No. 24-6629

IN THE

Supreme Court of the United States

GEORGE CLEVELAND III, ET., AL.,

Petitioners,

v.

SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES,

Respondent.

PETITIONERS' PETITION FOR REHEARING

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CORPORATE DISCLOSURE

The Corporate Disclosure Statement in the petition remains unchanged.

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Pursuant to *Rule 44.2* of this court's rules, Petitioner George Cleveland III, and Kristie L. Taylor, both proceeding *pro se*, respectfully petition for rehearing of this court's order denying certiorari in this case based on intervening circumstances of a substantial or controlling effect based on this court's opinion in *Glossip v. Oklahoma, 604 U.S. _____(2025)* published by this court just one day after this court denied certiorari in this case. In *Glossip*, this court ruled that a state prosecutor cannot knowingly allow false testimony to go uncorrected citing *Napue v. Illinois, 360 U.S. 264, 269 (1954)*. Question IV that was presented to this court in our certiorari petition was: "Whether the Due Process Clause prohibits a state's trial court from using knowingly false material testimony in a child abuse and neglect case in its findings against a Defendant"?; thus, *Glossip* creates intervening circumstances of a substantial or controlling effect to our Question IV.

I.

GROUNDS FOR REHEARING

Petition for rehearing of an order denying certiorari may be granted if a petitioner can: demonstrate "intervening circumstances of a substantial or controlling effect." *R. 44.2.* Here, the intervening case was decided by this court on February 25, 2025 in *Glossip v. Oklahoma, 604 U.S. _____(2025)*, and *Carter v. State of Utah (no. 20221116) (2025)* both intervening cases are relevant to our presented Question IV before this court in our certiorari petition, we presented the following question: **"Whether the Due Process Clause prohibits a state's trial**

court from using knowingly false material testimony in a child abuse and neglect case in its findings against a Defendant?"

In *Glossip*, Sneed the State's star witness was taken "lithium" to treat his bipolar mental illness, and the prosecution allowed Sneed to falsely testify that he never seen a psychiatrist. This court reversed the death conviction because the State's start witness (Sneed) 'testimony was false, and that the prosecution knowingly failed to correct it []" violating *Napue*.

In *Carter v. State of Utah (No. 20221116),* the Utah Supreme Court on May 15, 2025 reversed *Carter's* conviction on the grounds that two witnesses testified at trial that *Carter* confessed to the witnesses to the murder; however, decades later, both witnesses admitted their testimony was false and the police threaten them to make untrue statements. Both the *Carter* and *Glossip* courts cited *Napue v. Illinois* as authority to reverse both judgments. The same should be done in this case because materially false testimony has went uncorrected by multiple South Carolina Department of Social Services (hereinafter SCDSS) prosecutors for over four (4) years causing our children to languish in the foster care system in South Carolina.

In *Napue v. Illinois, 360 U.S. 264, 269 (1954),* this court ruled that a conviction knowingly "obtained through use of false evidence" violates *the Fourteenth Amendment's Due Process Clause, id.*, at 269, and in order to "establish a *Napue* violation, this court ruled a defendant must show that the prosecution knowingly solicited false testimony or knowingly allowed it "to go uncorrected when

it appear[ed]." *IBID.* And "[i]f the defendant makes that showing, a new trial is warranted so log as the false testimony 'may have an effect on the outcome of the trial.'" *Id.*, at 272. Quoted from *Carter* and *Glossip.*

The trial court, nor any state attorney employed by SCDSS, never corrected the material false testimony, even though SCDSS investigator Bowens even admitted at the merits hearing on July 13, 2021 that our then five year old daughter **did not** disclose to her that she witnessed domestic violence between Petitioner Cleveland Taylor. South Carolina family court judge Karen F. Ballenger still put the material false testimony in her findings of facts, and conclusions of law, and judge Ballenger even added another SCDSS employee that our then five year old daughter disclosed to the made-up SCDSS employee she witnessed domestic violence between Petitioner Cleveland and Taylor in her findings of fact and conclusion of law. Despite repeated material false testimony argument in post-trial motions, briefs filed in the S.C. Court of Appeals, and S.C. Supreme Court filed by us, the false testimony has not been corrected, and the judgment has not been Vacated. The false testimony will have an effect on the outcome of the trial because the false testimony was material to the trial court's abuse and neglect findings against Petitioner Cleveland and Taylor. The Merits Order is in the Appendix filed with our certiorari petition.

