No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICTOR TONY JONES,

Petitioner,

v.

STATE OF FLORIDA and
SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO
THE FLORIDA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI
CAPITAL CASE

DEATH WARRANT SIGNED
EXECUTION SET SEPTEMBER 30, 2025 AT 6:00PM

MARIE-LOUISE SAMUELS PARMER*
Special Assistant CCRC-South
Marie@samuelsparmerlaw.com
**Counsel of Record*

BRITTNEY N. LACY
Assistant CCRC-South
lacyb@ccsr.state.fl.us
ccrcpleadings@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney CCRC-South
CohenJ@ccsr.state.fl.us

CAPITAL COLLATERAL REGIONAL COUNSEL – SOUTH
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301

Counsel for Petitioner

September 27, 2025

CAPITAL CASE

QUESTIONS PRESENTED

1. Has Florida violated the Supremacy Clause by constructing a system of postconviction litigation that provides no avenue for the assertion of retroactively applicable rules of federal constitutional law.

2. Has the Florida Supreme Court repeatedly failed to take into account the diverse frailities of human kind in capital sentencing by consistently denigrating the force of proffered mitigating evidence.

PARTIES TO THE PROCEEDING BELOW

Petitioner Victor Tony Jones, a death-sentenced Florida inmate facing imminent execution, was the Appellant and Petitioner in the Florida Supreme Court. Respondent Secretary, Florida Department of Corrections, was the Appellee and Respondent in the Florida Supreme Court.

LIST OF DIRECTLY RELATED PROCEEDINGS

Per Supreme Court Rule 14.1(b)(iii), the following proceedings relate to the case at issue in this Petition:

Underlying Trial:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor T. Jones, Case No. 1990CF50143
Judgment Entered: February 1, 1993

Direct Appeal:

Florida Supreme Court, Case No. SC60-81482
Victor Tony Jones v. State of Florida, 652 So. 2d 346 (Fla. 1995)
Judgment Entered: January 12, 1995
Rehearing Denied March 31, 1995; Mandate, May 3, 1995

Supreme Court of the United States, Case No. 95-5067
Victor Tony Jones v. Florida, 516 U.S. 875 (1995)
Judgment Entered: Oct. 2, 1995

Initial Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: Postconviction Relief Denied March 15, 2001

Florida Supreme Court, Case No. SC01-734
Victor Tony Jones v. State of Florida, Victor Jones v. James Crosby, Sec'y, Dep't. of Corr., 855 So. 2d 611 (Fla. 2003)
Judgment Entered: May 8, 2003
Rehearing Denied September 11, 2003
Mandate October 13, 2003

State Habeas Petition:

Florida Supreme Court, Case No. SC02-605
Victor Tony Jones v. State of Florida, Victor Jones v. James Crosby, Sec'y, Dep't. of Corr., 855 So. 2d 611 (Fla. 2003)
Date of Entry of Judgment: May 8, 2003

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: Dismissed Due to Lack of Jurisdiction October 14, 2003
Motion Refiled and Denied: January 16, 2004
Rehearing Denied: February 10, 2004

Florida Supreme Court, SC04-726.
Victor Tony Jones v. State of Florida, 966 So.2d 319(Fla. 2007)
Judgment Entered: May 24, 2007
Rehearing Denied September 24, 2007
Mandate October 10, 2007

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: Denied January 25, 2011
Rehearing Denied: February 4, 2011

Florida Supreme Court, Case No. SC11-474
Jones v. State, 93 So. 3d 178 (2012)
Judgment Entered: April 26, 2012
Rehearing Denied: June 29, 2012
Mandate: July 18, 2012

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: Denied October 8, 2013

Florida Supreme Court, SC13-2392
Victor Tony Jones v. State of Florida
Judgment Entered: Voluntarily Dismissed, February 10, 2014

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: June 18, 2015
Rehearing Denied: July 15, 2015

Florida Supreme Court, SC15-1549
Victor Tony Jones v. State of Florida, 231 So. 3d 374 (2017)
Judgment Entered: September 28, 2017
Rehearing Denied: December 27, 2017
Mandate: January 12, 2018

Supreme Court of the United States, Case No. 17-9153
Victor Tony Jones v. Florida, 586 U.S. 845, (2018) (Mem)
Judgment Entered: October 1, 2018

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: January 10, 2018

Florida Supreme Court, Case No. 18-285
Victor Tony Jones v. State of Florida, 241 So. 3d 65 (2018)
Judgment Entered: May 2, 2018
Mandate: May 18, 2018

Supreme Court of the United States, 18-6175
Victor Tony Jones v. Florida, 586 U.S. 1052 (2018) (Mem)
Judgment Entered: December 18, 2018

Federal Habeas Petition:

United States District Court, Southern District of Florida, Case No: 07-22890-CIV-ZLOCH
Victor Tony Jones v. Walter A. McNeil, Sec'y, Fla. Dep't of Corr., 776 F. Supp. 2d 1323 (S.D. Fla. 2011)
Judgment Entered: March 7, 2011
Motion to Alter or Amend Denied: June 1, 2011

United States Court of Appeals, Eleventh Circuit, Case No. No. 11-13038-P
Victor Tony Jones v. Dep't of Corr.
Order Denying COA: August 16, 2011
Motion For Reconsideration Denied, January 24, 2012

Supreme Court of the United States, 11-10999
Victor Tony Jones v. Fla. Dep't of Corr., 568 U. S. 873 (2012)
Judgment Entered: October 1, 2012

Subsequent Postconviction Motion:

Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
State of Florida v. Victor Tony Jones, Case No. 1990CF50143
Judgment Entered: September 12, 2025

Florida Supreme Court, Case No. SC2025-1422
Victor Tony Jones v. State of Florida, *Victor Tony Jones v. Sec'y, Fla. Dep't of Corr.*, SC2025-1422, No. SC20251423 (Fla. Sept. 24, 2025)
Judgment Entered: September 24, 2025

State Habeas Petition:

Florida Supreme Court, Case No. SC2025-1423
Victor Tony Jones v. State of Florida, *Victor Tony Jones v. Sec'y, Fla. Dep't of Corr.*, SC2025-1422, No. SC2025-1423 (Fla. Sept. 24, 2025)
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PETITION FOR A WRIT OF CERTIORARI

Petitioner Victor Tony Jones respectfully petitions this Court for a writ of certiorari to review the judgments of the Florida Supreme Court entered on September 24, 2025 denying his motion for postconviction relief and petition for a writ of habeas corpus.

ORDERS AND OPINIONS BELOW

In the courts below Mr. Jones sought relief from his death sentence by filing a motion for postconviction relief in the court of conviction pursuant to Florida Rule of Criminal Procedure 3.851 and a petition for habeas corpus with the Florida Supreme Court. The Florida Supreme Court denied relief in both proceedings in a single opinion. *Jones v. State*, SC2025-1422, 2025 WL 2717027 (Fla. Sept. 24, 2025) (Appendix A). The unpublished order of the lower state court denying Petitioner's postconviction motion appears as Appendix B.

STATEMENT OF JURISDICTION

This Court's jurisdiction is invokedunder 28 U.S.C. 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Due Process Clause of the Fifth Amendment to the United States Constitution provides, in relevant part:

> No person […] shall be deprived of life, liberty, or property, without due process of law.

The Eighth Amendment to the United States Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 1 of the Fourteenth Amendment to the United States Constitution

provides, in relevant part:

> No State shall . . . deprive any person of life, liberty, or property, without due process of law.

