

and his drug abuse was a major theme for the defense. (36 RR 174.) Keisha described the childhood abuse and neglect. (35 RR 51-69, 108-10.) Dr. Finn testified that Jones developed amnesia and [depersonalization disorder](#) as coping response to severe and repeated childhood abuse and that Jones turned to drugs as a way of medicating himself and deadening himself emotionally. (35 RR 150-52.) Jones fails to acknowledge this strategy or testimony. He therefore fails to argue or show that counsel's choice of experts on this issue was professionally unreasonable. See *Hinton v. Alabama*, — U.S. —, 134 S.Ct. 1081, 1089, 188 L.Ed.2d 1 (2014) (holding that the selection of an expert witness is the paradigmatic example of the type of strategic choice that, when made after a thorough investigation of the law and facts, is virtually unchallengeable). Although Jones relies on a scientific article from 2006 concerning long-term changes in the brain caused by childhood trauma, counsel cannot be deficient for failing to pursue the science discussed in an article that did not yet exist. See generally *Maryland v. Kulbicki*, — U.S. —, 136 S.Ct. 2, 4, — L.Ed.2d — (2015) (per curiam) (holding that trial attorneys were not ineffective for failing to find report that presaged future developments in forensic science for lead-bullet analysis).

***652** Jones next asserts that counsel should have investigated whether Jones was genetically predisposed to drug and [alcohol addiction](#) and should have used an addiction specialist to testify that Jones's addiction was “involuntary.” Jones asserts that “counsel did no investigation into alcohol and substance abuse.” (Doc. 129, p. 64.) Again, this is contradicted by the record. Keisha and Freeman described Jones's early and severe drug abuse for which they had both independently helped him seek treatment. (34 RR 208-09; 35 RR 6-8, 27-29, 69-70, 75, 78.) Keisha testified that she was once on drugs “real bad” and that their mother was on crack for most of their lives. (35 RR 52, 77.) Dr. Finn attributed Jones's “long history of drug abuse” to his childhood circumstances and mental illness. (35 RR 152.) And counsel retained Dr. Wadsworth specifically for an “evaluation of [Jones's] substance abuse history to assist with legal proceedings.” (Doc. 129-13, p. 2.) Counsel knew from Dr. Wadsworth that Jones's brother abused alcohol and drugs, his father abused alcohol, and his mother used crack cocaine. (Doc. 129-13, p. 3.) Counsel designated Wadsworth as a testifying witness, but then made a strategic decision not to call her based on their evaluation of the testimony of Dr. Finn and Dr. Price. (Doc. 129-7, p. 2; doc. 129-6, p. 8.)

Counsel's choice of experts, made after a thorough investigation of the law and facts, is virtually unchallengeable. *Hinton*, 134 S.Ct. at 1089. This Court is not required to examine the relative qualifications of the experts hired and called by trial counsel against the experts that might have been hired. *Id.* In this regard, Jones does not state what an addiction specialist would have testified about, but instead refers the Court to four internet articles discussing addiction. (Doc. 129, p. 64, n.7.) The Court has attempted to review the articles, but the link to one article does not work. The other three are dated in 2014 or 2015. The Court cannot conclude that these articles, which discuss the physical science of addiction and recovery, were available to counsel in 2001. As such, they cannot support the claim of ineffectiveness. Jones does not show that counsel's failure to hire an addiction specialist was professionally unreasonable.

