

IN THE SUPREME COURT OF THE UNITED STATES

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No. 24-872

JOHN Q. HAMM, COMMISSIONER,  
ALABAMA DEPARTMENT OF CORRECTIONS, PETITIONER

v.

JOSEPH CLIFTON SMITH

(CAPITAL CASE)

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

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioner and requests that the United States be allowed ten minutes of argument time. Petitioner consents to this motion and has agreed to cede ten minutes of argument time to the United States. Accordingly, if this motion is granted, the argument time would be divided as follows: 20 minutes for petitioner, 10 minutes for the United States, and 30 minutes for respondents.

This case concerns whether and how courts may consider the cumulative effect of multiple intelligence quotient (IQ) scores in assessing a claim under Atkins v. Virginia, 536 U.S. 304 (2002). The United States has filed a brief as amicus curiae supporting petitioner, contending that governments may evaluate multiple IQ scores collectively for purposes of Atkins, and that respondent's Atkins claim should have failed under Alabama's chosen framework.

The United States has significant interests in this case. The federal government has a direct interest in the proper methodology for determining whether capital defendants are intellectually disabled, because Atkins and 18 U.S.C. 3596(c) both prohibit the execution of that class of federal defendants. The United States also has a broader interest in ensuring that States are not unduly restricted from pursuing and carrying out the death penalty as "an essential tool for deterring and punishing those who would commit the most heinous crimes." Exec. Order No. 14,164, 90 Fed. Reg. 8463, 8463 (Jan. 30, 2025).

The United States has previously presented oral argument as amicus curiae in cases concerning the interpretation and application of the Eighth Amendment. See, e.g., City of Grants Pass v. Johnson, 603 U.S. 520 (2024); Kahler v. Kansas, 589 U.S. 271 (2020); Baze v. Rees, 553 U.S. 35 (2008). We therefore believe that participation by the United States in oral argument in this case would be of material assistance to the Court.

Respectfully submitted.

D. JOHN SAUER  
Solicitor General  
Counsel of Record

AUGUST 2025