The Supremacy Clause, found in Article VI, Clause 2, of the United States Constitution provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

INTRODUCTION AND STATEMENT OF THE CASE[1]

The State of Florida seeks to execute Victor Tony Jones, an intellectually disabled ("ID"), indigent defendant, who was brutally abused as a child by his aunt, Laura Long, who took custody of Jones after his alcoholic mother abandoned him, and then as a teenager by agents of the State of Florida at an infamous reform school, the Okeechobee School for Boys ("Okeechobee"). For many decades, Okeechobee, and its better-known partner school, the Dozier School for Boys, were the subject of multiple complaints and cover-ups of abuse by the State of Florida Meanwhile, Jones suffered, neglect, abuse, exposure to criminality and drugs, including sexual violence, as a young child and continuing through adolescence.

It is common ground that the murder of two people during a botched robbery

[1] Jones's prior proceedings in the Florida Supreme Court are cited as: Direct Appeal: (R. ___); Postconviction Proceedings: (PCR. ___); *Atkins* Proceedings: (PCR-*Atkins,* ___) and (PCR-*Atkins*-T. ___); *Hall* Proceedings: (PCR-*Hall*, ___); Warrant Proceedings: (WR. ___).

is deeply reprehensible and should be punished accordingly. Jones's crime, though, was neither the most aggravated nor the least mitigated of murders. He is poor, was abused by private and public actors and suffers from ID. But the Florida court system in this case – as it consistently does in capital cases—disregarded multiple rulings of this Court as it erected a series of obstacles to his meaningful presentation of his life history to a sentencing jury.

At the start of Mr. Jones's postconviction litigation, the Florida Supreme Court denied his ID claim on a basis this Court found unconstitutional in *Hall v. Florida*.[2] During the 3.851 proceedings below, the State asserted facts and arguments which were demonstrably false based on documents in their custody and control. The Florida Supreme Court swept this problem aside by re-writing his argument.

Through the proper state mechanism, Jones also sought habeas review and requested the Florida Supreme Court address his claim that the Florida courts' assessment of his ID claim defies this Court's precedent in *Hall*, *Moore v. Texas* (*Moore I*)[3]and *Moore v. Texas* (*Moore II*).[4] Again, the court denied Jones's claim, and ruled as if established state law precludes any such review, which it clearly does not.

[2] 572 U.S. 701 (2014).
[3] 581 U.S. 1 (2017).
[4] 586 U.S. 133 (2019).

A. Facts of Crime

Jones was convicted of two counts of murder and two counts of armed robbery for the deaths of Matilda and Jacob Nester on December 19, 1990. (WR. 94-96). Jones was found in the Nestors' business and Ms. Nestor's purse was found on the couch in the office near where Jones was found, with the butt of a .22 caliber pistol protruding under his arm. *Jones v. State*, 652 So. 2d 346, 348 (Fla. 1995). Jones had been shot in the head; the Nestors had been stabbed. Jones, who had been recently released from prison, had been hired by the Nestors to do work for their business. *Id*. Money, keys and "a small change purse" that would later be identified as belonging to Ms. Nestor, were found in Jones's pocket. *Id*. Jones purportedly told law enforcement at the scene that, "The old man shot me[,]" and told a nurse at the hospital that he killed the Nestors. *Id*.

B. Initial Proceedings

Trial counsel failed to properly investigate or present available mitigation in this case, instead presenting a false narrative to the jury and sentencing court that Long, who took custody of Jones, his sister Pam Mills and cousin, Carl Leon Miller when his alcoholic mother could no longer provide for them, provided a loving religious home for Jones who failed to better himself. The prosecutor suggested to the jury in closing that Jones was deserving of the death penalty because he failed to take advantage of the "opportunities" offered to him by the State of Florida while incarcerated.

Following the jury's advisory vote of 10 to 2 for the murder of Matilda Nestor and 12 to 0 for Jacob Nestor, the trial court sentenced Jones to death. *Jones*, 652 So.

2d at 348. The jury made no factual findings. The trial court found three aggravating circumstances: (1) under sentence of imprisonment; (2) prior violent felony; and (3) felony murder (robbery), which the court merged with the pecuniary gain aggravator and no mitigation. *Id.* at 348-49. On direct appeal, the Florida Supreme Court affirmed. *Id.* at 353.

C. Initial State Postconviction Proceedings

In Jones's initial postconviction proceedings, collateral counsel presented testimony concerning trial counsel's failure to adequately investigate and present mitigating circumstances in Jones's childhood and early life. Contrary to the fabricated "idyllic" story trial counsel presented that Jones was raised in an "infinitely superior environment" following his mother abandoning him, Mills and Miller described horrible abuse at the hands of Long and her son. (PCR. 530); *Jones*, 652 So. 2d at 351. Mills and Miller described cruel beatings where they were made to undress before being beaten, (PCR. 951), that Long called Jones slow and stupid and beat him for making bad grades, and that Long's son, who was approximately ten years older than the children, also beat all three of them at Long's direction and also seemingly for his own pleasure, and raped Mills. (PCR. 951-52, 975-79). Jones witnessed at least one of these rapes and tried to intervene, but was beaten harshly for doing so. (PCR. 691). Mills gave birth at 14 as a result of these rapes.

Counsel also presented mental health experts testimony concerning Jones's mental illness, low IQ, and childhood abuse.

The postconviction court denied relief, and the Florida Supreme Court affirmed. It ruled that "there is no credible evidence that additional investigation by

appellant's trial counsel for family mitigation would have been fruitful." *Jones v. State*, 855 So. 2d 611, 618 (Fla. 2003).

Jones again challenged his sentence following this Court's opinion in *Porter v. McCollum*, 558 U.S. 30 (2009). He argued that the Florida courts had "unreasonably discounted his mitigation," and reduced the fact of his childhood abuse to irrelevance as they had done in *Porter*. The postconviction court summarily denied relief and the Florida Supreme Court affirmed. *Jones v. State*, 93 So. 3d 178 (2012).

D. *Atkins* Proceedings

While Jones's initial postconviction motion was pending appeal, this Court issued *Atkins v. Virginia*, 536 U.S. 304 (2002). Jones argued *Atkins* precluded his execution because he is ID, and the Florida Supreme Court relinquished jurisdiction for an evidentiary hearing. (PCR-*Atkins*. 47). Jones presented evidence demonstrating he met all three prongs of the intellectual disability requirements, including I.Q. scores all of which were 75 or below, ranging between 67-75, a hospital record from when Jones was 15 years old noting that he had been deemed "mentally retarded," school records that showing he struggled in school starting in the second grade, and evidence of concurrent adaptive deficits.

Following Florida law at the time, the state circuit court denied Jones's claim finding that, "[h]is I.Q. has consistently been tested at above 70. Based on that alone he is not mentally retarded." (PCR-*Atkins*. 495-506). The circuit court cited the state expert, Dr. Suarez who opined that a "review of Jones' experiences, including his relationships and employment, [indicates] Jones has probably never had adaptive impairment." (PCR-*Atkins*, 495-506).

The Florida Supreme Court affirmed on appeal, because although Jones's IQ scores ranged between 67-75, the "plain language of the statute […] correlates with an IQ of 70 or below." *Jones v. State*, 966 So. 2d 319, 329 (Fla. 2007) (internal citations omitted). This, of course, is the law that this Court would hold unconstitutional seven years later in *Hall v. Florida*, 572 U.S. 701 (2014).