II.

THE COURT SHOULD GRANT REHEARING

BECAUSE AN INTERVENING CIRCUMSTANCE

AROSE UNDER *Glossip v. Oklahoma 604 U.S._____(2025)*

AFTER THIS COURT DENIED CERTIORARI AND JUSTICE REQUIRES

THIS COURT TO RESOLVE THE INTERVENING CIRCUMSTANCES

On February 25, 2025, this court ruled in *Glossip v. Oklahoma 604 U.S. 264 (2025)* the State conceded its failures to correct Sneed's testimony "violated *Napue v. Illinois, 360 U.S. 264, 269 (1959)* which held that prosecutors have a constitutional right obligation to correct false testimony." This court concluded "[b]ecause the prosecution violated its obligations under *Napue*, we reverse the judgment below and remand the case for a new trial."

On February 24, 2025, our petition for a writ of certiorari to the South Carolina Court of Appeals was docketed in this court, certiorari was denied on April 21, 2025, and **Question IV** we presented to this court was: "Whether the Due Process Clause prohibits a state's trial court from using knowingly false material testimony in a child abuse and neglect case in its findings against a Defendant?" *Glossip* is relevant to our petition because both issues merit directly with "false testimony" and the Fourteenth Amend. of the United States Constitution. The same two issues connected to our certiorari petition.

In our petition, we contended SCDSS investigator Majera Bowens (hereinafter Bowens) gave false testimony on July 13, 2021 at the abuse and neglect merits trial by testifying on direct examination that our then five year old daughter

disclosed to her that she witnessed domestic violence between Petitioner Cleveland and Taylor; however, Bowens admitted on cross examination by Petitioner Cleveland[1] that the disclosure testified on direct examination was false and the other witness the judge Ballenger wrote in her findings of fact and conclusions of law does not exist. There is not another SCDSS witness that testified to the domestic violence disclosure at the July 13, 2021 or December 10, 2021 merits hearings transcripts[2], and again, no such testimony is supported in the July 13, 2021 or December 10, 2021 trial transcripts in the appendix filed with our certiorari petition filed in this court. At no point did a single prosecutor employed or contracted by SCDSS in abuse and neglect cases notified judge Ballenger, or the South Carolina Court of Appeals to correct the material false testimony by Bowens, or the other made up SCDSS witness by judge Ballenger; accordingly, this court should Grant our rehearing petition, Vacate the April 21, 2025 order denying our petition for a writ of certiorari, and Grant our petition for a writ of certiorari.

In this case, Petitioners Cleveland and Taylor have been consistent in asserting Bowens' false testimony, and the made-up-out-of-thin-air-findings by the state's trial court false witness since filing post-trial motion to alter or amend the false testimony, and in the South Carolina Court of Appeals through filed briefs, both courts failed to correct the false testimony. None of the Prosecutors for DSS[3]

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[1] Petitioner Cleveland has proceeded *Pro se* since our children entered foster care on April 16, 2021.
[2] Both dates were the only two days that were witness testimony was given, see 63a, 80a.
[3] State atty. Kristin K. Millonzi, J. Victor McDade, Kathryn J. Walsh, or Robert C. Rhoden, III.

corrected the false testimony, despite having knowledge and ample time to file a post-motion in the trial court or South Carolina Court of Appeals.

