No. _____

In the
United States Supreme Court
October Term, 2021

James D. Worley,
Petitioner

v.

State of Ohio,
Respondent

Petition for a Writ of Certiorari to the Ohio Supreme Court

Petition for Writ of Certiorari

Capital Case

Gary W. Crim
Counsel of Record
943 Manhattan Avenue
Dayton, Ohio 45406-5141
(937) 276-5770
garywcrim@gmail.com

Andrew P. Avellano
Attorney at Law
4200 Regent Street, Suite 200
Columbus, Ohio 43219
(614)-237-8050
drewavo@wowway.com

Counsel for Petitioner

Question Presented

I. Is a capital conviction and sentence invalid and imposed in violation of the capital defendant's constitutional rights to a fair jury under the Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution, when potential jurors are exposed to a highly derogatory history of the defendant, and then to a very positive history of the prosecuting attorney and his witnesses during voir dire?

Table of Contents

Table of Authorities

Page(s)

Federal Cases

State Cases

Federal Statutes

State Statutes

Constitutional Provisions

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Petition for a Writ of Certiorari to the Ohio Supreme Court of Ohio

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James D. Worley petitions for a Writ of Certiorari to review the judgment of the Ohio Supreme Court affirming the conviction and sentence of death.

Citations of the Official and Unofficial Reports of the Opinions and Orders.

The decision of the Ohio Supreme Court, in this case, is reported at 164 Ohio St. 3d 589; 2021-Ohio-2207, 174 N.E.3d 754 (Appx. A-1). The opinions of the Fulton County Court of Common Pleas are not reported. *State v. Worley*, 16CR000106, trial court Judgment Entry of Sentence, April 18, 2018. (Appx. A-62).

Statement of Jurisdiction

The Ohio Supreme Court opinion affirming the convictions and sentences was issued on July 1, 2021. This Petition for Writ of Certiorari, filed within 150 days, invokes this Court's jurisdiction under 28 U.S.C. § 1254.

Statutory and Constitutional Provisions

The relevant statutory and constitutional provisions are reproduced in the appendix.

Statement of the Case

This matter was before the Ohio Supreme Court on direct review of the convictions and death sentence from the Fulton County, Ohio Court Common Pleas Court.

The Facts

This matter involves the disappearance and death of Sierah Joughlin based on events in Fulton County on the evening of Wednesday, July 18; Thursday, July 19; and Friday, July 21 of 2016.

James Worley had spent his life on the margins of society in northwestern Ohio. He had had various encounters with law enforcement. He did not testify in either the trial phase or the mitigation phase of the proceedings; however, at his allocution, Mr. Worley professed his innocence.

The disappearance happened on Wednesday evening. Joughin was visiting her boyfriend, Joshua Kolasinski. She had earlier ridden her bicycle to his house. Kolasinski accompanied her on his motorcycle on part of her ride home.[1] Witnesses

[1] Tr. 1903-12.

saw them riding between 7:05 and 7:15 p.m.[2] When Joughin failed to reach her home, authorities began a search.[3]

On Thursday, authorities encountered James D. Worley and interviewed him at his family's farmhouse—twice.

The first interview lasted for a little over half an hour,[4] and the second lasted for about fourteen hours.[5] During the first interview, Worley related that he had been riding his motorcycle aimlessly on Wednesday evening; that he was having trouble with the fuel line and had stopped and pushed it; he had lost his helmet, fuses, screwdriver, and sunglasses.[6] With this last comment, the authorities began to record the conversation with Worley.[7] The officers terminated the interview and returned to their command post, set up for the search.[8] Once there, they decided to return for a further interview.[9]

During the 14-hour interview,[10] authorities explored the entire property with Worley.[11] Various officers noted that Worley became anxious when they approached the north barn area.[12] They also noted that the sand floor in the barn had been

