No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2025

JIMMY SPENCER,

Petitioner,

v.

STATE OF ALABAMA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE ALABAMA COURT OF CRIMINAL APPEALS

PETITION FOR A WRIT OF CERTIORARI

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January 16, 2026

CAPITAL CASE

QUESTION PRESENTED

In a capital case where the pretrial publicity was extensive, gruesome, and negative, including statements by the current Attorney General that the Jimmy Spencer was a "violent offender" and an example of a "badly broken" parole system, and where a significant portion of the jury venire reported a pre-existing belief in Mr. Spencer's guilt, did the trial court's refusal to change venue and the lower court's decision holding that "prejudice is not presumed" and that the trial court "did not abuse its discretion" conflict with this Court's decision in *Sheppard v. Maxwell* holding that "[d]ue process requires that the accused receive a trial by an impartial jury free from outside influences"and the Sixth and Fourteenth amendments?

RELATED PROCEEDINGS

State v. Spencer, Marshall County Circuit Court, No. CC-2018-465. Order of conviction entered October 27, 2022; sentencing order entered on November 18, 2022.

Spencer v. State, Alabama Court of Criminal Appeals, No CR-22-1280, 2024 WL 5182403 (Ala. Crim. App. Dec. 20, 2024). Conviction and sentence affirmed December 20, 2024.

Ex parte Spencer, Alabama Supreme Court, No. SC-2024-0759. Petition for writ of certiorari denied September 19, 2025.

State v. Spencer, Marshall County Circuit Court, No. CC-2018-465.60. Petition for relief pursuant to Ala. R. Crim. P. 32 pending.

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The opinion of the Alabama Court of Criminal Appeals affirming Mr. Spencer's conviction and sentence of death, *Spencer v. State*, No. CR–2022-1280, 2024 WL 5182403 (Ala. Crim. App. Dec. 20, 2024), is not yet reported and is attached as Appendix A. The court's opinion denying rehearing is not reported and is attached as Appendix B. The order and certificate of judgment of the Alabama Supreme Court denying Mr. Spencer's petition for a writ of certiorari is unreported and attached as Appendix C.

STATEMENT OF JURISDICTION

In a decision dated December 20, 2024, the Alabama Court of Criminal Appeals affirmed Mr. Spencer's convictions and death sentence. *Spencer v. State*, No. CR–2022-1280, 2024 WL 5182403 (Ala. Crim. App. Dec. 20, 2024). The Alabama Court of Criminal Appeals denied rehearing on March 21, 2025. The Alabama Supreme Court denied Mr. Spencer's petition for a writ of certiorari as to all claims on September 19, 2025. Order, *Ex parte Spencer,* No. SC-2025-0197 (Ala. Sept. 19, 2025.) This Court granted Mr. Spencer's application to extend the time to file a petition for writ of certiorari on December 19, 2025, extending the time to file to January 19, 2026. *Spencer v. Alabama,*

No. 25A676 (Dec. 9, 2025). The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The Fourteenth Amendment to the United States Constitution provides in relevant part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE AND HOW THE FEDERAL QUESTION WAS RAISED BELOW

Jimmy Spencer has an IQ of 56, is functionally illiterate, and never learned to read or write. (C. 337.) In July 2018, Mr. Spencer had been living in

and around Guntersville, Alabama, for several months, after having been released on parole after serving 28 years of a life sentence on a prior conviction for burglary in January 2018. (R. 1112.) At first, Mr. Spencer lived in a trailer along with his girlfriend, then in a tent, and then outdoors on the streets of Guntersville. (R. 1116-1120.) Mr. Spencer worked for a brief time after his parole—first at a chicken processing plant, and then at an auto body shop—before his vehicle was impounded and he was unable to get to work, leaving him homeless with no income. (R. 1117-20.)

On the morning of Sunday, July 15, 2018, Mr. Spencer was found on the streets in Guntersville and brought into the Guntersville Police Department for questioning in connection with the deaths of Marie Kitchens Martin, Martha Reliford and Colton Lee. (R. 1050.) After several days of interrogation, Mr. Spencer was arrested and charged with seven counts of capital murder pursuant to Alabama Code Section 13A-5-40(a) in connection with the deaths of Marie Kitchens Martin, Colton Ryan Lee, and Martha Dell Reliford. (C. 18-19; R. 849-52.)