Jones relatedly complains, based on Dr. Turbeville's report, that counsel did not conduct a sufficient investigation to support an informed decision about an involuntary-intoxication defense and did not attempt to locate treating physicians and agencies regarding Jones's self-inflicted gunshot [wounds](#) and drug dependence. (Doc. 129, p. 67.) The trial record is replete with testimony about Jones's drug abuse, his sister's drug abuse, his mother's drug abuse, his self-injuring behavior, and three self-inflicted gunshot [wounds](#). Counsel offered sixty-seven pages of psychiatric records from John Peter Smith Hospital, which were admitted into evidence and show that Jones shot himself in the chest in 1996 and shot himself in the hand and leg on two prior occasions. They include progress notes and personal information about Jones's living situation. They show a diagnosis of depression, adjustment disorder with mixed disturbance of emotions and conduct, cannabis abuse, history of [polysubstance abuse](#), and stuttering. The diagnosis also notes “low finances” and a brother (Ben) “presently incarcerated.” (35 RR 141; DX 15.) The hospital records attached to Jones's petition, which do not appear in the trial record, reflect a voluntary hospital admission for drug dependence on March 27, 1998. But he was discharged the same day and referred to an inpatient substance abuse program, which Freeman did testify about at trial. (34 RR 208-09; 35 RR 5-7); (doc. 129-12, p. 16, 19-21.) In light of this record, Jones's asserted red flag in Dr. Turbeville's report does not demonstrate a deficient investigation ***653** into Jones's treating physicians and agencies.

Moreover, to the extent this particular complaint relies on counsels' having overlooked an involuntary-intoxication

defense based on the involuntary nature of addiction, he provides no legal authority for this defense. On the contrary, Texas does not appear to recognize such a defense. *Heard v. State*, 887 S.W.2d 94 (Tex.App.—Texarkana 1994, pet. ref'd) (citing *Torres v. State*, 585 S.W.2d 746 (Tex.Crim.App. [Panel Op.] 1979), and rejecting argument that, to an alcoholic, drinking is not voluntary)); see *Hernandez v. Johnson*, 213 F.3d 243, 250 (5th Cir.2000) (noting that Texas courts have consistently ruled that alcoholism may not be the basis for an involuntary intoxication defense). Jones fails to demonstrate that counsel was ineffective for failing to investigate an involuntary intoxication defense.

Jones next asserts that counsel was ineffective for failing to investigate whether the prison could provide an adequate structured environment if Jones were given a life sentence. In fact, Dr. Finn administered a violence risk assessment to Jones and testified that Jones could be managed in prison and would become less violent as he aged. (35 RR 166-67.) Trial counsel also elicited testimony from Jones's juvenile probation officer that Jones did well in a structured environment and eventually completed his probation successfully. (35 RR 240, 244-45; 36 RR 124.) Even the State's expert agreed, at least on cross-examination,¹² that Jones could be managed in a confined setting like prison. (36 RR 150-51.)

Jones does not specify what more counsel should have done. The Court is aware that capital-defense counsel sometimes present expert testimony about prison classification and security systems in order to demonstrate that the prison can prevent the defendant from committing further violence. The Court is also aware, however, that such expert testimony can be diminished on rebuttal by detailed descriptions of all the violence that has occurred in prison despite the measures in place to prevent it. *E.g.*, *Rayford v. Thaler*, No. 3:06-CR-978-B-BD, 2011 WL 7102282, *10-11 (N.D.Tex. July 12, 2011) (not designated for publication) (rejecting argument that statistics on prison violence violated due process); *Ramey v. State*, No. AP-75678, 2009 WL 335276, at *14 (Tex.Crim.App. Feb. 11, 2009) (upholding admission of testimony graphically describing incidents of prison violence); *Lucero v. State*, 246 S.W.3d 86, 97 (Tex.Crim.App.2008) (holding that trial court properly allowed testimony about the violence that can occur within Texas prison system). Jones fails to demonstrate any deficiency in counsel's chosen strategy, which avoided an exploration of prison violence before the jury. The asserted red flag regarding prison's structured environment does not allege or show a deficient investigation under these facts.

Jones next contends his counsel failed to investigate possible drug-induced brain damage, based on the discrepancy between Jones's "low average" intellectual functioning at the time of trial and his largely "average" IQ scores as a juvenile. As previously noted, Dr. Turbeville issued a report about five months before trial began. Dr. Finn conducted an evaluation about four months before trial. Dr. Wadsworth completed her evaluation two days before opening statements. There is no indication that any of these mental-health experts suspected brain damage or recommended *654 neurological testing. Jones's present allegation of possible brain damage, which conflicts with the expert opinions at trial, is insufficient to allege or prove deficient investigation. Trial counsel is not deficient for not canvassing the field to find more favorable experts on the issue of brain damage. See *Storey v. Stephens*, 606 Fed.Appx. 192, 196 (5th Cir.2015).