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[2] Tr. 1943.
[3] Tr. 1913.
[4] Tr. 2007.
[5] Tr. 1997.
[6] Tr. 2009.
[7] 2010, Exhibit 26.
[8] Tr. 2012.
[9] Tr. 2012.
[10] Tr. 2013, Exhibit 47.
[11] Tr. 2014.
[12] Tr. 2017, 2258.

raked very neatly.[13] One officer also saw clear-plastic bags with female undergarments or clothing in the area.[14] During this second interview, agents allowed Worley to care for his mother.[15]

On Friday, authorities discovered Joughin's body buried in a cornfield not far from the abduction site. The Corner determined the cause of death to be asphyxia due to a dog chew-toy in her mouth, modified to be tied in place like a ball-gag sex toy.[16] The precise time or date of death could not be determined.[17] Nonetheless, death occurred within ten minutes of placing the gag.[18]

Indictment

The indictment charged various offenses: Two counts of Abduction,[19] four counts of Kidnapping,[20] two counts of Felonious Assault,[21] two counts of Aggravated Murder,[22] two counts of Aggravated Robbery,[23] one count of Tampering with Evidence,[24] and two counts of Having Weapons While Under Disability.[25]

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[13] Tr. 2018, 2259.
[14] Tr. 2018.
[15] Tr. 2030.
[16] Tr. 2852.
[17] Tr. 2856, 2863.
[18] Tr. 2854-55, 3129.
[19] OHIO REV. CODE §§ 2905.02(A(1) and 2905.01(A(3).
[20] OHIO REV. CODE §§ 2905.01(A(3, 2905.01(B)(1).
[21] OHIO REV. CODE §§ 2903.01(A)(1) and 2903.01(A(2).
[22] OHIO REV. CODE §§ 2903.01(A) and 2903.01(B).
[23] OHIO REV. CODE §§ 2911.01(A)(1) and 2911.01(A)(3).
[24] OHIO REV. CODE § 2921.12(A)(1).
[25] OHIO REV. CODE §§ 2923.13(A)(3) and 2923.13(A)(2).

Jury Selection

In the pretrial proceedings, defense counsel requested individual voir dire of prospective jurors outside the presence and hearing of other members of the venire.[26] The defense noted that such a process would prevent the inhibiting effect of a large audience.[27] The Court accepted the idea of individual voir dire on the issues of capital punishment and publicity. However, the Court conducted a more general voir dire in the presence of the other prospective jurors. Due to the large number of protentional jurors, the Court conducted the initial voir dire in two groups. This voir dire quickly exposed all the jurors to unfairly prejudicial allegations against Worley, and at the same time emphasized an array of praise for the prosecution and its witnesses.

Most of the potential jurors who served on the jury came from this first group. These potential jurors were quickly exposed to references about Worley's criminal history:

> Okay. Juror No. 4, you've formed an opinion?
>
> JUROR 4: I know Sierah's family, they were at my wedding years ago. And based on that he did this 30 years ago, it's been—
>
> THE COURT: Okay. Hold on, hold on. I didn't ask you for anything—all right, now, look. I'm going to ask some specific questions and I'm trying to find an unbiased jury here. So if you would just refrain from making any additional commentary and base your answers on what I ask, I would very much appreciate it.

[26] Defendant's Motion for Individual Sequestered Voir Dire on Death Penalty, Publicity and Other Issues, Doc. 61 (Motion 20), March 6, 2017.

[27] *Id.* at p. 5.