Prior to trial, this case generated a significant amount of publicity and press coverage. News stories about the crime were widespread and reflected not only the graphic details of the crime and the victims (including the 7-year-old Colton Lee), but also facts relating to Mr. Spencer's prior criminal history,

including that he had been released on parole from a life sentence only months before the crimes. (R. 69-70.) Even the Alabama Attorney General, Steve Marshall—who had previously served for sixteen years as the District Attorney in Marshall County—publicly commented, stating that the case was gruesome and alleging that Mr. Spencer was a "violent offender" and an example of a "badly broken" parole system. (R. 69.) Indeed, the district attorney raised concerns over the number of potential jurors to call due to the "publicity" the case had received and "the number of people familiar with it." (R. 23.)

On June 9, 2021, Mr. Spencer's counsel filed a motion to change venue based on the extensive pretrial publicity that saturated Marshall County, a county with 99,423 residents,[1] and surrounding areas (C. 155-56). Specifically, counsel argued that every major newspaper in Marshall County and surrounding counties had:

> published and circulated newspaper articles describing the acts with which the defendant is charged, and these papers included significant portions of documentary and hearsay evidence relative to defendant, the admissibility of which has not been considered by this Honorable Court.

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[1]U.S. Census Bureau, Quick Facts: Marshall County, available at https://www.census.gov/quickfacts/fact/table/marshallcountyalabama,US/PST045222 (population estimates as of July 1, 2022, last accessed December 3, 2023).

(C. 155)

On December 7, 2021, the trial court held a pretrial hearing on that motion. (R. 66.) At the hearing, defense expert Steve Raby, who had reviewed media coverage of the case since it occurred in 2018, (R. 68-69), testified that the news coverage for this case was "in the upper 80 percentile" of cases he had seen (R. 89); that the publicity included comments from Alabama Attorney General Steve Marshall (R. 69); and that, in a survey of Marshall County residents, over 70 percent had a "substantial recall of the events alleged in the indictment against" Mr. Spencer. (R. 71.) Of those respondents, 73 percent believed Mr. Spencer was guilty of murder, 27 percent was unsure, and zero percent believed he was not guilty. (R. 71-72.) Mr. Raby stated that, in his experience, he had never before conducted a survey where zero percent of respondents believed the defendant was not guilty. (R. 72.) Nevertheless, the trial court denied Mr. Spencer's motion to change venue. (C. 202-03.)

During jury selection, over twenty potential jurors indicated that they had not only been exposed to the case via media, but that the media exposure had led them to form an opinion about the Mr. Spencer's guilt. For example, one veniremember—although she had admitted that she had not heard *any* evidence yet—felt that Mr. Spencer was guilty "[j]ust from what [she had] seen on television and the news." (R. 269.) Further, several veniremembers expressed

that Mr. Spencer was "[p]robably [] guilty since he's already been convicted before." (R. 335.)

At trial, the State presented no DNA evidence or other physical evidence directly tying Mr. Spencer to the crime, despite the fact that the crime scene had property in disarray and the fact that there was large amounts of blood throughout the scene. (R. 961.) Instead, the State's case focused on several statements obtained from Mr. Spencer, (R. 998, 1060, 1074, 1085, 1131, 1155, 1162, 1165), which were entered over the defense's continued objection. (R. 1085.) The State also introduced several surveillance videos from a Texaco gas station in the vicinity of the crime scene, which purported to show Mr. Spencer driving a car belonging to Marie Martin in the days following her death. (Ex. 79.)

The defense did not present any witnesses during the guilt phase of the trial, but argued that Mr. Spencer was not guilty because the State failed to meet its burden of proof. (R. 1351-53.)

On October 27, 2022, after deliberating for less than an hour, (R. 1429-32), the jury convicted Mr. Spencer of seven counts of capital murder, under Alabama Code Section 13A-5-40. (C. 252-57, 757-61; R. 1428.) Following a one-day penalty phase, the jury deliberated for twenty-five minutes before returning a 12-0 verdict sentencing Mr. Spencer to death. (C. 259; R. 1688-89.) On November 14, 2022, the trial court held a formal sentencing hearing, at which

it heard victim impact statements, (R. 1708), and then formally sentenced Mr. Spencer to death. (C. 279; R. 1728.)

Mr. Spencer timely appealed, arguing, among other issues, that the trial court's failure to change the venue of his capital trial violated his Sixth and Fourteenth Amendment rights to a fair trial. The Alabama Court of Criminal Appeals affirmed Mr. Spencer's convictions and death sentence on December 20, 2024, *Spencer v. State*, No. CR–2022-1280, 2024 WL 5182403 (Ala. Crim. App. Dec. 20, 2024), holding that the "trial court did not abuse its discretion by denying Spencer's motion for a change of venue." *Id.*, at *20.

