No. 23-1345

IN THE

Supreme Court of the United States

DANNY RICHARD RIVERS,
Petitioner,

v.

BOBBY LUMPKIN, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION
Respondent.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIEF OF AMICUS CURIAE PHILLIPS BLACK, INC. IN SUPPORT OF PETITIONER

Thomas Roberts
PHILLIPS BLACK, INC.
1901 South 9th St.
Suite 608
Philadelphia, PA 19148

John R. Mills
Counsel of Record
Jack Malsin
PHILLIPS BLACK, INC.
1721 Broadway, Ste. 201
Oakland, CA 94612
(888) 532-0897
j.mills@phillipsblack.org

Counsel for Amicus Curiae

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases

Page(s)

Statutes

Other Authorities

Page(s)

Rules

INTEREST OF AMICUS CURIAE[1]

Amicus Curiae, Phillips Black, Inc., is a non-profit organization dedicated to providing the highest quality legal representation to prisoners in the United States sentenced to the severest penalities under law. Phillips Black further contributes to the rule of law by consulting with counsel in habeas corpus litigation, conducting clinical training in law schools, and developing research on the administration of criminal justice.

Phillps Black attorneys frequently publish scholarship and teach courses on constitutional law and criminal and post-conviction procedure, including federal habeas corpus. Additionally, Phillips Black has represented scores of persons challenging their convictions, at every stage of the federal habeas corpus and state post-conviction processes. In addition to federal habeas corpus representations, Phillips Black assists persons wrongfully convicted in advocating for themselves, including—as set forth herein, *infra* section II—one who was initially denied all relief under the federal habeas corpus statute, the Anti-terrorism and Effective Death Penalty Act of 1996 ("AEDPA"), but was ultimately exonerated and has gone on to join our staff.

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[1] *Amicus Curiae* avers this brief was not authored in whole or in part by counsel for any party and that no person or entity other than amicus curiae or its counsel has made a monetary contribution toward the brief's preparation or submission.

Phillips Black's experience provides deep familiarity with the operation of the federal habeas statute and its availability for challenging the validity of state court judgments, including those wrongfully convicted.

INTRODUCTION AND SUMMARY OF ARGUMENT

Federal habeas corpus, as regulated by AEDPA, provides a vital safeguard in protecting the rights of the 1.9 million persons incarcerated in this country. Since the Reconstruction Era, the federal habeas corpus statute has explicitly provided a mechanism for ensuring that state courts provide the Constitution's guarantees in the administration of criminal law. Even prominent critics of federal habeas corpus jurisprudence have acknowleged it is a vital vehicle for the wrongfully convicted to obtain relief, urging that innocence play a prominent role in its administration.

However, the Court of late has repeatedly expressed concerns that the lower federal courts are giving inadequate deference to state court judgments. Indeed, a grant of habeas relief, along with a denial of qualified immunity, may be the category of cases most likely to be treated with summary reversal by this Court.

To the extent the Court harbors concerns that the lower federal courts are too quick to grant relief, the actual practices of those courts tell a different story. Federal petitioners, almost all of whom are pro se, are exceedingly unlikely to obtain relief of any

sort. Instead, it is counseled petitioners—almost exclusively in capital cases, which are rife with close questions of fact and law—who obtain relief. But those cases represent but a tiny fraction of the the prison population in this country and the federal courts' habeas docket.

Instead, it is all too often that AEDPA operates to foreclose relief for even those suffering from the gravest injustices: those who are factually innocent. Amicus has identified dozens of persons who were ultimately exonerated of their crimes, but were barred from obtaining relief under AEDPA. For those individuals, it was only through state court litigation or the state's waiver of AEDPA's procedural bars that they obtained relief. To the extent that the Court is concerned that the administration of habeas corpus in the federal courts is driving injustice, Amicus urges the Court to consider the experience of these individuals.