> The question was: You don't believe you can base your answers on what comes from the witness stand; is that correct?
>
> JUROR 4: Correct.[28]

The defense moved to dismiss the entire panel after this prejudicial revelation.[29]

Sometimes the comments were brief and frequent. Potential jurors heard about the extensive contacts that the Joughins' family and friends had with the community, including many potential jurors and trial participants, such as the Prosecutor and Smithmyer, the lead investigator. Juror No. 24 went to school and ran track with the Prosecutor.[30] Another juror, who lived 2.5 miles from Worley, had already decided that he was guilty.[31] Juror No. 53, who lived a tenth of a mile from Worley, related an incident when Worley called the police on his son and friends; she related to the judge that she could set aside these matters and judge Worley on what happened in the courtroom,[32] but was excused after revealing during individualized voir dire that her family had gone through family counseling due to the abduction and murder and that family members had spoken with investigators during the initial investigation:[33]

Many other potential jurors had connections to the people directly involved in the case: Juror No. 48 had her mind made up and could not set that aside, so was excused for cause.[34] Juror No. 51 was a lifelong friend of the Joughin family who

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[28] Tr. 71.
[29] Tr. 72.
[30] Tr. 59.
[31] Tr. 65.
[32] Tr. 48-49, 907.
[33] Tr. 916.
[34] Tr. 80.

had made up her mind and was excused,[35] Juror No. 91's husband was the victim's cousin.[36] Juror No. 51 has been lifelong friends with the family and was excused.[37] Juror No. 184 was friends with friends of the victim.[38] Juror No. 197 knew Smithmyer—he married the juror's good friend, she said she could weigh Smithmyer's creditability just as any other witness.[39] Juror No. 199 knew the Joughin family.[40] Juror No. 174 went to church with the Joughin family and to school with another family close to the Joughins.[41] Juror No. 102 lived a couple of miles from Worley but had made up her mind and was excused.[42]

Other potential jurors made similar comments. Juror No. 126 stated, "I too feel that he's guilty. I'm friends with people that are friends with him and I don't feel I can change my mind."[43] Juror No. 74 was excused after saying, "I went to church with the Joughin family. I went to school with the Schaefer family. My grandkids go to school with the next generation. So it would be hard."[44] Juror No. 199 was excused after commenting, "Having known the family and having daughters in the same age group as Sierah, I don't believe I could be an impartial juror. I've already made my opinion on this case."[45]

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[35] Tr. 80-8.
[36] Tr. 81.
[37] Tr. 80.
[38] Tr. 82.
[39] Tr. 14-15.
[40] Tr. 88.
[41] Tr. 87.
[42] Tr. 68.
[43] Tr. 87.
[44] Tr. 87.
[45] Tr. 88,

Several potential jurors had connections with the lead investigator, Smithmyer. Juror No. 159 worked with Smithmyer in 2014 as a 911 dispatcher.[46] Juror No. 190's husband worked with Smithmyer at the fire department.[47] Juror No. 153 was the daughter of the woman in charge of the psychological diagnosis of Worley at the NCCO, the multi-county jail.[48] Juror No. 159 reported privately to the Jury Commissioner present in the courtroom that Worley assaulted her daughter; the juror was immediately dismissed without further inquiry.[49]

The next day, the trial judge inquired of the second group of potential jurors about the impact of jury service on them. Several jurors explained the impact of jury service on specific aspects of their lives or those around them.[50] Then the trial judge focused on attitudes toward the government or defendant that would indicate bias or preconceived notions about guilt.[51]

Then the trial judge explained that jurors must follow the instructions from the Court and decide the case on what happens in the courtroom. An example of what he told the jurors follows.[52] The trial judge cautioned the potential jurors about making extraneous comments:

> So what I want to know at this point in time, is there anyone here who cannot follow the instructions of the Court with respect to how they're to consider the evidence or who has already made up their mind with respect to the guilt or innocence of the defendant?

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[46] Tr. 17.
[47] Tr. 18.
[48] Tr. 34.
[49] Tr. 74.
[50] Tr. 416-443.
[51] Tr. 444.
[52] Tr. 444-45.

