursory investigation" of state law allowing him to proceed. *Id.* It was this "ignorance" (there of a legal argument) and failure to perform "basic research" that led to a finding that counsel was inadequate. *Id.*

These principles require reversal here. Trial counsel in this case knew that Mr. Israel had a history of mental illness and yet did nothing—not even the "cursory investigation" required by *Hinton*—to explore it. Indeed, he told the trial judge that he did not know the details of Mr. Israel's mental illness and believed it was nothing but "historical." That is precisely what *Strickland* exists to prevent. As Justice Sotomayor explained in *Ayestas v. Davis*, 138 S. Ct. 1080, 1098 (Sotomayor, J., concurring) (noting that trial counsel has an obligation to investigate mental illness precisely because "precisely because it is all too common for individuals to go years battling an undiagnosed and untreated mental illness").

First, trial counsel knew throughout this case that Mr. Israel was afflicted with mental illness. He stated, during Mr. Israel's plea colloquy, that "[t]here were some issues that came up in the investigative materials that indicate that Mr. Israel may suffer from mental disease." USCA5.384. Indeed, at the same hearing, Mr. Israel himself stated that he had been prescribed "Haldol," USCA5.381, a medicine which is prescribed only for severe mental illness. Mr. Israel's family even called trial counsel to tell him about Mr. Israel's mental illness. USCA5.176.

Second, trial counsel did not investigate Mr. Israel's mental illness. We know this because when the district court directly asked trial counsel "[c]an you give me some indication as to what kind of mental health problems he's had?" USCA5.383, trial counsel forthrightly said that he did not know. USCA5.383-384. In another part of the same transcript, trial counsel characterized Mr. Israel's mental illness as requiring "prior treatment," USCA5.383, and "historical." USCA5.383. And he made no mental illness arguments in Mr. Israel's objections to the PSR or in any other filings in this case, arguments that would obviously have been germane and helpful. Had he indeed

investigated Mr. Israel's mental illness, each of these facts would have been different.

Third, as explained in greater detail below, there is clear evidence of prejudice because evidence of Mr. Israel's incompetence and mental illness could have had important effects on many parts of his criminal case, including his plea and his sentence. Mr. Israel likely had a valid defense to guilty by reason of insanity. Investigating Mr. Israel's mental condition would have allowed trial counsel to make sensible decisions about each of those options. Because he did not investigate those facts, however, he was not able to make proper decisions consistent with effective assistance of counsel.

These failures place the case squarely with the many other cases from courts of appeals where counsel has been found inadequate for its failure to investigate. *See, e.g., Antwine v. Delo*, 54 F.3d 1357, 1368 (8th Cir. 1995) (holding counsel ineffective for failing to investigate); *Chambers v. Armontrout*, 907 F.2d 825, 828 (8th Cir. 1990) (en banc) (counsel's performance may be considered inadequate if he performs little or no investigation); *Stevens v. McBride*, 489 F.3d 883, 897 (7th Cir. 2007) (failure to investigate

mental illness was prejudicial under Strickland).

Below, the United States argued (and the district court accepted) that because Mr. Israel himself did not tell the district court he was mentally ill, trial counsel was excused from his obligation to investigate. USCA5.113-114. This is incorrect, and shows the fundamental failures of investigation in this case. Mr. Israel was mentally ill at the very time the Government blames him for not acting in his own defense. "It is contradictory to argue that a defendant may be incompetent, and yet knowingly or intelligently waive his right to have the court determine his capacity at trial." *Pate v. United States*, 383 U.S. 375, 385 (1966). It is just as contradictory to take as gospel the assurances of a severely mentally ill man at trial that he is satisfied with counsel or that he is in fact not mentally ill. *See, also, e.g., United States v. Klat*, 156 F.3d 1258 (D.C. Cir. 1998) (holding that mentally ill defendant may not proceed pro se without a competency hearing).