In our brief filed in the South Carolina Court of Appeals, we argued: **"DSS Inv. Bowens committed perjury during her testimony that directly related to this matter at the July 13, 2021 merits trial by testifying that [our then five year old daughter] disclosed to her that she witnessed domestic violence between Cleveland, and [Petitioner Taylor]" and that the "family court erroneously relied on Bowens' perjured testimony in its' findings."**

Specifically, we asserted in our brief filed in the South Carolina Court of Appeals (see 216a-218a): "[o]n July 13, 2021 at the merits trial during direct examination by DSS attorney Millonzi, Bowens testified...direct by Ms. Millonzi":

Q. "Now, you mentioned that you went inside the home and the children were present. Did you speak with the children at that time?"

A. "At that time, no."

Q. "Did you speak with [our then five-year-old] at any point in your investigation."

A. "Yes"

Q. "Did [our the five-year old] make any disclosures to you about domestic violence?"

A. "Yes"

Q. "What were those disclosures?"

A. "that she seen [Petitioner Taylor] hit-I'm sorry-she seen [Petitioner] Cleveland hit [Petitioner Taylor] before." App. 72-73.

Conversely, on cross-examination by Petitioner Cleveland, Bowens admitted her testimony regarding our then five-year domestic violence disclosure was false testimony:

Q. "You testified that you spoke with [our then five-year], which is the five-year old on April 9th [2021] right?"

A. "yes"

Q. "Do you remember not saying anything at the probable cause hearing about [our then five-year old] admitting to [seeing] domestic violence?"

A. "I don't remember." *IBID.*

Q. "Did she [our then five-year-old] or did she not on April 9th [2021] admit to you when you were speaking about with her about domestic violence?"

A. "No". App. 74.

In addition, we argued in our brief filed in the South Carolina Court of Appeals, the state trial court never even mentioned the names of the "two witnesses" that court stated in its findings of facts, and conclusions of law Order (Merits Order).

"The family court erred in ruling that at least one of the children disclosed that she witnessed [Father hit Mother] that testimony was admitted through, according to the family court from the testimony of two witnesses without objection." App. 201.

SCDSS was represented by Mr. Robert C. Rhoden III in the South Carolina Court of Appeals. In his reply brief on behalf of SCDSS, he did not at any point correct the false testimony by Bowens, or the made-up second witness, see sup. app. 2-22.

The South Carolina Court of Appeals erroneously agreed with the state's trial court's erroneous false testimony by Bowens and made up second unnamed witness by ruling: **"We hold the orders included sufficient findings of fact to enable appeal review...two witnesses testified without objection that at least one of the children reported she witnessed Father hit Mother." App. 3.**

Petitioner Cleveland argued in post-trial Motion hearing to alter or amend the trial court's Merits Order that "the merits findings that at least one of the children disclose that she had witnessed [Petitioner]...Cleveland, hit [Petitioner] Taylor, that testimony you say in the order was by two witnesses and I didn't object... I did object to that as well under unfair prejudice[]." App. 149, lines 5-11. "[SC]DSS Investigator Bowens, testified to anything dealing with what [our then five-year-old] disclosed to her...under oath she admitted was not true." App. 149, lines 12-15.

Mr. J. Victor McDade represented SCDSS at the post-trial alter or amend the Merits Order hearing, heard my false testimony arguments, and did not respond, but stayed silent on my false testimony arguments. App. 196, lines 1025; App. 197, line 1.

Mr. McDade did not even correct the false testimony findings and conclusions of law made by the state's trial court at the March 4, 2022 hearing. At that hearing, id., the trial court found a substantial risk of physical harm against Petitioner Cleveland and Taylor due to alleged domestic violence in front of our then five-year-old child based on the false testimony. App. 282, lines 2-8; App. 284; App. 288.