> Now, in doing this, all you have to tell me is you've made up your mind. I don't need any other editorial comments. We ran into some problems yesterday.
>
> So those of you who would answer that question in the affirmative, would you please raise your hand?[53]

Following this, potential jurors were excused with limited inquiry: Juror No. 214 explained that she had a daughter and was excused without objection.[54] Juror No. 222 explained that she had an older daughter and younger daughter and was excused without objection.[55] Being a neighbor of the victim and having run in a 5K charity race with Joughin, Juror No. 230's mind had already made up and was excused without objection.[56] Juror No. 232's mind was already made up and was excused without objection.[57] Juror No. 276 had met with FBI agents shortly around the time of the kidnapping and was excused without objection.[58]

Juror No. 274 lived too close and knew too much about it, so was excused without objection.[59] Juror No. 265 had four daughters and was excused without objection.[60] Juror No. 330 had three daughters and was excused without objection.[61] Juror No. 313's mind was made up—based on all of the media—and was excused without objection.[62] Juror No. 316's mind was already made up and was excused

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[53] Tr. 445.
[54] Tr. 446.
[55] Tr. 446-47.
[56] Tr. 447.
[57] Tr. 447.
[58] Tr. 448.
[59] Tr. 448-49.
[60] Tr. 449.
[61] Tr. 449-450.
[62] Tr. 450.

without objection.[63] Juror No. 349 had two granddaughters and was excused without objection.[64] Juror No. 348 explained that the crime happened very close to his residence and was excused without objection.[65] Juror No. 347's mind was already made up and was excused without objection.[66] Juror No. 337 was excused without objection after stating, "I've already formed an opinion."[67] Juror No. 384 had "two lovely daughters" and was excused.[68] Juror No. 377 was excused without objection after stating, "I've already formed an opinion."[69] Juror No. 396's daughters knew Joughin, and they lived in the Evergreen School District, so she was excused[70] Juror No. 371 was excused without objection after relating that she had already formed an opinion and could not follow instructions about being a fair and impartial juror.[71]

Juror No. 397 made more damaging statements and reported a similar experience:[72]:

> JUROR 397: I went to Evergreen High School and lived 3 miles from the guy's house, and he attended our church after his first imprisonment 25 years ago.
>
> THE COURT: Mr. Kennedy.

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[63] Tr. 450.
[64] Tr. 451.
[65] Tr. 451.
[66] Tr. 451-52.
[67] Tr. 451-52.
[68] Tr. 452.
[69] Tr. 453.
[70] Tr. 454.
[71] Tr. 454.
[72] Tr. 454.

Then the defense objected at a bench conference as the day before, asking that the entire panel be dismissed. The trial judge took the matter under advisement[73]

Once back before the prospective jurors, the trial judge excused Juror No. 397 and told the jurors that he did not want any more extraneous information, specifically asking for just yes or no answers.[74] Juror No. 361 was excused after saying, "My mind's already made up. We've got young girls in the family."[75] More jurors reported that they had made up their minds and were dismissed on that bare assertion: Juror No, 321;[76] Juror No. 330;[77] and Juror No. 334.[78] Juror No. 295 related that she had preconceived notions and could not decide the case just from what she heard in the courtroom.[79] Juror No. 293 was excused without objection after relating that she had made up her mind and had three daughters.[80] Juror No. 290 was excused without objection after saying that he had already made up his mind and would have trouble changing.[81] Juror No. 281 was excused without objection after relating that his mind was made up and his daughter was assaulted in January.[82]

Thus, the prospective jurors all acquired considerable information about the case and about their peers' opinions about Worley before they were selected. The

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[73] Tr. 455.
[74] Tr. 456.
[75] Tr. 456.
[76] Tr. 456.
[77] Tr. 456-57.
[78] Tr. 457.
[79] Tr. 457-58.
[80] Tr. 458.
[81] Tr. 458.
[82] Tr. 459.

jurors were selected after further inquiry conducted individually, so they were no longer exposed to new information.

The Ohio Supreme Court held that the trial judge did not abuse its discretion in rejecting Worley's request for new jurors. Appx. 30.