ARGUMENT

I. Federal Habeas Corpus Plays a Vital Role in the Administration of Justice

A. Historically, habeas corpus provided a post-conviction mechanism for addressing constitutional defects in convictions

The vitality of federal habeas corpus as a means for addressing defects in criminal judgments dates to the founding. The Judiciary Act of 1789 provided for judicial inquiry "into the cause of [a federal prison-

er's] commitment." *See* Act of Sept. 24, 1789, § 14, 1 Stat. 81-82. The federal courts in the mid-19th century granted post-conviction relief to federal prisoners, notwithstanding a lack of express statutory power to inquire into final convictions. *See Ex parte Wells*, 59 U.S. 307, 315 (1856). And they did so while rejecting arguments when they were not empowered to do so. *Id.* at 330 (Curtis, J., dissenting); *see also Ex parte Lange*, 85 U.S. 163, 178 (1874) (granting relief and discharging federal prisoner in light of Double Jeopardy violation).

Along with many other changes to the constitutional order, the Civil War brought sweeping change to the scope of the federal habeas statute. Congress's post-bellum amendment to the Judiciary Act included a dramatic change in the scope of its authorization of the writ of habeas corpus. Act of Feb. 5, 1867, 14 Stat. 385. It expanded the act to reach "all cases where any person may be restrained of his or her liberty" in violation of the the Federal Constitution. *Id.*

In the wake of these changes, the federal courts granted relief for all manner of constitutional violations. As Justice Kagan has noted:

> The Court granted post-conviction relief to protect habeas applicants' rights to a grand jury indictment, to a jury trial to assistance of counsel, and against self-incrimination. The Court granted post-conviction relief for violations of the Equal Protection Clause, the Double Jeopardy Clause, and the *Ex Post Facto* Clause. And as the due process rights expand-

> ed in the first half of the 20th century, the Court held post-conviction habeas relief proper for those claims too.

Brown v. Davenport, 596 U.S. 118, 148–49 (2002) (Kagan, J., dissenting) (citations omitted).

Historically, federal habeas corpus has played an important role in allowing persons to vindicate their federal constitutional rights in post-conviction proceedings.

B. Federal habeas corpus remains an important vehicle for correcting unconstitutional sentences

Against this historical backdrop, it is undeniable that the current embodiment of the federal habeas statute marks a sharp turn away from providing a mechanism for obtaining relief. Instead of simply assessing the merits of a constitutional claim, habeas adjudications are often enmeshed in layers of procedural issues, requiring the federal courts to deny relief notwithstanding the merits of a constitutional claim. *See* 28 U.S.C. § 2254; *Christeson v. Roper*, 574 U.S. 373, 380 (2015) (per curiam) ("To be sure, Christeson faces a host of procedural obstacles to having a federal court consider his habeas petition.").

But federal habeas corpus remains as important as ever for addressing constitutional errors in criminal cases. *See, e.g.*, *Andrew v. White*, No. 23-6573, __ S. Ct. __, Slip Op. at 1 (Jan. 21, 2025) (holding due process can serve as basis for habeas relief where

"'evidence is introduced that is so unduly prejudicial that it renders a trial fundamentally unfair'" (quoting *Payne v. Tennessee*, 501 U.S. 808, 825 (1991)).

With incarceration at historic highs in the United States, the need for federal supervision remains important to the fair and reliable administration of criminal law. *See* Ashley Nellis, *Mass Incarceration Trends*, The Sentencing Project Fig. 1 (May 21, 2024). Approximately 1.9 million people are currently incarcerated in the United States. *See* Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2024*, Prison Policy Initiative (Mar. 14, 2024). Over one million of those people are in state prisons. *Id.* By some estimates, at least 4.1% percent of those currently facing execution are innocent. *See* Samuel Gross, et al., *Rate of False Conviction of Criminal Defendants Who Are Sentenced to Death*, 20 Proc. Nat'l Acad. Sci. 7230, 7230 (2014). Like the petitioner here, whether they may ever obtain relief will turn on how this Court interprets questions about the scope of the federal habeas statute.