Bowens was the only witness that testified at the first abuse and neglect merits hearing on July 13, 2021. During the December 10, 2021 abuse and neglect merits hearing, five witnesses testified, but none of the other SCDSS witnesses testified to my five-year-old disclosure to witnessing domestic violence; 1. Nicole Burdette (Bowens' supervisor) testified about the safety plan Petitioner Taylor signed. App. 398, lines 23-25; App. 399-401; App. 403, lines 1-8. Foster care case manager Codi Buchanan testified to treatment service SCDSS requested to be ordered by trial court App. 466, lines 5-25; App. 447-457, App. 458, lines 1-8. The SCDSS' county director Kenneth McBride testified the procedures that were taken before and after our three children connected to this case entered foster care. App. 483, lines 17-25; App. 484-492. SCDSS' human coordinator Shane Vanhook testified that to Petitioner Taylor completing treatment services in 2019 that did not involve this case. App. 495-499. And finally, guardian ad liten for our children Holly Garcia

testified about her observations between us, and our children, and her recommendation of reunification. App. 511, lines 19-25, App. 512-516.

Glossip citing *Napue* explains what Petitioner Cleveland and Taylor must establish to obtain a new trial based on false testimony not being corrected by any prosecutor of SCDSS. "To establish a *Napue* violation, a defendant must show that the prosecution knowingly solicited false testimony or knowingly allowed it 'to go uncorrected when it appear[ed]'." **"If the defendant makes that showing, a new trial is warranted so long as the false testimony 'may have an effect on the outcome of the trial.'" *Id.*, at 272. App. 20-21.**

Here, on July 13, 2021, Ms. Millonzi knowingly solicited false testimony from Bowens, she knew or should have known was false by asking her a leading question:

Q. **"Did [out then five-year-old] make any disclosures to you about domestic violence?" A. "Yes"**. She then allowed Bowens' false testimony to go uncorrected even after Bowens admitted on cross examination by Petitioner Cleveland that the domestic violence disclosure was false testimony: **Q. "Did she [our then five-year-old] or did she not on April 9th [2021] admit to you when you were speaking with her about domestic violence?" A. "No". App. 572, lines 8-11.**

Mr. McDade also allowed Bowens' testimony to go uncorrected. He had direct knowledge of the false testimony when I made the false testimony argument at the September 23, 2022 post trial motion to alter or amen judgment hearing, and Mr.

McDade also allowed without correcting the second made up unnamed witness that was made-up by the state's trial court during the March 4, 2022 merits findings hearing. Id.

Mr. Rhoden and Ms. Walsh also allowed Bowens' false testimony, and the second false unnamed witness that was made-up by the state court that both had direct knowledge of since our brief filed in the South Carolina Court of Appeals on May 16, 2023. App. 100. The same false testimony arguments were incorporated in our certiorari petition filed in this court, but at no point did Ms. Walsh file a post-trial motion in the state trial court, or South Carolina Court of Appeals, and request to correct the false testimony and the made-up second unnamed witness by the state's trial court Ms. Walsh even filed in this court a waiver not to respond at all to or certiorari petition filed in this court on March 21, 2025.

Four (4) state prosecutors (Millonzi, McDade, Walsh, & Rhoden) all failed to correct Bowens' false testimony, and the false made-up second unnamed witness that allegedly testified that our then five year disclosed to Bowens that she seen Petitioner Cleveland hit Petitioner Taylor violated our Due Process liberty interest rights under the United States Constitution under *Napue* because our case is on point with *Glossip's Napue* false testimony violation. Our Due Process rights are severely prejudiced because our children have in foster care based solely on Bowens' false testimony, and the false second made-up unnamed witness since **April 16, 2021.** The state prosecutors', *id.*, actions are akin to a public hanging of Petitioner Cleveland & Taylor in front of the Anderson County, South Carolina courthouse on

south main street, where this case was heard without Due Process of law. In addition, this case is akin to *South Carolina v. George Stinney*[4]. Petitioner Cleveland is an African American, and shocked that over seventy-eight (78) years later, there is still injustice in South Carolina, and *Glossip* has the key to correct this injustice to prevent a manifest injustice, and a reunification with our three children that have been in foster care for over four (4) years.

III.