After *Jones* issued, nationally recognized experts on ID and its legal assessment criticized the Florida Supreme Court's decision as wrongly decided. Dennis Keyes and David Freedman, *Retrospective Diagnosis in Malingering, in* The Death Penalty and Intellectual Disability 293, 267 (Edward A. Polloway ed., 2015) ("*Jones v. State of Florida"* is an example of a case where the court's adaptive assessment is "inconsistent with accepted methodology in the field.").

E. *Hall* Proceedings

Jones attempted to remedy the Florida courts' prior error following this Court's opinion in *Hall v. Florida*, arguing that the previous denial of his ID claim was premised upon the Florida Supreme Court's misapplication of *Atkins* and that he was entitled to a new hearing. The court summarily denied Jones's claim, relying on testimony at the prior ID hearing finding that Jones's adaptive skills placed him outside the range of ID:

> As Defendant does not meet the second and third prongs of the test, his I.Q. is irrelevant in determining intellectual disability. He does not get a do-over under *Hall*."

(PCR-*Hall*, 180).

The circuit court's assessment of Jones's adaptive functioning was not in

keeping with the consensus among the scientific and medical community, as noted *supra*, and flatly violated the principles set out in this Court's opinion in *Moore I* by failing to assess Jones's adaptive deficits using universally accepted clinical standards, including relying on Jones's conduct in a prison setting, focusing solely on Jones's strengths and relying on perceived clinical stereotypes of intellectually disabled people. (PCR-*Hall*, 179).

Disregarding this Court's opinion in *Brumfield v. Cain*,[5] the court improperly assessed adaptive functioning by relying on Jones's conduct in a prison setting to find that Jones did not meet the second prong of ID, even though assessing ID in the prison setting is not considered appropriate or reliable within the standards of the medical community. *See* James W. Ellis et al., *Evaluating Intellectual Disability: Clinical Assessments in* Atkins *Cases*, 46 Hofstra L. Rev. 1305, 1374-99 (2018). (PCR-*Hall*, 179). In so doing, the court disregarded evidence of Jones's deficits in violation of *Moore I* and ignored the records submitted by Jones. (PCR-*Atkins*, 87-88).

Jones pressed these arguments on appeal but the Florida Supreme Court rejected them. It wrote "Jones is correct that in light of *Hall*, he would likely now meet the first prong of the intellectual disability standard—significantly subaverage general intellectual functioning," however, "*Hall* does not change the fact that Jones failed to establish that he meets the second or third prong." *Jones v. State*, 231 So. 3d 374, 376 (Fla. 2017).

[5] 576 U.S. 305 (2015).

Left unexplained was how that determination, based on the undisputed fact that there were some life tasks that Jones could indeed perform, could be reconciled with *Moore I*, and *Brumfield*, both of which explained that the clinical diagnosis of ID is based on inabilities, not abilities.

F. The Okeechobee School

During the pendency of Jones's case, the State of Florida minimized or discounted in litigation, reports, and public statements, the rampant cruelty at both Dozier and Okeechobee.[6] *See* (FDLE 2010 Report, App. C5, at A118; DOJ 2011 Report, App. C6, at A136, Dozier School for Boys and Okeechboee Victim Compensation Program, House of Represenattaives Staff Final Bill, June 24, 2024, App. C7, at A165).

As late as 2015 the Okeechobee County Sheriff asserted that they found no physical evidence of abuse at the Okeechobee School. *See* (App. C7, at A165); *see also* Jamie Ostroff, *From Darkness to Data: New Plans For the Florida School for Boys at Okeechobee Campus*, WPTV, (2025), https://www.wptv.com/wptv-investigates/from-darkness-to-data-new-plans-for-the-florida-school-for-boys-at-okeechobee-campus.

But under pressure of continuting journalistic and survivor accounts, in June 2024, the Florida Legislature passed and Governor DeSantis signed into law the Dozier School for Boys and Okeechobee School Victim Compensation Program ("Program"). (App. C7, at A165). The Program provided a $20 million fund to

[6] While Dozier was closed, Okeechobee didn't close until 2020.

compensate "living persons who were confined to the Dozier School or the Okeechobee School at any time between 1940 and 1975 a*nd who were subjected to mental, physical, or sexual abuse perpetrated by school personnel while they were so confined*." (App. C7, at A170) (emphasis added). The law took effect July 1, 2024 and required victims to apply to establish eligibility by December 31, 2024 by submitting a sworn statement that they had suffered such abuse dureing the relevant period.

Jones did so and on January 6, 2025 received a letter from the Office of the Attorney General's ("OAG") Victim's Compensation Bureau telling him "Please know that we are sorry to hear about the circumstances that prompted you to apply for compensation" and that he had been determined eligible for compensation. (App. C8, at A174). Jones received compensation deposited into his prison account on July 7, 2025.

G. Current Proceedings

On Friday August 29, 2025, Governor DeSantis signed a death warrant for Jones's execution, scheduling the execution for Tuesday, September 30, 2025. (WR. 107-08).

Motion for Postconviction Relief

Jones timely filed his current motion to vacate convictions and sentences, raising three claims, two of which he advanced on appeal. The first, which is relevant for the instant petition, alleged that the OAG's recognition of Jones as a victim of crime at the hands of the State while confined at Okeechobee is newly discovered and is of such a nature that it would probably yield a less severe

sentence, thus entitling Jones to a new penalty phase proceeding. (App. C, at A60).

Jones set out in his motion that he was sentenced by the State of Florida to be confined at Okeechobee as a "Colored" juvenile[7] on four occasions: in 1975, 1976, 1977 and 1978. (App. C at A64). While not as well-documented or infamous as Dozier, Okeechobee was equally horrific. Survivors have described beatings with a substantially the same or similar 3 inch wide leather belt with a piece of sheet metal inside as described by the Dozier survivors, rampant sexual abuse and frequent placement in solitary confinement. (App C, at A64).

Jones asserted that while confined at the Okeechobee School, he was beaten multiple times with the thick leather strap, witnessed frequent gang-rapes of other vulnerable children, and to avoid being gang-raped himself had to fight off other boys, which resulted in his placement in solitary confinement. (App C, at A64).

The effect of this treatment on Jones's emotional and psychological development was pronounced, causing him to suffer from posttraumatic stress disorder, suicidal ideation and likely contributed to his drug addiction, increased his risk for criminal violence, and caused other mental deficits, all of which would have been in existence prior to the crime and during the crime. (App C, at A64). Additionally, although Jones told others, including authority figures about the conditions at Okeechobee, no one believed him. (App. C, at A64).

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[7] The school was segregated and ledgers of the children held there were divided by White and "Colored." *See also* (App. C2, at A105) (James Anderson Affidavit stating the school was separated into a campus for white children and one for Black children).

In support of his motion Jones filed the affidavit of James Anderson, an Okeechobee survivor who also described suffering severe beatings, witnessing a boy assaulted with an industrial broom and repeated sexual assaults. (App. C2, at A105). Anderson explained that he witnessed other abuse and cruelty that is too difficult for him to talk about. (App. C2, at A105). Anderson also stated that it was a known fact that the Black children were treated more harshly than the White children. (App. C2, at A105). Significantly, for purposes of this motion, Anderson explained that nobody believed him about what he saw and experienced at Okeechobee, not even his own family, until he himself was recognized as a member of the compensation class in early 2025. (App. C2, at A105).