Nonetheless, many recent decisions of this Court have lamented that the lower federal courts are too quick to grant habeas corpus relief. Indeed, when a Circuit Court holds that an inmate is entitled to habeas relief, this Court is, perhaps more than in any other category of cases, likely to intervene and summarily reverse. *See* John Elwood, *Holding Prison Officials Accountable for COVID Measures*, SCOTUSBlog (Jan. 9, 2025) (noting the Court "devotes significant resources to summary decisions reversing what it concludes are unwarranted denials of qualified immunity, as well as unwarranted grants

of habeas relief."). When it intervenes in this way, the Court is also often sharply critical of the lower court. *See, e.g.*, *Sexton v. Beaudreaux*, 585 U.S. 961, 967 (2018) (per curiam); *Virginia* v. *LeBlanc*, 582 U.S. 91, 96 (2017) ("The federalism interest implicated in AEDPA cases is of central relevance in this case, for the Court of Appeals for the Fourth Circuit's holding created the potential for significant discord in the Virginia sentencing process."); *Johnson* v. *Lee*, 578 U.S. 605, 611 (2016) ("The Ninth Circuit's decision is thus fundamentally at odds with the 'federalism and comity concerns that motivate the adequate state ground doctrine in the habeas context.'"); *Davis v. Ayala*, 576 U.S. 257, 281 (2015) ("This is not how habeas review is supposed to work. The record provides no basis for the Ninth Circuit's flight of fancy."). These summary reversals are, generally, a "rare disposition," but are quite common where a lower court has granted relief. *Schweiker v. Hansen*, 450 U.S. 785, 791 (1981) (Marshall, J., dissenting). That trend demonstrates a willingness to spend significant resources restricting the availability of habeas relief.

Whatever may be behind the appetite for error correction in habeas cases, the reality on the ground tells another story. For example, "In 1990, according to the Administrative Office of the Courts, the petitioner prevailed in 2.9% of the cases. In 1996, the petitioner prevailed in 3.01% of the cases. By 2003, the number of cases in which the petitioner prevailed had fallen somewhat to 2.75%." John H. Blume, *AEDPA: The "Hype" and the "Bite"*, 91 Cornell L. Rev. 259, 285 (2006). As of 2006, "[l]ess than 1% of state prisoners who file federal habeas petitions ul-

timately prevail." *Id.* at 284. Notwithstanding this incredibly low success rate and historically high levels of incarceration, the Court continues to single out those who have been *granted* habeas relief for error correction.

II. Innocent People Are Often Unable to Overcome AEDPA's Restrictions

Innocence is missing from much of the Court's discussion of the operation of the federal writ. To be sure, the historical role of the writ was broader and focused on correcting constitutional defects, a broader concern than innocence alone. *Supra* § I. But even modern critics of the writ have pressed for the writ to be available to those with substantial claims of innocence.

Famously, Judge Henry J. Friendly, in a critique of the Warren Court's habeas corpus jurisprudence asked, "Is innocence irrelevant?" Henry J. Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142 (1970). Concluding that it ought not to be, Judge Friendly argued for the centrality of innocence to federal habeas jurisprudence, contending that, generally, "convictions should be subject to collateral attack only when the prisoner supplements his constitutional plea with a colorable claim of innocence." *Id.* at 142. Judge Friendly's argument proved influential: writing for the majority in *Stone v. Powell*, Justice Powell cited Judge Friendly for the view that "the Court should re-examine the substantive scope of federal habeas jurisdiction and limit collateral review" of certain non-innocence-based claims to the availabil-

ity and adequacy of state-court review. *See Stone v. Powell*, 428 U.S. 465, 480 & n. 13 (1976). The *Stone* majority itself hewed to Judge Friendly's view, circumscribing non-innocence-based Fourth Amendment claims in federal habeas to whether "the State has provided an opportunity for full and fair litigation" of the claim. *See id.* at 494–95. And Judge Friendly's insistence on the centrality of innocence would continue to influence Justice Powell in his report on the state of habeas corpus, which would, in turn, serve as the basis for AEDPA. *See* Bryan Stevenson, *The Politics of Fear and Death*, 77 N.Y.U. L. Rev. 699, 723 (2002). Indeed, while the word "deference" makes no appearance in AEDPA, the statute explicitly spells out a standard for assessing innocence-based claims. *See* 28 U.S.C. § 2254(e)(2)(B).