THIS COURT SHOULD GRANT REHEARING AND CERTIORARI BECAUSE INTERVENING CIRCUMSTNACES EXIST UNDER *GLOSSIP* & *CARTER*

This court should grant rehearing and certiorari because after this case was docketed on February 25, 2025, *Glossip* was decided by this court the very next day on February 26, 2025, and Carter was decided by the Utah Supreme Court on May 15, 2025. Both cases were revered based on false testimony by witnesses, our presented Question IV: "Whether the Due Process Cause prohibits a state's trial court from using knowingly false material testimony in a child abuse and neglect

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[4] On June 16, 1944, Mr. Stinney, 14-year old African American boy was executed by electric chair after being sentenced to death three months prior for allegedly killing a white girl. According to the Equal Justice Initiative, Stinney's trial was a "sham trial" because his own family court not even enter the courthouse, his court appointed attorney called no witnesses, and the Prosecution called the Sheriff who testified that Stinney confessed to killing a white girl, the all-white jury deliberated for 10-minutes finding him guilty, the trial judge sentenced him to death. Seventy years later, a South Carolina trial judge vacated Mr. Stinney's conviction ruling "George Stinney was fundamentally deprived of due process through out the proceedings against him." And "I can think of no greater injustice." https://calendar.eji.org/racial-injustice/jun/16. Accessed on May 12, 2025.

casein its findings against a Defendant?" is on point with *Carter* and *Glossip* false testimony, thus intervening circumstances are at play in here after our case was docketed in this court. Without this court granting rehearing and certiorari it would be an manifest injustice to keep our children in foster care based solely on false testimony by Bowens, and a made-up witness testimony that our then five-year old disclosed that she witnessed domestic violence between Petitioner Cleveland & Taylor by the state's trial court.

This court granted rehearing and certiorari in *Kent Recycling Services, LLC v. United States Army Corps of Engineers (14-493)* because of the circuit split between the 9th and 5th circuits for the United States Court of Appeals by ruling there was intervening circumstances by ruling "in light of *Army Corps of Engineers v. Hawks Co., 578 U.S._____(2016).*

The South Carolina Supreme Court ruled in *S.C. Dept. of Social Services v. Wilson, 352 S.C. 445, 452 (2002)* ("The Fourteenth Amendment to the United States Constitution provides, 'nor shall any State deprive any person of life, liberty, or property without due process of law…'"). The South Carolina Court of Appeals ruled in *S.C. Dept. of Social Services v. Meek, 352 S.C. 523, 533 (2002)* ("The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.") South Carolina case law requires prosecutors, *id.*, of SCDSS not to deprive Petitioners Cleveland & Taylor of liberty for having custody of our three children without due process of law. Knowingly soliciting false testimony, and not correcting false testimony, but Ms. Millonzi, Mr. McDade, Ms.

Walsh, and Mr. Rhoden knowingly deprived us both of Due Process of law, and the only way for us to the right to be heard at a meaningful time, and meaningful manner is for this court to grant this rehearing petition, and grant certiorari, vacate the Soth Carolina of Appeals' judgment, and order the state trial court cannot use Bowens' false testimony, and the state's trial court unnamed made-up second witness that did not even testify our then five year old child disclosed to Bowens, and the unnamed made-up witness that she witnessed domestic violence between Petitioner Cleveland & Taylor.

IV.

CONCLUSION

For the foregoing reasons, this court should reconsider this case, and grant the writ of certiorari.

Order any additional relief this court deems *fair, just*, and/or *impartial.*

Respectfully Submitted,

s/_____

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Dated: May 12, 2025

Certificate of Pro se Litigant

George Cleveland III, *prose* Petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in *Rule 44.2.*

s/_____

George Cleveland III, *pro se*

No. 24-6629

IN THE

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v.

SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES,

Respondent.

PETITIONER'S PROOF OF SERVICE

I hereby certify that I am a *pro se* litigant and that on August 13, 2025, I mailed a copy with prepaid sufficient postage and properly addressed at the parties' last known mailing address Petitioner's corrected Rehearing Petitioner filing (Motion for Leave to Supplement Appendix, Supplement Appendix, Rehearing Petition.

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Dated: August 13, 2025

Additional material from this filing is available in the Clerk's Office.