B. Guilt-Phase Red Flags

[15] [16] Jones contends that the trial testimony of Mattie Long raised red flags (1) identifying twenty-four persons in Jones's extended family who had not been interviewed and (2) suggesting that Jones was raised in a dangerous neighborhood. The record indicates that counsel's investigator contacted Mattie Long before trial, but Long chose not to speak with her. (29 RR 57.) As such, counsel cannot be faulted for failing to investigate any information known to Long. Furthermore, Jones does not name the twenty-four allegedly overlooked family members. (Doc. 129, p. 70.) A petitioner who complains about an uncalled witness must demonstrate that the witness was available to testify and would have testified, and that the proposed testimony would have been favorable to the defense. See *Alexander v. McCotter*, 775 F.2d 595, 602 (5th Cir.1985). Jones does not satisfy this burden.

[17] Jones also contends there were red flags that Jones suffered from an extensive "involuntary" drug problem long before the age of majority and could have suffered from split personality after being sexually molested, which caused Jones to inflict significant bodily injury on himself as "James." (Doc. 129, p. 70-71.) He contends that, with unspecified "further investigation" of Jones's psycho-social history, the defense could have challenged the *mens-rea* element of the capital-murder charge.

Of course, trial counsel presented expert testimony that Jones had a form of dissociative personality disorder that began in

early childhood as a result of severe and repeated childhood physical and sexual abuse that led to an extensive drug problem. (35 RR 150-52.) Through the testimony of Dr. Finn, Freeman, and Keisha, the jury knew that Jones had shot himself, burned himself, hit his head on the wall, called himself *names*, placed a coat hanger around his neck, and hit himself in the head with an iron, a 40-ounce bottle, and a full can of laundry starch. (35 RR 19-21, 28, 71-73.) Jones fails to explain what additional evidence could have been overlooked on these matters or theorize how counsel should have used it to negate the *mens rea*. See, e.g. *Ruffin v. State*, 270 S.W.3d 586, 594 (Tex.Crim.App.2008) (explaining how mental disease or defect could be relevant to rebutting *mens rea* for murder). The *mens rea* alleged in this case was an intentional-killing. (1 CR 3; 3 CR 393.) Bryant's extensive injuries strongly support the jury's finding that the killing was intentional, even if it was committed while Jones was on drugs or acting as "James." Because Jones fails to present a hypothesis under which a jury could have acquitted him of capital murder for lacking the necessary *mens rea*, his red flag does not allege or show a deficient investigation.

C. Punishment-Phase Red Flags

[18] Jones contends that, although trial counsel presented "isolated facts in mitigation" such as remorse and childhood abuse, trial counsel did not provide a "cohesive story" of Jones's life to explain why he was "less morally culpable and not worthy of a death sentence, than someone who did not share his disadvantaged back-ground and suffer from his various *mental impairments*." Jones also specifically complains there was no effort to explain the role of James in the killing of Jones's aunt. (Doc. 129, p. 72.)

*655 The Court disagrees that trial counsel did not present a cohesive story of Jones's life. In closing argument, trial counsel emphasized the divorce of Jones's parents, a transient home life, poverty, and lack of security. Counsel said Jones went to school with an embarrassing stutter and, when he came home, he had no one to talk to about it but was instead sexually abused. Counsel stated that Jones's older brother continued to abuse Jones and Keisha even after they moved. Counsel pointed out that the family situation was so bad that Ben ended up in juvenile detention and Keisha became pregnant at fourteen so she could move out. At this point, Jones turned to drugs to make everything "go away," and he became addicted. While the prosecution had downplayed the effect of Jones's childhood on his criminal