II. Israel was prejudiced by counsel's failure to investigate.

Israel's counsel's failures to investigate were not harmless. To the contrary, they

prejudiced Israel in several ways that show a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Hinton*, 571 U.S. at 276. The Fifth Circuit's

The result in Israel's case would have been different in at least three ways. First, Israel's counsel did not move for a competency hearing, precisely because of his failure to investigate. Second, Israel's counsel failed to present an insanity defense. This would have changed the dynamic of the case and potentially allowed Israel to proceed with a defense rather than a guilty plea. Third, Israel's counsel failed to attempt to mitigate his sentence by presenting his mental illness to the judge. All of these failures were devastating to Israel's chances in this case, and all justify a reversal of his conviction here.

A. Israel's counsel should have moved for a competency hearing based on his mental illness.

Trial counsel did not move for a competency hearing regarding Mr. Israel's competence to plead guilty or be sentenced in this case. To the contrary, trial counsel represented to the Court that Mr. Israel was

competent, despite having done no investigation about his mental state. USCA5.382–83. These actions fell below the standard of reasonable care required by *Strickland*, and likewise caused Mr. Israel substantial prejudice.

Due process prohibits the conviction of a person who is mentally incompetent. *See Bishop v. United States*, 350 U.S. 961 (1956). This constitutional right cannot be waived by the incompetent—by guilty plea or otherwise. The test of incompetency is whether a defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as a factual understanding of the proceedings against him." *Dusky v. United States*¸ 362 U.S. 402, 402 (1960). With respect to prejudice, the petitioner needs only "demonstrate a reasonable probability that he was incompetent sufficient to undermine confidence in the outcome." *Bouchillon*, 907 F.2d at 595.

There is substantial evidence that Mr. Israel was not competent to enter his plea or to be sentenced. As noted above, the record shows beyond dispute that Mr. Israel "has a clinically recognized mental disorder,"

(schizophrenia) *Bouchillon*, 907 F.2d at 595, that alters his understanding of reality. USCA5.51–52.

Further, his mental condition is not sufficiently controlled by medication and by even the well-meaning treatment of the Bureau of Prisons. USCA5.39, 43, 65–66, 68, 71–73. For example, the evidence shows that although he began his sentence on just 1 mg of Haldol, USCA5.65, by March 2016 he was being prescribed 5 mg of Haldol and 1 mg of Cogentin, a drug used to control the side effects of anti-schizophrenia medications. USCA5.66. Two months later, he had progressed to 20 mg each of Haldol and Prozac. USCA5.68.This is extremely strong evidence that he could have proven he was incompetent at the time his case was adjudicated.

There is equally little dispute that trial counsel knew about the issues Mr. Israel was experiencing (and has experienced throughout his life) such that he should have been alerted to the need to probe Mr. Israel's competence. Counsel ignored the various pieces of evidence he received that Mr. Israel had mental problems

To be sure, Mr. Israel may have ultimately failed to demonstrate that he was incompetent. But that is not the standard—this Court requires only a "reasonable probability" that he was incompetent. The extraordinarily strong evidence of mental illness in this case at the very least reaches that relatively low threshold. The Fifth Circuit's decision that Israel was competent enough in his dealings with the trial court not to even need an evaluation for competence misunderstands the law and imposes far too heavy a burden on a person in Israel's position. He is entitled to rely on counsel's diligence to defend himself from criminal prosecution. He was deprived of that chance, and that requires correction.

B. Israel was prejudiced by counsel's failure to present an insanity defense.

Israel was also prejudiced by counsel's failure to present an insanity defense at trial. Had counsel investigated his mental condition and presented these claims, it is reasonable to believe that Israel would have been able to present a stronger defense to the claims against him.

To show ineffective assistance of counsel based on the failure to pursue an insanity defense, a petitioner must show "that his attorneys were alerted–or should have been alerted–to the presence of an underlying mental disorder" and "that his attorneys had some indication that mental impairment might prove a promising line of defense." *Byrne v. Butler*, 845 F.2d 501, 513 (5th Cir. 1988).

Trial counsel had reason to know that Mr. Israel might have been able to plead innocent by reason of insanity. Trial counsel stated himself that Mr. Israel's mental illness records had been produced to him. USCA5.342. He specifically acknowledged that Mr. Israel had "prior treatment" for mental illness and that he was on medication for mental illness. USCA5.342. And yet, when asked the key question about whether Mr. Israel was currently mentally ill, trial counsel admitted he did not really know. USCA5.383 and characterized his illness as merely "historical." This is paradigmatic evidence that trial counsel was aware of the possibility of a mental illness defense to guilt.