It is no answer to suggest that the State will waive AEDPA's restrictions in innocence cases. Indeed, States appearing before this Court have repeatedly taken the position that innocence is not enough, particularly in habeas cases. *See, e.g.*, Oral Arg. at *4, *Shinn v. Martinez Ramirez*, No. 20-1009, 2021 WL 9526559 (U.S. Dec. 8, 2021) ("That no factfinder could have found the prisoner guilty is not enough."). Texas went as far as suggesting that executing the innocent would not, without more, be unconstitutional. *See* Resp. Br. at *36, *Herrera v. Collins*, No. 91-7328, 1992 WL 532909 (U.S. July 10, 1992) ("The question whether an individual is guilty or innocent of a state offense is not just a state law question, *which is outside the ambit of federal jurisdiction*, but is the ultimate state law question at the criminal trial." (emphasis added)). Moreover, allow-

ing states to be the gatekeeper to relief would effectively allow the fox to guard the henhouse.

Amicus has identified nearly two dozen persons who were exonerated[2] after being denied all relief under AEDPA, as enumerated in the Appendix. To be clear, this cohort does not include any persons who were able to clear AEDPA's hurdles and obtain an exoneration. These individuals were denied relief under AEDPA and then later obtained relief, either through state court proceedings or in federal proceedings after the state waived AEDPA's procedural defenses.

Although each case is compelling—an innocent person was freed despite the federal courts denying relief—several are illustrative and presented here in more detail for the Court's consideration as it addresses the statutory questions in Mr. Rivers' case.

Take first the example of Stephen Lazar,[3] who was exonerated in 2023—more than six years after the federal district court denied habeas relief based "solely on the exceedingly deferential framework imposed . . . by [AEDPA]." *Lazar v. Coleman*, No. 14-6907, 2017 WL 783666, at *1 (E.D. Pa. Mar. 1, 2017)

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[2] To compile this list, counsel have relied on the University of Michigan's widely used National Registry of Exonerations to confirm these exonerations. *See* Glossary, The National Registry of Exonerations, https://www.law.umich.edu/special/exoneration/Pages/glossary.aspx.

[3] Mr. Lazar is an employee of Phillips Black, Inc.

("*Lazar I*"). Mr. Lazar was wrongfully convicted in 2010 of second-degree murder, robbery, and possession of an instrument of crime after Philadelphia police neglected to investigate alternative suspects and suppressed the records of misconduct history of the lead detective. *See Lazar v. The Att'y Gen. of Pa.*, 659 F. Supp. 3d 599, 606–08 (E.D. Pa. 2023) ("*Lazar II*"). Although he was eventually exonerated in federal court through a writ of habeas corpus, Mr. Lazar was forced to wait until the federal court re-opened Mr. Lazar's case pursuant to Federal Rule of Civil Procedure 60(b) and the Commonwealth waived AEDPA's exhaustion requirement. *See id. at* 601, 609.

When the district court initially denied Mr. Lazar's petition under AEDPA, the substantial evidence of police misconduct that made his wrongful conviction possible was unknown to both the court and Mr. Lazar. Without this crucial evidence, the district court had disagreed with—yet deferred under AEDPA to—the state court's analysis of the prejudice prong of Mr. Lazar's ineffective assistance of counsel claim. *See Lazar I*, 2017 WL 783666, at *1, 5. At that stage in the proceedings, Mr. Lazar's primary claim asserted the ineffectiveness of trial counsel for stipulating to an incorrect date for Mr. Lazar's most recent use of methadone—an error which falsely belied Mr. Lazar's assertion that he was suffering from acute methadone withdrawal at the time that he gave a false confession. *See id.* at *2–3. Although the district court issued a Certificate of Appealability, the Third Circuit Court of Appeals affirmed, also relying upon AEDPA's deferential standard of review.

See Lazar v. Superintendent Fayette SCI, 731 F. App'x 119, 122–23 (3d Cir. 2018).