choices, trial counsel challenged the jurors to think about whether they would trade their childhood for his. Counsel argued that "James" developed as a survival mechanism to protect him after Ben was locked up. Counsel reminded the jury that Jones shot himself three times, called himself *names*, and injured himself until people had to restrain him. Counsel argued that Jones had never been a vicious person until Roosa, his supervisor at work, showed him new drugs. Counsel emphasized that, despite this upbringing, Jones found something good with Freeman and tried to teach Freeman's sons about the mistakes he had made. Counsel reminded the jury that, while the mental-health experts disagreed about Jones's diagnosis, they agreed that whatever was wrong with him was not a conscious decision on his part and that even sociopaths do not choose to be that way. Counsel asserted that, while Jones is responsible for what he did, Jones did not chose his path. Counsel argued that mental illness, not drugs and a desire for money, caused Jones's conduct, because being high and wanting more drugs was a scenario that had happened a thousand times before in Jones's life. Counsel asked the jury to remember Keisha and "the rage that's in that girl, the pain that's in her," because she suffered too and nobody pulled her and Jones out of it. Counsel pointed out that the State could not present one witness to dispute the truth of Jones's abusive childhood. Counsel noted that even Dr. Price believed Jones had been sexually abused and had mental problems long before the crimes were committed. Counsel asked the jury to think about why Jones "is sitting where he is" before making their verdict. (36 RR 172-90.)

In light of the foregoing, the Court rejects Jones's argument that counsel did not present a cohesive life story. Counsel made a comprehensive argument based on the evidence of how Jones came to be on trial for capital murder, beginning with an unstable and abusive childhood that led to drug abuse and mental illness.

Jones also contends that trial counsel did not explain the role of "James" in the killing of Bryant. Dr. Finn explained, however, that Jones is mild-mannered and passive while James is angry, suspicious, and prone to violence. (35 RR 153-54.) Dr. Finn testified that James was activated for some reason, partly because Jones was on drugs, and Jones was either not aware of the killing or was helpless to stop it. (35 RR 156-57.) Dr. Finn believed this was true because Bryant was the one person in Jones's life who showed him kindness and concern, and Jones loved Bryant as much as he probably loved anybody. Also, counsel presented evidence that Jones was very remorseful and apologetic every time

he discussed the murder and had gaps in his recollection of it. (35 RR 158-59, 185-87; 36 RR 148-49.) To the extent Jones now complains that Dr. Finn did not more specifically state what triggered the appearance of “James,” such evidence would not have furthered the chosen defense. As discussed *656 during trial, amnesia is part of dissociative mental illness, and Dr. Finn believed James's personality was the murderer because Jones did not remember parts of it. A detailed explanation of what triggered James to appear could have conflicted with this defense by suggesting that Jones did not, in fact, have amnesia. Jones fails to show that counsel's overall strategy incorporating evidence of Jones's childhood and mental illness was professionally unreasonable.

There are countless ways to provide effective assistance. Jones simply alleges in the abstract that counsel could have done more or takes issue with counsel's strategic choices. His “red flags” provide nothing more than what is already in the trial record. He has not overcome the “strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.” *Strickland*, 466 U.S. at 689, 104 S.Ct. 2052; see *Pape v. Thaler*, 645 F.3d 281, 291 (5th Cir.2011) (recognizing that conscious and informed decision on trial tactics and strategy cannot be the basis of constitutionally ineffective assistance of counsel unless it is so ill chosen that it permeates the entire trial with obvious unfairness); *Kitchens v. Johnson*, 190 F.3d 698, 703 (5th Cir.1999) (holding that arguments about whether counsel investigated enough or presented enough mitigating evidence come down to a matter of degrees and are even less susceptible to judicial second-guessing).

D. Prejudice

[19] Jones must also demonstrate that there is a reasonable probability that he was prejudiced by counsel's alleged deficiencies. See *Strickland*, 466 U.S. at 694, 104 S.Ct. 2052. A “reasonable probability” of prejudice requires a substantial, not just a conceivable, likelihood of a different outcome. *Pinholster*, 131 S.Ct. at 1403. For claims that challenge counsel's sentencing investigation, the reviewing court reweighs the evidence in aggravation against the totality of available mitigating evidence and determines whether there is a probability—a probability sufficient to undermine confidence in the outcome—that the jury would have assessed a life sentence. See *Wiggins*, 539 U.S. at 534, 123 S.Ct. 2527.