REASONS FOR GRANTING THE WRIT

In this capital case, extensive pretrial publicity—including public comments by the Alabama Attorney General—depicted Mr. Spencer as a "violent offender," a "career criminal," and an example of a "badly broken" parole system. News coverage inundated the community, to such an extent that before Mr. Spencer's capital trial, over 70 percent of local residents believed Mr. Spencer was guilty of the crime with which he was charged, while zero percent believed he was not. Indeed, during voir dire, potential jurors expressed pre-existing views on Mr. Spencer's guilt, including views based "[j]ust from what I've seen on television and the news." Nevertheless, the trial court refused to move Mr. Spencer's trial out of the small community of Marshall County. The trial court's

failure to change the venue of Mr. Spencer's capital trial violated Mr. Spencer's rights under the Sixth and Fourteenth Amendments. The lower court's opinion to the contrary conflicts with this Court's precedents. Therefore, certiorari is appropriate. *See* Sup. Ct. R. 10(b), (c).

I. THIS COURT'S PRECEDENTS REQUIRE A CHANGE OF VENUE WHEN PRETRIAL PUBLICITY PRECLUDES A FAIR TRIAL IN THE COUNTY IN WHICH A DEFENDANT IS INDICTED.

The failure to provide a fair hearing by a panel of impartial, indifferent jurors violates the most basic requirement of due process. Morgan v. Illinois, 504 U.S. 719, 727 (1992). Indeed, "[t]he[re] are circumstances 'in which experience teaches that the probability of actual bias . . . is too high to be constitutionally tolerable.'" Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 877 (2009) (quoting Withrow v. Larkin, 421 U.S. 35, 47 (1975)).

In Rideau v. Louisiana, this Court held that "it was a denial of due process of law [for the trial court] to refuse the [defendant's] request for a change of venue" after the population in the county where the trial took place had been "exposed repeatedly and in depth" to pretrial publicity about the case. Rideau, 373 U.S. 723, 725 (1963). Prior to the defendant's capital trial in Rideau, a video regarding the crime and the defendant—which suggested the defendant's guilt—was widely published and viewed in the 150,000 person county in which the trial was held. Id. This Court held that widespread publication of the video required a transfer of venue for the defendant's capital trial, because "[a]ny subsequent court proceedings in a community so pervasively exposed to such spectacle could be but a hollow formality." Id.

Similarly, in Sheppard v. Maxwell, this Court noted that "[d]ue process

requires that the accused receive a trial by an impartial jury free from outside influences." Sheppard, 384 U.S. 333, 362 (1966). In that case, the defendant was accused of murdering his wife, and the case garnered "virulent publicity about [the defendant] and the murder." Id., at 354. Noting that the "deluge of publicity reached at least some of the jury," this Court granted habeas relief, vacating the defendant's conviction based on the trial court's failure to change venue. Id., at 363 ("[T]he state trial court did not fulfill his duty to protect Sheppard from the inherently prejudicial publicity which saturated the community"); see also Skilling v. United States, 561 U.S. 358, 378 (2010) ("The theory of our trial system is that the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print."); Ala. Code § 15-2-20(a) (requiring change of venue where defendant "cannot have a fair and impartial trial in the county in which the indictment is found").

To determine whether a fair trial is possible in a given community, this Court has directed lower courts to examine the totality of the circumstances, including the size and characteristics of the community, the content of any news stories, the time between the crime and the trial, the outcome of the trial, the exposure of the venire to pretrial publicity, and any other relevant factors. See Skilling, 561 U.S. at 382; Sheppard, 384 U.S. at 352-55; Rideau v. State of La.,

373 U.S. 723, 725 (1963).

II. THE TRIAL COURT'S FAILURE TO CHANGE THE VENUE OF MR. SPENCER'S CAPITAL TRIAL VIOLATES THE SIXTH AND FOURTEENTH AMENDMENTS AND THIS COURT'S PRECEDENTS IN *RIDEAU V. LOUISIANA* AND *SHEPPARD V. MAXWELL*.

Here, defense counsel filed a motion to move Mr. Spencer's trial out of Marshall County based on significant pre-trial publicity about the case, including the fact that every major newspaper in Marshall County and surrounding counties had:

> published and circulated newspaper articles describing the acts with which the defendant is charged, and these papers included significant portions of documentary and hearsay evidence relative to defendant, the admissibility of which has not been considered by this Honorable Court.