Further, such a defense might indeed have been "promising." As explained above, the record evidence shows that Mr. Israel is

and has always been mentally ill. Further evidence demonstrates that Mr. Israel committed this crime while mentally ill. As his wife explained, he told her that demons were chasing him the very day he was arrested. Moreover, Mr. Israel has continued to suffer from schizophrenia despite the best efforts of the BOP psychiatrists. USCA5.154, 155. All of this evidence could easily have persuaded a jury by clear and convincing evidence that he was unable to appreciate "the nature and quality or wrongfulness of his acts." 18 U.S.C. Section 17. See, e.g., *U.S. v. Benford*, 541 Fed. App'x 861, 862 (10th Cir. 2013) (discussing defendant who was found not guilty of bank robbery by reason of insanity because of "auditory hallucinations" caused by schizophrenia); *United States v. Denny-Shaffer*, 2 F.3d 999 (10th Cir. 1993) (holding that defendant was entitled to submission of insanity defense in kidnapping case where she alleged she was ill with multiple personality disorder).

C. Trial counsel provided ineffective counsel by not presenting evidence of Mr. Israel's mental illness at sentencing.

Finally, counsel's failure to investigate Israel's mental condition prejudiced him by causing the district court to impose a much higher than Guidelines sentence on him. Any increase in the length of a sentence caused by trial counsel's mistakes is necessarily prejudicial. *See Glover v. U.S.*, 531 U.S. 198, 200-201 (2001).

Again, trial counsel did not investigate Mr. Israel's mental health either at the time of the crime or at sentencing. The record on this is undisputed and straightforward. First, his objections to the PSR did not include anything about Mr. Israel's mental condition. Second, trial counsel did not say anything about Mr. Israel's mental condition during the sentencing hearing itself. Although counsel addressed Mr. Israel's prior criminal history, he said nothing about the fact that Mr. Israel's mental illness likely was the cause of much of Mr. Israel's prior crimes. *See*, USCA5.400-429 (transcript of sentencing hearing). This is consistent with trial counsel's behavior at Mr. Israel's plea colloquy where, as noted above,

he disclaimed knowledge of the details of Mr. Israel's mental condition.

The evidence not elicited by trial counsel would have been relevant to the trial judge in numerous ways and could easily have reduced Mr. Israel's sentence. Mr. Israel's prior criminal history was a key part of Judge McBride's decision to impose a sentence substantially over the Guidelines range. After hearing Mr. Israel assert during the sentencing hearing that "I've been on the straight and narrow lately," the court stated that "the information I have doesn't quite bear out what you're talking about." USCA5.414. The court then detailed a number of arrests and concluded with the observation that Mr. Israel is a "dangerous person" and deserves a sentence at the statutory maximum. USCA5.414-15. Had the court been aware that any such crimes had been committed under the compulsion of mental illness that might have persuaded the court not to impose an above-guidelines sentence.

Second, the judge could have concluded that because Mr. Israel committed crimes when his mental illness got out of control, he would be an excellent candidate for rehabilitation. *Id.* At 363. The potential for rehabilitation is a powerful factor that could

have "built a case" for a guidelines or below-guidelines sentences. *Id*. *See also, e.g*., *Pepper v. United States*, 562 U.S. 476, 490-492 (2011) (holding that even post-sentencing rehabilitation can be taken into account if a prisoner wins a judgment requiring a resentencing).

Third, Mr. Israel's severe mental illness would have "constituted a basis for minimizing" his "culpability." *Id*. Even if Mr. Israel was not incompetent at the time he committed this crime, the evidence at this stage is undisputed that he broke the law under a powerful schizophrenic compulsion. That is precisely the kind of fact that could have persuaded the judge to impose a lower sentence than he did. By omitting the mental health mitigation evidence, trial counsel allowed the court to believe that Mr. Israel was a hardened criminal out robbing banks as opposed to a mentally ill person suffering from a psychotic episode. This failure made all the difference to Mr. Israel's life—if this case is not addressed he will spend years in prison he should not have to serve.

CONCLUSION

The Court should grant the Petition for Writ of Certiorari.

Respectfully submitted,

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Dated: August 27, 2021