Jones first contends that a reasonable investigation would have revealed additional adverse childhood experiences, including his sister's mental illness, alcohol abuse on his father's side, and a drug and gambling addiction of the mother, that would have shown that his own drug addiction was not a volitional choice. (Doc. 129, p. 73-74.) The Court does not agree that the lack of additional testimony of this sort undermines confidence in the verdict. The jury received a substantial amount of information about Jones's childhood. They heard about Jones's abandonment by his biological father, his mother's addiction to crack and gambling, his mother's shooting at him with a gun, the children's being locked in the house when their mother went out, Keisha's drug use and early pregnancies, gang involvement by Jones and his twin Ben, Ben's juvenile detention, Jones's being raised by an aunt and grandparents, the separation of the siblings, Jones's stuttering, his learning disabilities, his attempted suicide and two other self-inflicted gunshot wounds, his frequent changes in residences and schools, his school expulsion, and sexual abuse. (35 RR 51-54, 69, 77, 84, 88-90, 107-110, 150-51, 188, 197, 208, 212, 217-21.) The jury knew Jones began using drugs at the early age of thirteen, used \$50 to \$300 worth of drugs a day, and attended drug rehabilitation in 1998 and 1999 without success. (34 RR 208-09; 35 RR 5-6, 70, 78-79). The evidence showed he used heroin, cocaine, crack, and marijuana and that his gang associates did not want him around because of the heroin use. (35 RR 10, 197-98.) The jury received *657 testimony that Jones had another personality who hurt Jones and called him names, and it received records related to a psychiatric hospital admission in 1996 for shooting himself in the chest and for depression. (35 RR 19-25, 71-74, 106, 153-55; DX 15.)

The jury heard evidence elicited by both sides connecting Jones's drug addiction to his abusive childhood and mental illness. (35 RR 150-52.) The theory that Jones was shaped by his adverse childhood was not seriously disputed by the State.¹³ The State's expert in fact agreed that childhood sexual abuse occurred, that parental neglect and childhood abuse negatively affect one's behavior and judgment, and that a mental disorder such as Jones's increases the probability of substance abuse. (36 RR 111-12, 132-33, 135-38.) Keisha testified that she and her mother also used crack, which reasonably suggested a biological or family component to Jones's addiction. (35 RR 52-53, 77, 84.) Dr. Finn testified on cross-examination about Jones's drug dependency, that is, having to take drugs to avoid withdrawal, rather than simply to get high. (35 RR 196.)

Jones's lack of volitional choice caused by a dysfunctional childhood that led to mental illness and addiction was the major theme for the defense. (36 RR 173-76, 181.) Counsel summarized that it would have been better for Jones if he “had been raised by wolves ... because at least wolves are social animals.” (36 RR 177.) The prosecutor argued simply that it was not an excuse and that, at some point, we know the difference between right and wrong and “regardless of our upbringing or the lack thereof, we make a choice.” (36 RR 170-71, 195-96.) Given the evidence and theories argued by both sides, Jones's assertion that the trial outcome would have been changed by even more evidence of his dysfunctional upbringing is unrealistic.

Jones next asserts that further investigation would have shown that Jones has brain damage from prolonged alcohol and drug abuse. Except for one low-average IQ score of 79, achieved during his preparation for trial, Jones provides no support for the contention that he has brain damage. Certainly, a defendant awaiting trial for capital murder may achieve lower IQ scores for any number of reasons besides brain damage. Even assuming that Jones could now present the opinion of an expert who believes that he has brain damage, it would merely contradict the State's expert. Dueling expert opinions do not establish a “substantial likelihood” of a different trial outcome, as required for prejudice under *Strickland*.