(C. 155.) Following a hearing on December 7, 2021, (R. 66-99), the trial court erroneously denied Mr. Spencer's motion for a change of venue (C. 201-202.) As a result, Mr. Spencer's capital trial was held in Marshall County. In affirming, the court below held that "prejudice was not presumed in the instant case, and the trial court did not abuse its discretion by denying Spencer's motion for a change of venue." Spencer v. State, No. CR-2022-1280, 2024 WL 5182403, at *20 (Ala. Crim. App. Dec. 20, 2024).

The Court of Appeals's opinion affirming the trial court's refusal to move Mr. Spencer's capital trial outside of Marshall County was contrary to this

Court's precedents.

First, with only 99,423 residents,[2] Marshall County is even smaller than the small rural community of 150,000 residents in Rideau, where this Court found that pretrial publicity necessitated a change of venue. 373 U.S. at 727.

Second, there was extensive pretrial publicity about this case. News stories about the crime were widespread and reflected not only the graphic details of the crime and the victims (including the 7-year-old Colton Lee), but also facts relating to Mr. Spencer's prior criminal history, including that he had been released on parole from a life sentence only months before the crimes (R. 69-70.) Indeed, this case became the focus of an effort to change Alabama's parole policies and procedures. (R. 86.) Alabama Attorney General Steve Marshall—who had previously served for sixteen years as District Attorney in Marshall County—publicly referred to Mr. Spencer as a "career criminal" who posed a "clear and present danger to public safety" and was an example of a "badly broken" parole system. (Id.); see Sheppard, 384 U.S. at 363 (state trial court had duty to "protect [defendant] from [] inherently prejudicial publicity which saturated the community" and failure to do so violated due process).

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[2]U.S. Census Bureau, Quick Facts: Marshall County, available at https://www.census.gov/quickfacts/fact/table/marshallcountyalabama,US/PST045222 (population estimates as of July 1, 2022, last accessed December 3, 2023).

Third, a significant portion of the jury venire was exposed to pretrial publicity about the case and Mr. Spencer. At a pretrial hearing, Mr. Spencer's counsel presented an expert report and testimony from Steve Raby, an expert in statistics, who conducted a survey of registered voters in Marshall County. (R. 66-83; C. 738-745.) Mr. Raby testified that, based on this survey, over 70 percent of those surveyed had a "substantial recall of the events alleged in the indictment against" Mr. Spencer. (R. 71.) Of those respondents, 73 percent believed Mr. Spencer was guilty of murder, 27 percent was unsure, and zero percent believed he was not guilty. (R. 71-72.) Mr. Raby stated that, in his experience, he had never before conducted a survey where zero percent of respondents believed the defendant was not guilty. (Id.); see Estes v. Texas, 381 U.S. 532, 536 (1965) (risk of pretrial publicity is that it "may well set the community opinion as to guilt or innocence.").

Voir dire examination of the actual panel of prospective jurors in this case corroborated Mr. Raby's analysis. Over twenty potential jurors indicated that they had not only been exposed to media coverage about the case, but also that the media coverage had caused them to form an opinion about the Mr. Spencer's guilt. For example, one veniremember acknowledged that she had not heard any evidence yet, but believed that Mr. Spencer was guilty "[j]ust from what [she had] seen on television and the news." (R. 269.) Several other veniremembers

expressed that Mr. Spencer was "[p]robably [] guilty since he's already been convicted before." (R. 335.)

Finally, the outcome of Mr. Spencer's trial was a death sentence. Compare Skilling, 561 U.S. at 383 (noting prejudice less probable where jury acquitted defendant on nine counts) with Rideau, 373 U.S. at 725 (trial court erred in denying change of venue where defendant convicted and sentenced to death).

This Court should grant certiorari, vacate the Alabama Court of Criminal Appeals' affirmance of Mr. Spencer's conviction and death sentence, and remand for further proceedings because, in light of the extensive pretrial publicity attached to this case, the graphic nature of the publicity, and the saturation of the publicity among the jury venire, the trial court's refusal to change the venue of Mr. Spencer's capital trial was contrary to this Court's prior caselaw, and violated Mr. Spencer's rights to due process, an impartial jury, a fair trial, and a reliable conviction and sentence as protected by the Sixth and Fourteenth Amendments to the United States Constitution.

CONCLUSION

For the foregoing reasons, Mr. Spencer's petition for certiorari should be granted.

Respectfully Submitted,

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