Strikingly, the claims that ultimately led to Mr. Lazar's exoneration did not arise until he was finally given access to files exclusively possessed by the Philadelphia District Attorney's Office in 2021, three years after the Third Circuit affirmed the denial of habeas relief under AEDPA. *See Lazar II*, 659 F. Supp. 3d at 606. Similarly, the claims Mr. Rivers seeks to add in an amended petition did not arise until "he was finally able to review his 'long-requested' attorney-client file" nearly three years after the district court denied habeas relief. *Rivers v. Lumpkin*, 99 F.4th 216, 219 (5th Cir. 2024).

Take also the example of Jeffrey Deskovic, who was exonerated by DNA evidence in 2006—16 years after his wrongful convictions for murder and rape, and 6 years after the Second Circuit affirmed the dismissal of his federal habeas petition under AEDPA's stringent timeliness requirements. *See Deskovic v. City of Peekskill*, 894 F. Supp. 2d 443, 449 (S.D.N.Y. 2012) ("*Deskovic I*"). Mr. Deskovic averred in his original federal habeas petition that "he was denied a fair trial because D.N.A. evidence implicated a person other than" himself. *Deskovic v. Mann*, No. 97 Civ. 3023(BSJ), 1997 WL 811524, at *1 (S.D.N.Y. Nov. 20, 1997). The district court, applying AEDPA, ruled that Mr. Deskovic's federal habeas petition was untimely, *id.* at *2, and the Second Circuit affirmed, finding that Mr. Deskovic was not entitled to equitable tolling, *see Deskovic v. Mann*, 210 F.3d 354 (2d Cir. 2000).

Mr. Deskovic was exonerated when, in 2006, renewed DNA testing yielded a match with Steven Cunningham, who had been convicted of sexually assaulting and murdering another woman three years after the offense that gave rise to Mr. Deskovic's wrongful conviction. *Deskovic I*, 894 F. Supp. 2d at 449. Mr. Cunningham confessed shortly thereafter, and Mr. Deskovic's convictions were vacated in New York state court. *Deskovic v. City of Peekskill*, No. 07-cv-8150 (KMK), 2009 WL 2475001, at *6 (S.D.N.Y. Aug. 13, 2009). The Westchester District Attorney dismissed the indictment "on the ground of actual innocence." *Id.*

Finally, consider the case of James Lucien, who was wrongfully convicted in 1995 of murder and armed robbery based on his alleged involvement in the shooting death and robbery of Ryan Edwards. *See Lucien v. Spencer*, No. 07-11338, 2015 WL 5824726, at *1–3 (D. Mass. Sep. 30, 2015). Mr. Edwards was shot while sitting in the driver's seat of a car during a drug transaction; Mr. Lucien had been sitting in the back seat, and the victim's brother had been in the front passenger seat before exiting the vehicle during the transaction. *Id.* at *2. The victim's brother testified at trial that he saw Mr. Lucien shoot Mr. Edwards. *See id.* at *27. This false accusation by the actual perpetrator was exposed 26 years later, long after federal habeas relief had been denied under AEDPA.

Mr. Lucien's federal habeas petition claimed trial counsel was ineffective for failing to call two expert witnesses, who would have testified that the fatal shot was not fired from Mr. Lucien's position in

the back seat, but rather from outside the front passenger door. *See id.* at *27-32. Under AEDPA's deferential standard of review, the federal court deferred to the state court's conclusion that trial counsel strategically elected not to call these experts. *Id.* Trial counsel's only proffered reason for not calling these experts was that he did not want "to anger them" by calling them to testify in a trial scheduled for the week of Thanksgiving. *See id.* at *4, 28; *see also Lucien v. Spencer*, 871 F.3d 117, 128–29 (1st Cir. 2017) ("*Lucien II*"). In affirming the district court, the First Circuit implied that trial counsel's decision may have been negligent but emphasized AEDPA's "doubly deferential" standard of review and deferred to the state-court analysis of Mr. Lucien's claim. *See Lucien II*, 871 F.3d at 131.