Guilt Phase Evidence

The government attempted to connect Worley to Joughin's disappearance and death in several ways: physical objects, DNA, cell tower data, and a 1990 conviction for attempted abduction. DNA placed Worley at the abduction and burial sites and DNA placed the victim in Worley's barn, but no DNA connected Worley with the body or the dog toy. The prosecution presented cell phone data to try and show that Worley and the victim were in the same general area of the abduction site, during a similar time period. The state introduced excerpts of its interviews with Worley. The topics covered included Worley's use of pornography, his desire to have a pornographic photo studio, and his activities on the evening of July 19 when he lost his helmet, sunglasses, a screwdriver, and some fuses.[83]

On the last day of the government's case-in-chief, Robin Gardner, the victim of an attempted abduction by Petitioner in 1990, was called. She was the only witness to testify that day. Before her testimony, the trial judge cautioned the jurors not to consider her testimony to prove the character of the defendant but only for

[83] Tr. 2009, Exhibit 26, Exhibit 27.

the defendant's motive, opportunity, intent, purpose, preparation, or plan to commit the offense charged or whether it proved the identity of the person who committed the offenses charged.[84] Gardner did not know Joughin or her family.[85]

Immediately after Gardner's testimony, the government rested.[86]

The jurors returned guilty verdicts on all of the charges presented to them. The trial judge had earlier dismissed Counts Thirteen and Fourteen.

The Mitigation Phase Evidence

A couple of weeks after the guilty verdict, jurors heard mitigation evidence and returned with a recommendation of death, despite Worley having over a dozen mitigating factors weighing against a death verdict[87] These mitigating factors included Worley's traumatic childhood, twelve mental illnesses, drug addiction, and Worley's devotion to and caring for his elderly mother—who was suffering from Alzheimer's—and his severely mentally ill brother (schizophrenia) on the family farm. His mother's Alzheimer's and brother's schizophrenia put Worley at greater risk for mental illness himself or psychosis.[88] His father was an alcoholic[89]

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[84] Tr. 3003.

[85] Tr. 3004.

[86] Tr. 3015.

[87] Judgment Entry of Sentence (Sentencing Opinion), Doc. 369, April 18, 2018, pp. 5-11. (Appx A-62, 66-72.

[88] Tr. 3451-53.

[89] Tr. 3451

The forensic neuropsychologist who examined Worley, John Matthew Fabian, Psy.D, J.D., reported that Worley had a cannabis dependence problem that started when he was 10 to 13 years old.[90]

Fabian diagnosed Worley as has having several significant mental illnesses: Sexual Sadism Disorder; Fetishistic Disorder; Paranoid Personality Disorder; Persistent Depressive Disorder; Cannabis Use Disorder; Attention Deficit Hyperactivity Disorder, combined type (inattention and impulsivity); Possible Mild Neurocognitive Disorder, due to concussive history; Dual diagnosis; Antisocial Personality Disorder; Narcissistic Personality Disorder; Obsessive Compulsive Personality Disorder; and Attachment Disorder.[91]

Fabian concluded Worley suffered from neurocognitive damage. Fabian based his opinion on the history of concussions in Worley's medical records and his testing. He qualified this opinion because he did not have a brain scan. [92]

Fabian testified:

> Q. What's important to know about his medical background?
> A. So, you know, we had some medical records, you know, when I went. As a neuropsychologist, I'm more interested in traumatic brain injuries.
>
> And I think there was some kind of pushing somebody out of the way and there was some type of a work accident. I don't know if it was an altercation, but he had been hit in the head. And there was a motor vehicle accident that he reported about 1982.

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[90] Tr. 3458.

[91] Tr. 3474; John Matthew Fabian, Psy.D, J.D., Forensic Psychological Evaluation, Forensic Neuropsychological Evaluation, Death Penalty Mitigation Evaluation, Defense Exhibit C Appx. A-76 ("Fabian Report") .

[92] Fabian's Report, Defense Exhibit C, pp. 35, 48-49. (Appx. A-110, A-123-24).