Dr. Castillo, who evaluated Jones for purposes of Jones's motion, provided details in her report, which was attached to his motion and filed under seal with the circuit court, about the neglect and harsh physical and emotional abuse Jones suffered at Okeechobee. (App. C1, at A81). While there, Jones "struggled academically and received no support for his learning difficulties." (App. C1, at A90). Jones and the other children were subjected to harsh and indiscriminate physical abuse by the guards who were often drunk and which left Jones and the other boys bleeding. (App. C1, at A90). Guards used derogatory and racist names for Jones and the other Black boys with whom he was confined. (App. C1, at A91). Jones described a feeling of "pervasive fear and helplessness that defined [his] daily life at Okeechobee." (App. C1, at A91).

Jones also described a culture of sexual abuse that was ongoing and

pervasive. Jones described "'blanket parties,' where multiple boys would gang-rape another boy while covering him up with a blanket." (App. C1, at A91). Jones also described how some of the boys would go to rooms with the guards and emerge hours later, leading him and others to suspect they were having sex with the guards. (App. C1, at A91). "These boys would receive special privileges [ ] and were referred to as 'yes boys.'" (App. C1, at A91).

Jones "witnessed countless rapes," and had to "fight repeatedly" to avoid being raped himself. (App. C1, at A91). As a result of these fights, Jones was placed in solitary confinement which "really messed [him] up" mentally causing him to be depressed and suicidal; Jones thought he "was hearing things and losing [his] mind." (App. C1, at A91). "Consistent with Jones experience, research suggests that solitary confinement can induce anxiety, depression, psychosis, and suicidality." (App. C1, at A91). Dr. Castillo further explained that for young people, the effects of solitary confinement are particularly severe and can be irreversible. (App. C1, at A91).

Jones reported trying to mentally block the abuse he suffered, "retreating to what he described as a 'twilight zone' to cope with the trauma." (App. C1, at A92). He tried to "'leave mentally,' during the beatings, a form of dissociation recognized as a peritraumatic risk factor for developing posttraumatic stress disorder (PTSD)." (App. C1, at A92).

Jones also reported that some of the boys at Okeechobee tried to escape. "Those who were caught faced severe beatings and in some cases were sent to work

for local farmers without pay," which was perceived as a form of enslavement. (App. C1, at A92). Dogs were used "to capture escapees." (App. C1, at A92). Some boys just disappeared under "mysterious circumstances, raising suspicions that harm may have come from either the guards or the farmers." (App. C1, at A92).

Jones timely submitted his application for compensation in December 2024, which required him to swear under oath that he had been abused sexually or physically, or subject to treatment that resulted in psychological abuse. He was also required to provide proof that had been confined at Okeechobee during the relevant time frame, which he was able to do through certified state records.

Jones asserted that newly discovered evidence of the OAG's January 6, 2025 acknowledgment of abuse and Jones's entitlement to compensation as a victim of crimes, which occurred at the hands of the State while he attended Okeechobee, was evidence of such a nature, that coupled with the other mitigating evidence in his case, including his low I.Q., would probably result in a new trial under *Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998); *Jones v. State*, 591 So. 2d 911, 915 (Fla. 1991). Jones further asserted that he was entitled to an evidentiary hearing to present his claim.

Jones's argument was not that the evidence of abuse was new, but that the State's long-standing cover up of the conditions at the two Florida State Reform School campuses of Dozier and Okeechobee, which eventuated in the State's January 6, 2025 admission that Jones suffered severe abuse warranting financial compensation, was new evidence directly tied to Jones that a jury deciding whether

he should live or die should hear. Such an admission is particularly salient in Jones's case because the Florida courts have repeatedly rejected Jones's evidence of abuse as not credible.

Jones further argued in his motion that because of the limited aggravation in his case, with no finding of two of the weightiest aggravators in Florida—heinous, atrocious, and cruel (HAC) or cold, calculated, and premediated (CCP)—and the compelling nature of the abuse Jones suffered, and the State's coverup of that abuse, there exists a reasonable probability that, in conjunction with all the other testimony previously presented, including his low I.Q. and mental health deficits, that a jury presented with the new admission of abuse Jones suffered at the hands of the State, and the extent of the cover-up of that abuse, a new jury would probably sentence him to life in prison.

Jones sought an evidentiary hearing to resolve any factual disputes. (App. C, at A53; WR. 1657, 1676).

The State's Response

Misstating Jones's claim, the State argued that Jones has known of the abuse he suffered for 50 years. (App. D, at A183-84). The State maintained that Jones's claim was meritless, because the trial court found no mitigation, "the case is highly aggravated" and there is no reasonable probability that the evidence of Jones's abuse would likely result in a life sentence. (App. D, at 188).

Circuit Court Proceedings and Rulings

The circuit court held a case management conference and heard

argument on Jones's motion, during which the court attempted to rush defense counsel's arguments, due to the court's concern that it would not have enough time to issue its written order within the time frame alloted by the Florida Suprme Court. (WR. 1659-61).

Although the OAG itself administered the Bureau for Victim Compensation and drafted the application for compensation which required a showing of abuse, the OAG argued in court that it "gave a letter to everybody, it doesn't mean he was abused." (WR. 1676). This argument was rooted in demonstrably false facts—the OAG was aware that an applicant was required to establish that he suffered abuse in order to qualify for the compensation because the OAG was the agency that drafted and reviewed his application, sent the eligibility letter to Jones, and paid compensation to on the basis of it.

Adopting the State's argument, the court ruled that, "[a] letter from the State does not show specific abuse of Defendant that would have led to a lesser sentence." (App. B, at A37). The circuit court denied Jones's due process rights by, inter alia, making factual determinations on disputed facts without allowing Jones to present evidence.

Florida Supreme Court Appeal

Jones appealed the lower court's denial. In its Answer Brief, the OAG for the first time made the remarkable claim that Jones did not and could not establish that he was in-fact compensated. In response, Jones alerted the Court that the

OAG's argument was premised on facts it either knew, or certainly should know, were false, on the basis of its own records. (App. I, A429).

Not only did the OAG issue the Victim Compensation Fund application, which requires applicants to provide details of abuse, the OAG also monitored and managed the issuance of compensation, including the payment to Jones. Jones submitted to the Florida Supreme Court a copy of his inmate trust fund account showing that the State of Florida did, in-fact, deposit the money in his account on July 7, 2025, and renewed his request for a stay so that the lower court could determine the facts.

Jones also timely filed a State habeas petition in which he challenged the Florida courts' unconstitutional assessment of his intellectual disability claim in defiance of this Court's precedent through and including *Moore II*. Jones argued that he was enitled to this re-evaluation under well-established Florida law. (App. E, A202).

Florida Supreme Court Opinion

The Florida Supreme Court denied all relief. (App. A, at A1).

The court wrote that the Okeechobee School claim was untimely, procedurally barred, and without merit. But the claim the court denied was not the one that Jones made. In so doing, the court adopted the State's misstatement of Jones's claim and determined Jones was aware of the abuse 50 years ago and could have raised it at trial. Moreover "even a credible claim of abuse at the Okeechobee School is not of such a nature that it would

probably yield a life sentence on trial." (App. A, at A10-11). Thus, "Jones failed to establish the existence of any mitigating circumstances to weigh against these strong aggravating factors." (App. A, at A11-12).

Not only did the Florida Supreme Court's mis-statement of the facts distort the proposed mitigation—which was that the abuse not only took place, but that it was concededly the State's fault—it was yet another example of the court's consistent failure to abide by the teachings of this Court regarding the nature, function, and legal importance of mitigation evidence in assisting juries to exercise their consitutionally-mandated role of reflecting the conscience of the community in capital cases. (*See* Sec. II below).