In 2021, the Suffolk County District Attorney's Office reviewed Mr. Lucien's conviction in light of revelations of severe and pervasive misconduct by the lead detective. Maurice Possley, *James Lucien*, The National Registry of Exonerations (Dec. 2, 2024) https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=6088. Through this reinvestigation, the victim's brother emerged as a chief alternative suspect, and Mr. Lucien was exonerated in state court. *See id.*

As this Court interprets whether Mr. Rivers should be able to present his claim for relief, amicus urges the Court to consider the experience of these individuals and the important role for habeas corpus to play in protecting the innocent.

CONCLUSION

For the foregoing reasons, this Court should reverse the judgment of the Fifth Circuit.

Respectfully submitted,

Thomas Roberts
PHILLIPS BLACK, INC.
1901 South 9th St.
Suite 608
Philadelphia, PA 19148

John R. Mills
Counsel of Record
Jack Malsin
PHILLIPS BLACK, INC.
1721 Broadway, Ste. 201
Oakland, CA 94612
(888) 532-0897
j.mills@phillipsblack.org

Counsel for Amicus Curiae

Date January 28, 2025

APPENDIX

NON-EXHAUSTIVE LIST OF FEDERAL HABEAS PETITIONERS DENIED RELIEF UNDER AEDPA AND SUBSEQUENTLY EXONERATED

Name (Last, First)	**Federal Case Citations**	**Mode of Exoneration** (state court, AEDPA waiver)
Briley, Yutico	• R. & R., *Briley v. Kent*, No. 18-10620, 2019 WL 3230865 (E.D. La. June 11, 2019) (recommending denial of petition) • *Briley v. Kent*, No. 18-10620, 2019 WL 3220119 (E.D. La. July 17, 2019) (Barbier, J.) (adopting recommendation) • *Briley v. Kent*, No. 19-30607, 2020 WL 13563761 (5th Cir. 2020) (deny-	State court

	ing certificate of appealability (COA))	
Cosenza, Natale	• *Cosenza v. Marshall*, 568 F. Supp. 2d 78 (D. Mass. 2007)	State court
Deskovic, Jeffrey	• *Deskovic v. Mann*, No. 97 Civ. 3023(BSJ), 1997 WL 811524 (S.D.N.Y. Nov. 20, 1997) • *Deskovic v. Mann*, 210 F.3d 354 (2d Cir. 2000)	State court
Duncan, Calvin	• *Duncan v. Cain*, 278 F.3d 537 (5th Cir. 2002)	State court
Ellis, Sean	• R. & R., *Ellis v. Marshall*, No. 01-cv-12147 (D. Mass. May 22, 2012), ECF No. 81. • Am. R. & R., *Ellis v. Marshall*, No. 01-cv-12147 (D. Mass. Sept. 21, 2012), ECF No. 93. • Order, *Ellis v. Marshall*, No. 01-cv-12147 (D.	State court

	Mass. May 22, 2012), ECF No. 81. • Mem. & Order, *Ellis v. Marshall*, No. 01-cv-12147 (D. Mass. July 10, 2013), ECF No. 104.	
Foxworth, Robert	• *Foxworth v. St. Amand*, 570 F.3d 414 (1st Cir. 2009) • *Foxworth v. St. Amand*, 612 F.3d 705 (1st Cir. 2010)	State court
Graves, Keith	• *Graves v. Wenerowicz*, No. 10-1563, 2014 WL 2587044 (E.D. Pa. June 9, 2014) • Order, *Graves v. Sup't Graterford SCI*, No. 14-3223 (3d Cir. Apr. 16, 2015)	State court
Hicks, Termaine	• *Hicks v. DiGuglielmo,* No. 09-4255, 2013 WL 4663266 (E.D. Pa. Aug. 29, 2013) • Order*, In re:*	State court