Moreover, assuming Jones's has brain damage from his prolonged alcohol and drug abuse, the Court does not view low-average intelligence as a significantly mitigating circumstance. Cf. *Tennard v. Dretke*, 542 U.S. 274, 287, 124 S.Ct. 2562, 159 L.Ed.2d 384 (2004) (holding that IQ of 67 is inherently mitigating); *Atkins v. Virginia*, 536 U.S. 304, 318–19, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002) (explaining why mental retardation diminishes personal culpability). There is no suggestion in this record that Jones has subaverage intelligence or is intellectually disabled. On the contrary, Dr. Finn testified unequivocally that Jones is not mentally challenged. (35 RR 172.) Dr. Turbeville stated he appeared to be of low-average intelligence. (2 CR 212.) Dr. Price estimated his IQ to be average, based on the scores in his school records. (36 RR 39.) In addition, a defensive theory that emphasized low intelligence and brain damage would have conflicted *658 with, and is no better than, the chosen defensive strategy that Jones had a *dissociative disorder*. Dr. Finn testified that the higher his actual IQ, the more Jones would fit the profile of a person with *dissociative disorder*. (35 RR 172-73, 209.) For all these reasons, Jones's assertion

that counsel overlooked brain damage based on a pre-trial IQ score of 79 does not undermine confidence in the jury's verdict, as required for *Strickland* prejudice.

Jones also contends that further investigation would have provided evidence that Jones would not be a future danger in a structured prison environment. Counsel enacted a reasonable strategy on this issue by presenting testimony, including testimony from two State's witnesses, that Jones could be managed in prison and previously did well in the structured, probation environment. (35 RR 167, 234, 245; 36 RR 124, 150-51.) Jones fails to show what more counsel could have done and therefore fails to demonstrate that counsel's chosen strategy on this issue undermines confidence in the verdict.

Jones alleges that further investigation into Keisha's mental illness would have “cast further light” on the Jones family's history of mental illness, neutralizing Dr. Price's testimony that Jones was merely a psychopath and a drug addict. The record indicates that Keisha was admitted to Charter Hospital for suicidal tendencies and to get away from her older brother's sexual abuse. (Doc. 129-13, p. 3); (35 RR 56.) Jones presents no factual support for his suggestion that another family member was diagnosed with *dissociative disorder*. He presents no factual support that dissociative order is genetic.

Assuming there is a genetic component to his *dissociative disorder*, however, Jones fails to demonstrate that it would have been any more effective with the jury than the theory counsel presented—that his disorder was caused by severe and repeated childhood abuse. This is in part because trial counsel's cross-examination of Dr. Price met or exceeded reasonable professional standards. Co-counsel Moore conferred with Dr. Price before he testified, received material from Dr. Price, and apparently spoke with Dr. Finn to help prepare for Dr. Price's cross-examination. (Doc. 129-8, p. 15.) Under Moore's cross-examination, Dr. Price agreed that Jones was forthright and truthful during the interview, that Jones was in fact sexually abused as a child, that Jones had episodes of self-mutilation, and that “James” manifested prior to the offense for which Jones was on trial. (36 RR 107-08, 111-14.) Dr. Price admitted under Mr. Moore's cross-examination that scoring for the psychopathy checklist is in good part subjective. Price agreed that, with any mental disorder or psychopathy, there is an increased probability of substance abuse because the person is trying to medicate himself. (36 RR 116, 119-20, 134.) Dr. Price testified about the effects of Jones's history of parental neglect and child abuse. He agreed it could lead to behavior problems and

affect a person's judgment of what is right and wrong. When asked what causes psychopathy, Dr. Price testified that the current thinking is that “a person has a [biological] tendency and then lack of early attachments to others, lack of early ... bonding experiences with others has been investigated and found to be more common in the childhoods of psychopaths.” He clarified, “this is not something that, you know, at the age of 12 that some kid decides they want to grow up and be. It's—their life leads them to it.” (36 RR 135-38.) Dr. Price agreed that Jones shot himself in the chest in a serious suicide attempt and not just because Jones was abusing drugs. (36 RR 142.) Dr. Price agreed there was evidence of Jones's remorse. Counsel also established that, unlike Dr. Finn, Dr. Price did not speak to *659 Jones's family members and did not know that Jones had apologized in a phone call and letter to Mattie Long. (36 RR 143-46.) Under counsel's cross-examination, Dr. Price read the jail interview notes to the jury, which indicated that Jones was tearful and said he is turning into “James,” that “James” hurts him, and that he did not mean to kill anybody. (36 RR 147-49.) Trial counsel also pointed out that Dr. Price probably misinterpreted a jail infraction in which Jones had demanded some “rank.” (36 RR 121.) Finally, under counsel's questioning, Dr. Price admitted Jones could be manageable in prison. (36 RR 150-51.)