As to Jones's request in his habeas peition that the Florida Supreme Court apply to his case the binding authorities of this Court respecting ID, the court ruled that "habeas corpus is not a vehicle to relitigate issues already decided." (App. A, at A22). As described in Sec. I below, this assertion suffered from two fatal flaws. First, it conveniently ignored a long history of the Florida Supreme court re-evaluting the merits of prior decisions in response to habeas corpus petitions asserting that the law had changed. Second, it was an announcement that Florida's postconviction courts are closed to currently-binding constitutional law rulings of this Court. For both reasons, the ruling below is irreconcilable with the Supremacy Clause.

REASONS FOR GRANTING THE WRIT

1. Florida has Violated the Supremacy Clause by Constructing a System of Postconviction Litigation that Provides no Avenue for the Assertion of Retroactively Applicable Rules of Federal Constitutional Law.

a. Jones Sought Review Through the Proper State Court Vehicle.

In his state habeas peition Jones argued that this Court's opinions in *Moore II* and *Brumfield* required the Florida Supreme Court to review his ID claim in the proper framework as set out by this Court and correct the manifest injustice in Jones's case—the execution of an intellectually disabled person.

Under Florida law, habeas corpus is the proper vehicle for raising "error that prejudicially denies fundamental constitutional rights" and to "revisit a matter previously settled by the affirmance of a conviction or sentence." *Kennedy v. Wainwright*, 483 So. 2d 424, 426 (Fla. 1986).

The right to use the writ of habeas corpus is "enshrined in [Florida's] Constitution to be used as *a means to correct manifest injustices* and its availability for use *when all other remedies have been exhausted* has served our society well over many centuries." *Baker v. State*, 878 So. 2d 1236 (Fla. 2004) (Anstead, J. concurring) (emphasis added). Florida law provides the court the "power to reconsider and correct erroneous rulings in exceptional circumstances and where reliance on the previous decision would result in manifest injustice," particularly in the instant situation where "[a]n intervening decision by a higher court is one of the exceptional situations that this Court will consider when entertaining a request to modify the law of the case." *State v. Owen*, 696 So. 2d 715 (Fla. 1997) (quoting

Preston v. State, 444 So. 2d 939 (Fla. 1984); *Brunner Enters., Inc. v. Dep't of Revenue*, 452 So. 2d 550, 552 (1984); *Strazzulla v. Hendrick*, 177 So. 2d 1, 4 (1965)).[8]

The Florida Supreme Court in this case suddenly and simply announced that the procedural vehicle routinely used by litigants to question the viability of its prior judgments was not available.

Such behavior has long been condemned by this Court.

A state court is not permitted to evade its Supremacy Clause obligations by manipulating the requirements of state law to deflect a potentially meritorious constitutional claim. A state court may not "under the color of local practice," *Rogers v. Alabama*, 192 U.S. 226, 230 (1904) (Holmes, J.), use a cloudy and manipulable state-law standard to evade review of a federal constitutional right it disfavors. When a state court engages in such behavior, the federal courts will ignore the purported state ground and reach the constitutional merits. *See, e.g., Lee v. Kemna*, 534 U.S. 362 (2002); *Harris v. Reed*, 489 U.S. 255 (1989). For example, this Court has recently held that a decision of the Arizona Supreme Court denying state postconviction relief to a capital prisoner rested on a purported state-law basis "so

[8] Jones also cited Florida Supreme Court decisions affirming Jones's right to raise his claim in a state habeas petition. *State v. McBride*, 848 So. 2d 287 (Fla. 2003) (Florida Supreme Court recognizing the clear principle, "that res judicata will not be invoked where it would defeat the ends of justice. *See deCancino v. E. Airlines, Inc.*, 283 So. 2d 97, 98 (Fla. 1973*); Universal Constr. Co. v. City of Fort Lauderdale*, 68 So. 2d 366, 369 (Fla. 1953). The law of the case doctrine also contains such an exception. *See Strazzulla v. Hendrick*, 177 So. 2d 1, 4 (Fla. 1965))". *Id*. at 291. The Florida Supreme Court further stated, "that collateral estoppel will not be invoked to bar relief where its application would result in a manifest injustice." *Id*. at 292.

novel and unfounded that it does not constitute an adequate state procedural ground," *Cruz v. Arizona*, 598 U.S. 17, 29 (2023) (citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 457 (1958)).

Cases like *James v. Kentucky*, 466 U.S. 341, 348-349 (1984), hold that only a "firmly established and regularly followed state practice can prevent implementation of federal constitutional rights." *See, e.g., Ford v. Georgia*, 498 U.S. 411 (1991); *Barr v. City of Columbia*, 378 U.S. 146, 149 (1964); *NAACP v. Alabama ex rel. Flowers*, 377 U.S. 288, 297 (1964). What is true in federal court review of state court judgments is equally true in state postconviction proceedings. *See Montgomery v. Louisiana*, 577 U.S. 190 (2016); *see also*, *Skinner v. Switzer*, 562 U.S. 521 (2011); *Dist. Att'y's Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52 (2009).

b. Florida Must Permit the Assertion of Constitutional Claims in its Courts.

But if indeed habeas was the wrong vehicle under state law for the assertion of a federal constitutional right, the ruling below stands in no better position in this court. That is because the result would be that Florida provides no vehicle at all for the assertion of federal consitutional claims. That result is simply inconsistent with the Supremacy Clause, *see Haywood v. Drown*, 556 U.S. 729, 735 (2009); *Testa v. Katt*, 330 U.S. 386, 392 (1947), as this Court specifically held in the context of state postconviction systems in *Montgomery*, supra.

These issues arise against a background of Florida Supreme Court jurisprudence that displays unexampled hostilty to the ID rulings of this court.

c. In Defiance of this Court's Binding Jurisprudence, the Florida Supreme Court is an Outlier in its Assessment of Adaptive Functioning.

This Court has repeatedly held "that the Eighth Amendment requires increased reliability of the process by which capital punishment may be imposed." *Herrera v. Collins*, 506 U.S. 390 (1993); *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality). "If the Constitution renders the fact *or timing* of his execution contingent upon establishment of a further fact . . . then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being." *Herrera*, 506 U.S. at 405-406 (quoting *Ford v. Wainwright*, 477 U.S. 399, 411 (1986)).

Factual determinations related to the constitutionality of a person's execution are "properly considered in proximity to the execution." *Herrera*, 506 U.S. at 406 (noting competency to be executed determination is more reliable near time of execution whereas guilt or innocence determination becomes less reliable).

Jones has presented more than sufficient evidence to establish he suffers from adaptive functioning deficits. But he has been denied a full and fair opportunity to present his intellectual disability claim, in violation of this Court's clearly established law. The Florida courts have never assessed his claim under proper, clinical standards. The only assessment of Jones's adaptive deficits was done in 2006, prior to this Court's opinions in *Hall*, *Moore I*, *Moore II*, and *Brumfield*.

During litigation of his *Atkins* claim, Jones presented expert testimony that

established Jones had, prior to the age of 18, deficits in five areas: communication, functional academic skills, self-direction, social interpersonal skills, and health and safety. (PCR-*Atkins*-T. 119-22).. But the postconviction court, in assessing Jones's adaptive functioning, opined that Mr. Jones had demonstrated that he "understands and manages his own life" both in and out of prison and premised much of its adaptive assessment on non-clinical stereotypes, a practice inconsistent with accepted methods and standards. (PCR-*Atkins*, 495-506).