	Termaine Hicks, No. 13-3455 (3d Cir. Dec. 3, 2013)	
Hollman, Chester	• *Hollman v. Wilson*, 158 F.3d 177 (3d Cir. 1998)	State court
Jenkins, Shaun	• *Jenkins v. Bergeron*, 67 F. Supp. 3d 472 (D. Mass. 2014), *aff'd*, 824 F.3d 148 (1st Cir. 2016)	State court
Johnson, William	• *Johnson v. Lamas*, No. 12-5156, 2014 WL 3035671 (E.D. Pa. July 1, 2014), *aff'd*, 850 F.3d 119 (3d Cir. 2017) • Joint Mot. for Relief ¶ 11, *Johnson v. Salomon*, No. 12-5156 (E.D. Pa. Mar. 9, 2023), ECF No. 35 (waiving AEDPA's procedural defenses as to Claim II) • Order, *Johnson v. Salomon*, No. 12-5156 (E.D. Pa. Mar. 13, 2023),	AEDPA waiver

	ECF No. 36 (granting habeas relief as to Claim II)	
Jordan, Tracy	• *Jordan v. McGinley*, No. 16-2784, 2018 WL 2735352 (E.D. Pa. June 7, 2018), *aff'd sub nom. Jordan v. Sup't Coal Twp. SCI*, 841 F. App'x 469 (3d Cir. 2021)	State court
Juluke, Bernell	• Order and Reasons, *Juluke v. Cain*, No. 02-3582 (E.D. La. Jan. 26, 2004), ECF No. 14 • *Juluke v. Cain*, 134 F. App'x 684 (5th Cir. 2005)	State court
Lazar, Stephen	• *Lazar v. Coleman*, No. 14-6907, 2017 WL 783666 (E.D. Pa. Mar. 1, 2017), *aff'd sub nom. Lazar v. Sup't Fayette SCI*, 731 F. App'x 119 (3d Cir. 2018), *cert. denied sub nom.*	AEDPA waiver

	Lazar v. Capozza, 139 S. Ct. 1167 (2019) • *Lazar v. The Att'y Gen. of Pa.*, 659 F. Supp. 3d 599, 602, 609 (E.D. Pa. 2023) (granting habeas relief and noting "the Commonwealth has expressly waived the exhaustion requirement as to Petitioner's claims two and four.")	
Lewis, Terrance	• *Lewis v. Wilson*, 748 F. Supp. 2d 409 (E.D. Pa. June 22, 2010), *aff'd*, 423 F. App'x 153 (3d Cir. 2011)	State court
Lucien, James	• *Lucien v. Spencer*, No. 07-11338-MLW, 2015 WL 5824726 (D. Mass. Sept. 30, 2015), *aff'd*, 871 F.3d 117 (1st Cir. 2017)	State court

Ramirez, Edward	• *Ramirez v. DiGuglielmo*, No. 12-5803, 2014 WL 4473651 (E.D. Pa. Sept. 11, 2014)	State court
Reeder, Kuantau	• *Reeder v. Cain*, No. 13-6493, 2017 WL 1056011 (E.D. La. Mar. 21, 2017), *aff'd sub nom. Reeder v. Vannoy*, 978 F.3d 272 (5th Cir. 2020)	State court
Simmons, Glynn	• *Simmons v. Reynolds*, No. 5:97-cv-00649 (W.D. Okla. Sep. 1, 1998) (Magistrate's report & recommendation to deny discovery and deny relief); *id.* (W.D. Okla. Sep. 28, 1999) (adopting Magistrate's R&R and denying COA) • *Simmons v. Ward,* 198 F.3d 258 (10th Cir. Oct. 29, 1999)	State court

Swainson, Andrew	• *Swainson v. Walsh*, No. 12-165, 2014 WL 3508642 (E.D. Pa. July 16, 2014) • Order, *Swainson v. Walsh*, No. 14-3649 (3d Cir. Aug. 13, 2015)	State court
Veasy, Willie	• *Veasy v. DiGuglielmo*, No. 04-2719, 2004 WL 2931267 (E.D. Pa. Dec. 15, 2004)	State court
Williams, Christopher	• *Williams v. Beard*, No. 01-4947, 2006 WL 3486457 (E.D. Pa. Dec. 1, 2006), *aff'd*, 300 F. App'x 125 (3d Cir. 2008), *cert. denied*, 558 U.S. 866 (2009)	State court