Counsel's effective cross-examination allowed counsel to argue extensively to the jury that Jones was mentally ill, not a sociopath but that, whatever was wrong with Jones, the experts agreed that it was not a conscious decision on his part. (36 RR 180, 183-89.) Given the concessions from Dr. Price and the arguments asserted to the jury, evidence of a family history of mental illness would add little additional support to the defense, and its absence does not undermine confidence in the verdict.

Jones next argues that further investigation would have shown that Jones's drug use and gang membership was a product of the dangerous neighborhood in which he grew up. (Doc. 129, p. 76.) Jones fails to present evidence that his drug use and gang membership is attributable to the character of his neighborhood. He presents a newspaper article about life in the Riverside area of Fort Worth in the 1980s, but its relevance is unclear. Jones points to evidence that the *victim's* neighborhood was dangerous, but the record indicates that Jones grew up with a grandmother or the victim's sister, Mattie Long, not the victim. And he does not connect any of these addresses to the “Riverside area.” (35 RR 52, 86-88; SPX 2.)

Assuming for the sake of argument that Jones grew up in a bad neighborhood, counsel's chosen strategy of explaining Jones's drug addiction as a product of his childhood abuse and mental illness is improved little, if at all, by that fact. Trial counsel also employed a reasonable strategy for dealing with the gang evidence. Freeman and Keisha testified that Jones was no good at being in a gang because he could not hurt anybody, that his membership was inactive, and that he joined a gang to get a reputation so he would not have to fight. Dr. Finn learned from Ben that Ben quickly surpassed Jones in terms of gang hierarchy, and Jones left the gang after a year because his heroin use made the other gang members avoid him. Freeman's son also testified that Jones told him to never join a gang because one cannot get out. (34 RR 63; 35 RR 29, 76, 80, 197-98.) Growing up in a bad neighborhood, assuming it is true, contributes little to lessening the aggravating impact of Jones's drug use and gang violence. Counsel's failure to pursue such a theory does not undermine confidence in the verdict.

Finally, Jones asserts that Dr. Finn did not have the factual foundation needed for his evaluation and could not “tell the jury who Petitioner is, why Petitioner was so severely drug addicted, or explain what propelled Petitioner to commit the offense.” Jones states that, if the investigation had been sufficient, Dr. Price would not have been able to testify that Dr. Finn was mistaken because he “had not been given all the information that Dr. Price had” been given. Jones contends counsel “did little to assist” both of his experts, and their evaluations were incomplete and unreliable. (Doc. 129, p. 77-78.)

Based on his cross-examination, the information Dr. Finn lacked referred to (1) Keisha's grand-jury testimony that she had never seen “James”; (2) information in *660 Jones's juvenile probation records that others thought Jones was very likeable and a leader, and that people followed him eagerly; (3) a jail incident in April where Jones used abusive language and demanded some “rank”; and (4) a juvenile conviction for assaulting two teachers. (36 RR 61; 35 RR 189-90, 193-95, 203). This information was known to counsel and therefore not overlooked. (4 RR 11 (Keisha's grand jury testimony); 33 RR 77-83; 2 CR 217 (assault on teachers), 240 (April jail incident), 283 (juvenile probation records)).

Moreover, there is no evidence that Dr. Finn's opinion would have changed had he possessed the unknown information. At best, he conceded that Keisha's grand-jury testimony **could** under certain circumstances change his opinion. (35 RR 189,