Following this Court's issuance of *Hall,* Jones re-raised his intellectual disability claim asserting that *Hall* rendered the prior ID assessment unconstitutional and invalid. Declining to engage with Jones's limitations and deficits, the postconviction court relied heavily on his behaviors and routine in prison as evidence that Jones does not suffer from sufficient adaptive deficits to warrant a finding of ID. In its 2015 order denying Jones's request for a reassessment under *Hall*, the circuit court wrote that, "in and out of prison, Jones understands and manages his own life." (PCR-*Hall*, 179). The court further stated that "Jones follows a daily exercise regimen of his own devising and uses improvised equipment to gain, according to Jones, the benefits of health and stress relief." (PCR-*Hall*, 179). "He writes requests to see doctors," files "grievances when he finds a discrepancy" in his prison account, "keeps himself and his cell clean and orderly and visits the prison library twice a week." (PCR-*Hall*, 179). But this is exactly the type of analysis this Court cautioned against in *Moore I, Moore II*, and *Brumfield*.

The court's assessment and conclusions improperly relied on stereotypes

about persons with ID. These persistent stereotypes distort the reality of the abilities of adults with ID and often include "an invented 'list' of things people with intellectual disability cannot do. But there is no such list in the scholarly literature." Ellis et al., *Evaluating Intellectual Disability: Clinical Assessments in* Atkins *Cases*, 46 Hofstra L. Rev. at 1402. The Florida Supreme Court affirmed.

Relying on lay perceptions of strengths is exactly what the AAIDD warned against and why this Court reversed the Texas state court in *Moore I* and *Moore II*. This Court has made unmistakably plain that strengths can coexist with deficits and the existence of strengths in adaptive functioning does not preclude the finding of intellectual disability. *See Moore II*, 586 U.S. 133; *Moore I*, 581 U.S. 1. But the Florida Supreme Court has ignored these holdings. *See Haliburton v. State*, 331 So. 3d 640, 649-50 (Fla. 2021) (upholding a lower court's finding of a lack of adaptive functioning deficits premised on the State expert's reliance on prison records describing defendant having "average ability," and defendant's "multiple clear and grammatically correct written requests" made "to prison authorities."); *Wright v. State*, 256 So. 3d 766 (Fla. 2018) (upholding adaptive assessment after remand from this Court post-*Moore I*, where in prior hearing state expert had improperly administered a Validity Indicator Profile for malingering and relying on the facts of the crime and the defendant's testimony at trial in finding, "all of these types of evidence refute that Wright has concurrent deficits in adaptive functioning." *Wright v. State*, 213 So. 3d 881, 898-99 (Fla. 2017));[9] *Glover v. State*, 226 So. 3d 795, 811

[9] The use of such testing for the purposes of detecting malingering in an

(Fla. 2017) ("evidence regarding Glover's adaptive functioning after the age of eighteen shows that Glover successfully obtained his GED, performed various types of work (including restoring buildings, landscaping, and plumbing and electrical work), took care of his daily needs, made meals, helped his sister take care of herself" and "successfully obtained his GED, performed various types of work (including restoring buildings, landscaping and plumbing and electrical work), took care of his daily needs, made meals, helped his sister take care of herself and her home following her husband's death, and gave good life advice to his daughter.").

d. The Courts of Appeal and Other State Courts of Last Resort Have Followed this Court's Instructions in *Moore I*, *Moore II* and *Brumfield*, Leaving Florida as an Outlier.

Other courts that have been called upon to assess a prisoner's ID claim have followed this Court's instructions and assessed adaptive functioning consistently with clinical standards. The the court of appeals for the Eighth Circuit rejected an argument by the State that the district court had failed to properly consider the defendant's adaptive strengths.

> The State also contends that the district court clearly erred by placing no weight on Jackson's purported adaptive strengths, including his conduct in prison. But we expressly directed the district court to consider "whether Jackson's adaptive functioning deficits *rather than*

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intellectual disability assessment is not within accepted clinical standards:

> There have also been some suggestions that an individual's level of effort in intelligence testing could be evaluated, and potentially impeached, by employing psychometric instruments which were designed for other psychological purposes, which include an element for the detection of malingering. ... Current research does not support the suggestion that these instruments can reliably detect malingering intellectual disability.

Ellis et al., *Evaluating Intellectual Disability: Clinical Assessments in* Atkins *Cases*, 46 Hofstra L. Rev. at 1370.

> *his adaptive functioning strengths* indicate that he is not intellectually disabled." (emphasis added). Our instruction was informed by *Moore I*, which stressed that the psychiatric literature "focuses . . . on" adaptive deficits, not strengths. [ ] (citing several psychiatric texts, including DSM-5).
>
> Indeed, the DSM-5 is silent about whether adaptive strengths should be considered at all when diagnosing a person with intellectual disability. The Arkansas statute defining intellectual disabilities similarly says nothing about adaptive strengths, requiring only a showing of a "significant deficit or impairment in adaptive functioning." Ark. Code Ann. § 5-4-618; ("Consistent with nationally accepted clinical definitions of [intellectual disability], the Arkansas standard does not ask whether an individual has adaptive strengths to offset the individual's adaptive limitations."). This view was reinforced in *Moore II*, where the Supreme Court criticized the lower appellate court for **"again rel[ying] less upon the [petitioner's] adaptive *deficits* ... than upon [his] apparent adaptive *strengths*."** *See* 139 S. Ct. at 670. Although the Supreme Court has not expressly forbidden any consideration of adaptive strengths, it has twice said that the focus is on adaptive deficits. The Supreme Court's decisions—consistent with the psychiatric literature—suggest that adaptive strengths play little (if any) role in the adaptive functioning analysis.

Jackson v. Payne, 9 F.4th 646, 658–60 (8th Cir. 2021) (some internal citations omitted).

The Court of Appeals for the Tenth Circuit has likewise applied this court's holdings in *Moore I* and *Moore II*. "Evidence that rests on lay stereotypes about the intellectually disabled, such as the incorrect stereotypes that they cannot have jobs or relationships, is similarly disfavored." *Smith v. Sharp*, 935 F.3d 1064, 1086 (10th Cir. 2019). In rejecting the State's argument that testimony from the prison warden about the defendant's manipulative behavior and other lay testimony, the court of appeals explained: "Such emphasis further evinces impermissible 'reliance upon. . . lay stereotypes of the intellectually disabled,' as [this Court] has warned against

adopting the 'incorrect stereotypes that persons with intellectual disability never have [relationships].'" (quotations and internal citations omitted). *Id.* at 1088.

Similarly, the Arizona Supreme Court has held:

> Accordingly, to assess adaptive behavior for intellectual disability according to § 13-753(K)(1), our prior caselaw, and *Moore I* and *Moore II*, a court should first conduct an overall assessment by holistically considering the strengths *and* weaknesses in each of the life-skill categories (conceptual, social, and practical), as identified by the medical community, to determine if there is a deficit in any of these areas. Under this step, the court cannot offset weaknesses in one category with unrelated strengths from another category.

State ex rel. Montgomery v. Kemp in & for Cty. of Maricopa, 249 Ariz. 320, 325–26 (Ariz. 2020).