> And these cases, again, are difficult, because I often, probably usually, don't have glaring head injury reports where people are in comas. Most head injuries are concussions or minor.
>
> So when we look at that, I don't want to make more out of it than it is. I don't want to not bring it up at all, okay? But it's likely he had a couple of concussions, you know, as an adult.[93]

Fabian went into even deeper detail about the effects of Worley's traumatic brain injury on his ability to think clearly and make reasoned, rational decisions (due to damage of the executive-function areas of his brain).

> While his deficits in processing speed and auditory attention and executive functioning are likely due in part to ADHD, I am concerned about a history of concussions and mild traumatic brain injuries that may have impacted his brain functioning, leading to a mild neurocognitive disorder. Such a disorder includes evidence of modest brain dysfunction due to traumatic brain injury in one or more areas of neuropsychological functioning that we do have here.
>
> When taken together, all of this neuropsychological assessment, I again have most concerns with an underlying attention deficit/hyperactivity disorder (ADHD) attentional condition related especially to processing speed and auditory attention, as well as nonverbal and verbal executive functioning, reasoning skills, as well as verbal learning and memory skills. These impairments may also be due to a mild neurocognitive disorder related to the effects of multiple concussions.
>
> A number of the areas of the brain, as noted above, are under concern with primary focus on the dorsolateral area of the prefrontal cortex, again noted for decision making, disinhibition, management of cognitive processing, cognitive flexibility, and planning. This area of the brain has also been known to be involved in both risky and moral decision making. I do have concerns about how the neuropsychological functioning noted, and deficits of some executive functioning can be related to the neuroanatomical area of the brain responsible for executive functioning. This information may provide insight into at least part of the nature of the instant offenses.[94]

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[93] Tr. 3461

[94] Fabian Report, A-125-26.

Fabian testified that because of his several significant mental illnesses, Worley was less able to conform his behavior to the law.[95] In his testimony, Fabian highlighted the significant impact the diseases afflicting Worley had on him, based upon the known scientific evidence and Fabian's extensive experience. Fabian explained:

> Q. All right. Doctor, in your opinion, what are the potential mitigating factors for the jury to consider in this case?
> A. This may be a narrative for a bit.
>
> . . . .
>
> Along those times, or that time frame, in my opinion, there was evidence of ADHD. So ADHD [Attention Deficit/ Hyperactivity Disorder] may seem like a benign disorder . . . but it really is [a big deal]. It is a neuropsychiatric disorder where I think in this case the brain is a need for stimulation. It needs attention. It's a low cortical arousal typically of folks with ADHD.
> We also have an insecure, inadequate kid who has grown up and I think always probably had quite a bit of self-hate, inadequacy, certainly a lack of introspection and self-understanding, and what I think is a long-term depression.
> That would be more self-esteem, hopelessness, sadness. Not hate to the level of suicide, but something that would be–would have an effect on someone, especially long-term.
> I would describe him as a dual-diagnosed individual with depression and a cannabis dependence. I think his coping skills are very inadequate to deal with stress.
> With many offenders, we have what we call negative emotionality, especially sex offenders. Individuals have negative emotions, typically anxiety, distress, low self-esteem, depression, and then isolation.[96]

Individuals who are damaged by childhood trauma, mental illness and drug dependence do not choose their circumstances or afflictions. They are, by a

[95] Tr. 3480.
[96] Tr. 3475-77.

significant margin, more likely to commit serious crimes and are otherwise less capable of conforming their behavior to the law. Therefore, they are less morally culpable for a serious criminal offense than those offenders not similarly burdened. Worley's mitigation case was soundly grounded in an assessment of relative moral culpability, *precisely* like this Court endorsed in *Roper v. Simmons*, 543 U.S. 551 (2005); *Adkins v. Virginia*, 536 U.S. 304 (2003); and *Wiggins v. Smith*, 539 U.S. 510 (2003).

Why the Writ Should be Granted

I. The jury selection process was so infected with bias against Petitioner and for the prosecution that Petitioner was denied the right to a fair and impartial jurors to decide his guilt and punishment.