And now even Texas is properly following this Court's admonitions:

> Though the jury could rationally reject evidence showing adaptive deficits in isolation, failing to consider that evidence in conjunction with the evidence of subaverage intelligence runs afoul of *Hall*. Under a proper diagnostic framework, intellectual disability is determined by considering all three diagnostic criteria together rather than each one in isolation. Allowing the rejection of one diagnostic criterium when clinicians would consider criteria together creates an unconstitutional risk that an individual with an intellectual disability will be executed.
>
> Second, emphasizing Appellant's adaptive strengths to undermine reliance upon an expert diagnosis repeats the problem identified by the Supreme Court in *Moore I* and *Moore II*.

Petetan v. State, 622 S.W.3d 321, 358–59 (Tex. Crim. App. 2021).

Likewise, the Pennsylvania Supreme Court in remanding a case for a new hearing in light of this Court's decisions in *Hall*, *Moore I*, and *Moore II*, stated:

> [T]he chief import of these cases [*Hall, Moore I* and *Brumfield*] is the central role of the societal consensus to rely on medical and professional expertise in defining and diagnosing intellectual disability. The laws and practices disapproved in those cases deviated from that central principle by engrafting arbitrary or extraneous

> considerations into the analysis. Thus, *Hall* overturned a law that over-emphasized IQ test results where the medical consensus includes scores above 70 as consistent with intellectual disability where accompanied by severe adaptive behavior problems. In *Brumfield* the Court reaffirmed the principle in *Hall*, and also disapproved an analysis that factored an individual's adaptive strengths to preclude a hearing on the existence of adaptive deficits. Additionally, the Court in *Moore* condemned the same practices discussed in *Hall* and *Brumfield* and particularly disapproved reliance on the *Briseno* factors as an attempt to impose a consensus of the citizenry about who should be eligible for the death sentence rather than criteria accepted in the professional and medical community.

Commonwealth v. Cox, 651 Pa. 272, 300 (Pa. 2019).

e. Facts Matter

Jones is entitled to a remand for the evidentiary hearing he has so far demanded in vain—one at which his adaptive deficits would be analysed in accordance with the binding legal rules that this Court has established but Florida has ignored.

This Court has long held that when a defendant presents a state court with a well-pleaded claim of violation of a federal constitutional right, that court is obliged to give the defendant an opportunity for fact development to prove the claim; the state court cannot simply dismiss the claim on the face of the defendant's pleading. *Cash v. Culver*, 358 U.S. 633 (1959), and *McNeal v. Culver*, 365 U.S. 109 (1961), *Carnley v. Cochran*, 369 U.S. 506 (1962). The petitioners in *Cash*, *McNeal*, and *Carnley*, sought habeas relief after being convicted and sentenced without the assistance of legal counsel. Although *Gideon v. Wainwright*[10] had not yet been decided, this Court had already issued several key decisions establishing a

[10] 372 U.S. 335 (1963).

constitutional right to counsel in specific circumstances.[11] The Florida Supreme Court denied each defendant's habeas petition without holding a hearing, despite the need for fact-finding to determine whether the specific circumstances existed to warrant the appointment of counsel. This Court reversed, holding that the petition's allegations were sufficient to state a Due Process right-to-counsel claim:

> The requirements of due process made necessary the assistance of a lawyer if the circumstances alleged in the habeas corpus petition are true. On the present record there is no way to test their truth. But the allegations themselves made it incumbent upon the Florida courts to determine what the true facts were.

Cash, 358 U.S. at 638.

Of note, the Florida Supreme Court remained insistent on its reluctance to implement this Court's rulings, causing this Court to have to intervene in *McNeal* and again in *Carnley* after deciding *Cash*. This failure to heed this Court's rulings has continued over the years requiring this Court to continue to intervene as Florida routinely abandons the principles set out in *Cash*, *McNeal*, and *Carnley*, and fails to provide litigants the process necessary to assert federal constitutional claims, particularly in the capital context.[12]

In *Ford*, this Court intervened when Florida failed to provide meaningful

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[11] *See Uveges v. Commonwealth of Pennsylvania*, 335 U.S. 437 (1948); *Rice v. Olson*, 324 U.S. 786 (1945); *Gibbs v. Burke*, 337 U.S. 773 (1949).

[12] This Court has intervened numerous times as Florida has failed to follow precedent concerning the administration of the death penalty. After years of Florida courts failing to require juries to make findings of fact in capital senencing proceedings and permitting the judge, not the jury, to make the requisite findings necessary to impose death, this Court struck down Florida's death penalty sentencing statute in its entirety as violative of the Sixth Amendment as enumerated in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Ring v. Arizona*, 536 U.S. 584 (2002). *Hurst v. Florida*, 577 U.S. 92 (2016).

process for capital litigants to challenge their sanity to be executed. Finding the process "necessarily inadequate," this Court determined Florida's method to determine sanity to be executed violated the "fundamental requisite of due process of law." *Ford v. Wainwright*, 477 U.S. 399, 414 (1986). In the years following *Atkins*, Florida failed to provide capital litigants a full and complete assessment of intellectual disability claims, instead denying claims based on an interpretation of the diagnostic criteria that "conflict[]ed with the logic of *Atkins* and the Eighth Amendment." *Hall*, 572 U.S. at 720.

2. The Ruling Below Is at Odds with this Court's Understanding of the Role of Mitigation in Capital Litigation.

On January 6, 2025, for the first time, the State of Florida recognized that Jones was a victim of the horrific abuse that occurred at Okeechobee. This was also the first time that it became known that the prosecutor's argument at trial, that Jones was deserving of the death penalty because he failed to take advantage of "opportunities" while incarcerated, were wrong. Yet, despite the discovery of this powerful mitigation, the Florida courts denied Jones's claim in a summary proceeding,

> The ruling below not only mis-states the mitigation argument being made in this case but is part of a pattern of rulings of the Florida Supreme Court to the effect that no mitigation would have made a difference because the crime was horrible. The very concept of mitigation is that some people who commit appalling crimes (as all capital crimes are) will not be sentenced to death if a jury is persuaded by effective counsel that they are less culpable than other people who have

committed equally appalling crimes. *See Woodson v. North Carolina*, 428 U.S. 280, 304-05 (1976) (overturning death sentences imposed under a mandatory death sentence statute because "[a] process that accords no significance to relevant facets of the character and record of the individual offender or the circumstances of the particular offense excludes from consideration in fixing the ultimate punishment of death the possibility of compassionate or mitigating factors stemming from the diverse frailties of humankind").

Defendants have repeatedly prevailed in federal postconviction litigation on precisely this basis. *See, e.g.*, *Rompilla v. Beard*, 545 U.S. 374, 393 (2005) (ordering the state court to either retry the case on penalty or stipulate to a life sentence because "undiscovered mitigating evidence, taken as a whole, might well have influenced the jury's appraisal" of a defendant who was convicted of repeatedly stabbing and setting the victim on fire); *Wiggins v. Smith*, 539 U.S. 510, 536-38 (2005) (reversing and remanding the case of a defendant who drowned a 77-year old woman in her bathroom because "had the jury been confronted with this considerable mitigating evidence [of an abusive background], there is a reasonable probability that it would have returned with a different sentence"); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (reversing and remanding the death sentence of a defendant convicted of killing a man with a garden tool to steal three dollars because "the graphic description of Williams' childhood, filled with abuse and privation, or the reality that he was 'borderline mentally retarded,' might well have influenced the jury's appraisal of his moral culpability").

a. The Florida Supreme Court Consistently "Discount(s) to Irrelevance"[13] Powerful Mitigation in Violation of this Court's Eighth Amendment Precedent.

In summarily denying Jones's claim, the Florida Supreme Court opined that the State of Florida's acknowledgment that Jones had suffered abuse while in its care and custody at Okeechobee is not "of such a nature that it would probably yield a life sentence on trial,"reasoning that the case is highly aggravated and that Jones "failed to establish the existence of any mitigating circumstances." (App. A, at A12). Notwithstanding the court's misstatement of the facts,[14] its assessment completely ignores this Court's insights into the powerful force the diverse frailties of humankind has on a jury, as borne out by experience.

This Court has long held that "accurate sentencing information is an indispensable prerequisite to a reasoned determination of whether a defendant shall live or die [made] by a jury of people who may have never made a sentencing decision," which requires that each juror must be presented with meaningful evidence about the defendant's social and family history in order to fully grasp "the particularized characteristics of the individual defendant." *Gregg v. Georgia*, 428 U.S. 153, 190, 206 (1976); *see also Roberts v. Louisiana*, 428 U.S. 325 (1976); *Woodson*, 428 U.S. 280. "[E]vidence about the defendant's background and

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[13] *Porter v. McCollum*, 558 U.S. 30, 43 (2009).

[14] It's not that Jones failed to establish mitigation at trial, the trial court declined to find any despite undisputed evidence that he as abandoned as a child by his alcoholic mother and that he suffered from a low IQ. While Florida courts continue to deny that Jones is ID, it is undisputed that Jones has an IQ score in the bottom 2.3% of the population. Robert L. Schalock, et al., American Association on Intellectual and Developmental Disabilities, *Intellectual Disability: Definition, Classification, and Systems of Supports*, 17 (12th ed. 2021).

character is relevant because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background ... may be less culpable than defendants who have no such excuse." *Penry v. Lynaugh*, 492 U.S. 302 (1989).

Yet, throughout time, Florida consistently refuses to follow this Court's precedent. In *Hitchcock v. Dugger*, 481 U.S. 393 (1987), Florida refused to allow jury instructions on nonstatutory mitigation years *after* this Court's decisions in *Skipper v. South Carolina*, 476 U.S. 1 (1986), *Eddings v. Oklahoma*, 455 U.S. 104 (1982), and *Lockett v. Ohio*, 438 U.S. 586 (1978) (plurality opinion). Just four years later, in *Parker v. Dugger*, 498 U.S. 308, 322 (1991), the Florida Supreme Court outright failed to conduct an independent appellate review, "[i]n fact, there is a sense in which the court did not review Parker's sentence at all." Despite this Court's decisions in *Williams* and *Rompilla*, clarifying the importance of mitigation and how the reweighing analysis should be conducted, the Florida Supreme Court continued to "discount to irrelevance" critical details of capital defendants lives, causing this Court's intervention in *Porter*. 558 U.S. at 43.

It appears these interventions have meant little to the Florida Supreme Court as it continues to refuse to meaningfully engage with how un-presented evidence "might well have influenced the jury's appraisal of [a defendant's] moral culpability." *Wiggins*, 539 U.S. at 525. Instead, it appears there is no amount of mitigation the Florida Supreme Court considers sufficient to overcome aggravation, particularly when considering the evidence under warrant in truncated

proceedings.[15] And, to the Florida Supreme Court, it appears that all death cases are highly aggravated.[16]

The Florida Supreme Court is wrong. Empirical evidence establishes that mitigation works and death sentences are the outliers. Russell Stetler, et al., *Mitigation Works: Empirical Evidence of Highly Aggravated Cases Where the Death Penalty Was Rejected at Setencing*, 51 Hofstra L.Rev. 89, 90 (2022). Researchers have documented more than 600 highly aggravated capital cases around the United States in which the juries voted for life. *Id*. These cases include incredibly heinous and cruel crimes.

Here, the prosecutor emphasized that Jones had recently been released from

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[15] *See Bates v. State*, No. SC2025-1127, 2025 WL 2319001, at *4 (Fla. Aug. 12, 2005) (finding that "[n]o additional evidence of brain damage would have overcome the significant aggravators presented against Bates"); *Wainwright v. State*, 411 So. 3d 392, 402 (Fla. 2025) (finding it "unlikely" that additional information regarding the cause of a defendant's cognitive and neurobehavioral impairments would result in a life sentence "where the trial court indicated the mitigating circumstances were outweighed by any single aggravating circumstance"); *Hutchinson v. State*, 408 So. 3d 752, 755 (Fla. 2025) (finding that "additional mitigation concerning brain injury and cognitive issues would only have a marginal effect at a new penalty phase" given "the nature of the aggravating evidence in [the] case" in a case where the jury voted 7-5 for two counts of murder and 6-6 on a third); *Dillbeck v. State*, 357 So. 3d 94, 102 (Fla. 2023) (finding that the alleged new evidence regarding the defendant's mental state at the time of the crime was "not of such a nature that it would probably yield a lesser sentence on retrial" because it "barely alters the profile of the aggravating and mitigating circumstances").

[16] While the trial court found in aggravation that Jones had a prior violent felony, which Florida finds to be weighty. The court did not find the two weightiest aggravators—heinous, atrocious, and cruel, and cold, calculated, and premeditated. Jones, who struggled with a low IQ, drug addiction, a horrific trauma history, and cognitive deficits killed his employers when they caught him attempting to rob him. While tragic, these facts are far from the worst of the worst crimes for which the death penalty is reserved.

prison and also mocked the defense expert's suggestion that Jones could do well with treatment. The prosecutor told the jury that, Jones "was given opportunities through the prison system, drug counseling, educational counseling." (R. 2732). He further argued that, "The man has rejected every societal attempt to make him productive. How much can we do as a society?" (R. 2732). He implied to the jury that Florida had offered Jones so much help but he simply didn't want it.

> Dr. Toomer would have you believe that if you order the defendant into some program that some good would happen. You know better than that Folks. You got to want to have help. You got to want it.

(R. 2732-33). In light of the State of Florida's current recognition that Okeechobee was not a place that "helped" the boys sentenced there, but rather a vicious and dangerous place where the guards traumatized and damaged the children in their care, the State could not make such an argument at a new penalty phase proceeding, or, the State could but it wouldn't carry weight with a reasonable juror. Because one of Jones's aggravators was under a sentence of imprisonment, the evidence of the letter and the State of Florida's apology to Jones and admission of abuse, is particularly salient.

For years the abuse and torture of the children at the Okeechobee School was covered up. The legislature acknowledges that the "opportunities" or treatment the children received was a far cry from anything the State promised. These children were not safe, they were not cared for, they were not educated, and many didn't make it out alive. For the State of Florida to compensate victims was certainly an act that might reasonably have been of importance to the conscience of one or more sentenceing jurors. Yet the Florida Supreme Court, consistent with its dismissive

approach to *Porter*, *Taylor*, *Rompilla*, and *Wiggins* ruled the contrary as a matter of law.

This Court should intervene to return the sentencing jury to the central role that it rightfully plays in assessing whether individuals merit society's ultimate punishment.

CONCLUSION

For the above reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari.

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer
MARIE-LOUISE SAMUELS PARMER
Special Assistant CCRC-South
Fla. Bar No.: 0005584
Marie@samuelsparmerlaw.com
ccrcpleadings@ccsr.state.fl.us
**Counsel of Record*

BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
lacyb@ccsr.state.fl.us

JEANINE L. COHEN
Staff Attorney
Fla. Bar No. 128309
CohenJ@ccsr.state.fl.us

Capital Collateral Regional Counsel-South
110 SE 6th Street, Suite 701
Fort Lauderdale, Florida 33301
(954) 713-1284
COUNSEL FOR MR. JONES

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