A defendant is entitled to a fair jury. The jurors were exposed to derogatory history of the defendant and positive history of the prosecutor and his witnesses. Denial of the motion to start over with a new panel allowed infected jurors to decide Worley's fate. This violated the right to a fair trial as guaranteed by U.S. CONST. amends. V, VI, & XIV.

A defendant in a criminal case, especially a capital prosecution, is entitled to impartial jurors. U.S. Const. amend. XIV; *Duncan v. Louisiana*, 391 U.S. 145, 146 (1968). This Court has long acknowledged that an adequate voir dire is essential to realizing these due process protections. *Morgan v. Illinois*, 504 U.S. 719, 729-30 (1992); *Aldridge v. United States*, 283 U.S. 308, 313 (1931); In these cases, this Court noted that part of the guarantee of a defendant's right to an impartial jury is an adequate voir dire. Without a proper voir dire, the trial judge cannot fulfill his or

her responsibility to remove those who cannot impartially follow instructions and evaluate the evidence.

This Court has long required inquiries into prejudicial information that prospective jurors receive before trial. In resolving issues of juror exposure, the size of the community matters. *Rideau v. Louisiana*, 373 U.S. 723, 725 (1963) (noting the size of the community and the large portion of the community exposed to televised confessions of the defendant). In contrast, this Court has noted when the events happen in a large metropolitan area, juror prejudice is much less likely to occur. *Mu'Min v. Virginia*, 500 U.S. 415, 429 (1991). This Court has also noted exposure to unkind news reporting is not determinative but has condemned information likely to imprint indelibly in the mind of anyone exposed. *Skilling v. United States*, 561 U.S. 358, 382-83 (2010). The time between the exposure and the trial is a factor. *Patton v. Yount*, 467 U.S. 1025, 1026 (1984). A final factor can be the jurors finding the defendant not guilty on some of the charges. *Skilling*, 561 U.S. at 383-84. Here the process of juror selection exposed the jurors to a plethora of facts and opinions about Worley and the crime. The intimacy of the community was apparent from the knowledge and contacts the various prospective jurors revealed. The prejudicial information was conveyed as part of the jury selection, the beginning of the process that ended with the jurors' judgment on the death penalty for Worley. These factors all dictate a presumption of prejudice for the jurors in this case.

The defense made two motions for a new panel.[97] The trial judge overruled both motions and continued to conduct the jury selection process in a way that allowed jurors to expose the rest of the panel to information harmful to Worley and positive toward the government. The jurors could not be fair in judging the evidence and in deciding Worley's fate under these circumstances.

The right to a fair and impartial jury is no more important than in a capital case. In Petitioner's case, potential jurors were bombarded by unfairly prejudicial information about him and resounding positivity about the prosecution and its witnesses. This unfair process irreparably tainted the jurors who sat on Worley's jury. The bias was so bad that many of the seated jurors' fellow panelists stated they had already made up their minds about Worley's guilt, so they could not be jurors. Those who stayed on the jury were exposed to unfair prejudicial information against Worley, hearing their fellow citizens almost in unison say, "this man is guilty as sin!" Such a jury could not be fair or impartial. Therefore, Petitioner's rights to due process and a fair and impartial jury were violated, U.S. CONST. amend. VI, thereby invalidating his conviction and death sentence.

[97] Tr. 72. Tr. 455, 462.

Conclusion

Thus, this Court should grant Worley's petition for a Writ of Certiorari.

s/Gary W. Crim
Gary W. Crim
Counsel of Record
943 Manhattan Avenue
Dayton, Ohio 45406-5141
(937) 276-5770
garywcrim@gmail.com

s/ Andrew P. Avellano
Andrew P. Avellano
Attorney at Law
4181 East Main Street
Columbus, Ohio 43213
(614)-237-8050
drewavo@wowway.com

Counsel for James D. Worley