

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

JULIUS JARREAU MOORE,

Petitioner,

v.

STATE OF ARIZONA,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

PETITION FOR WRIT OF CERTIORARI

PATRICK C. COPPEN
Counsel of Record
LAW OFFICE OF PATRICK C. COPPEN, PC
2735 W. SANDBROOK LANE
TUCSON, AZ 85741
(520) 301-0503
coppenfpr@aol.com

Counsel for Petitioner

QUESTIONS PRESENTED
CAPITAL CASE

Petitioner Moore, who has always maintained his innocence in this case from the time of his initial arrest in 1999, was convicted at trial of first degree murder and sentenced to death.

In state post-conviction proceedings, Moore was refused an evidentiary hearing and his petition dismissed, despite his colorable claims of innocence, ineffective assistance of counsel at trial and serious state misconduct, including claims police planted evidence to connect Moore to the murders and deliberately destroyed exculpatory DNA evidence to prevent it from being tested. Notably, this misconduct occurred *after* the State's only eyewitness could *not* identify Moore as the perpetrator of the crimes on multiple occasions.

Further, Moore suffered ineffective assistance of trial counsel, who failed to properly investigate his case nor to even present a defense, despite substantial third-party culpability evidence existing as to the original suspect, one Tony Brown. Instead, trial counsel improperly frontloaded purported "mitigation" of Moore's alleged crack cocaine addiction on cross examination of the State's witnesses, from which the jury could easily infer that Petitioner was guilty of the homicides due to said alleged addiction.

Finally, Petitioner's Sixth Amendment rights were further violated because he was *not* competent at the time of trial due to the severe *diabetic ketoacidosis* he suffered throughout the guilt phase of trial, caused by the Maricopa County Jail's contemporaneous refusal to properly feed or medicate Moore during his guilt phase trial.

This case therefore presents three questions:

- 1) Whether the State's alleged egregious misconduct in both planting evidence in Petitioner Moore's bed to wrongfully tie him to the homicides, and by deliberately destroying exculpatory DNA evidence related to blood found on a knife near the first chronological victim's body, violated this Court's authority in *United States v. Russell*, 411 U.S. 423, 93 S.Ct. 1637 (1973) and *Arizona v. Youngblood*, 488 U.S. 51, 109 S.Ct. 333 (1988), respectively holding that outrageous governmental conduct and the purposeful destruction of evidence by police, if proven, require dismissal of his case with prejudice?
- 2) Whether *Capital* Petitioner Moore's 6th Amendment right to be represented by competent trial counsel was violated due to substantial Ineffective Assistance of Counsel (IAC) as defined by *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct 2052 (1984) and *Hinton v. Alabama*, 571 U.S. 170, 134 S.Ct. 1081 (2014) due to former counsel's failure to not only properly investigate and present readily available and compelling 3rd Party culpability evidence as to the original suspect, yet in his *failure to call a single witness in Petitioner's defense*, and which resultant abdicated defense was most substantially comprised of the cross examination of State's witnesses to purportedly frontload mitigation as to his alleged addiction, suggesting to the jury that he was guilty in this case and constituting such grave ineffective assistance of counsel or misconduct so as to rival that which occurred in *McCoy v. Louisiana* 584 U.S. 414, 138 S.Ct. 1500 (2018)?
- 3) Whether Moore's Sixth and Fourteenth Amendment federal constitutional right to a fair trial was violated by the lower Arizona court because he was *not* competent at the time of his 2001 guilt phase jury due to diabetic ketoacidosis caused by the Maricopa County Jail's refusal to properly feed him nor give him prescribed insulin medication?

PARTIES TO THE PROCEEDING

The parties to the proceeding are Petitioner Julius Jarreau Moore and respondent the State of Arizona. The Petitioner is not a corporation.

STATEMENT OF RELATED PROCEEDINGS

State v. Moore, CR1999-016742 (Maricopa Cnty. Super. Ct. June 6, 2007)
(convictions and sentences)

State v. Moore, 222 Ariz. 1 (Ariz. July 23, 2009) (opinion affirming convictions and sentences
on direct appeal)

Moore v. Arizona, No. CR-07-0164-AP (November 30, 2009) (order denying petition for writ of
certiorari seeking review on direct appeal)

State v. Moore, CR1999-016742 (Maricopa Cnty. Super. Ct. September 23, 2021)
(ruling and order denying petition for post-conviction relief)

State v. Moore, CR23-0199 PC (Ariz. Sept. 9, 2025) (order denying review of lower court's
order denying post-conviction relief)

TABLE OF CONTENTS

| | |
|---|-----|
| QUESTIONS PRESENTED..... | i |
| PARTIES TO THE PROCEEDINGS..... | ii |
| STATEMENT OF RELATED PROCEEDINGS..... | iii |
| TABLE OF CONTENTS..... | iv |
| PETITION FOR WRIT OF CERTIORARI..... | 1 |
| Decisions Below..... | 1 |
| Statement of Jurisdiction..... | 2 |
| Statement of the Case..... | 3 |
| A. Factual and Procedural Background for the Egregious State Misconduct Issue..... | 4 |
| B. Factual and Procedural Background for the Pervasive Ineffective Assistance of Counsel Issue..... | 13 |
| C. Facts and Procedural Background regarding the Incompetence of Petitioner at his Guilt Phase Trial due to Diabetic Ketoacidosis..... | |
| Reasons for Granting Certiorari..... | |
| A. Because the State’s alleged egregious misconduct in both <i>planting evidence</i> in Petitioner Moore’s bed to wrongfully tie him to the 1999 Yale Crackhouse homicides, and <i>purposely destroying exculpatory DNA evidence</i> related to blood plainly evident on knife found near the 1 st chronological homicide victim’s foot violated the Sixth and Fourteenth Amendments to the United States Constitution and respectively constituted <i>prima facie</i> violations of the U.S. Supreme Court’s holdings in <i>U.S. v. Russell</i> and <i>Arizona v. Youngblood</i> by which such plainly outrageous governmental conduct and the purposeful destruction of evidence by the State respectively require dismissal of his case with prejudice. | |
| B. Because <i>Capital</i> Petitioner Julius Jarreau Moore’s Sixth Amendment right to be represented by effective trial counsel as applied to the State of Arizona under the Fourteenth Amendment was pervasively violated throughout his case due to substantial Ineffective Assistance of Counsel (IAC) under <i>Strickland v. Washington</i> and <i>Hinton v. Alabama</i> by which former counsel’s failure to not only properly investigate and present readily available 3 rd Party culpability evidence, yet <i>failure to call a single witness in Mr. Moore’s defense</i> effectively pleading him guilty before the jury, along with defense counsel’s cross examination of the State’s witnesses in order to frontload “mitigation” as to Mr. Moore’s drug addiction, suggesting to the jury that he was actually guilty in this case, constituting such grave ineffective assistance | |

of counsel or misconduct so as to rival that which occurred in *McCoy v. Louisiana*.

- C. Because Petitioner Julius Jarreau Moore's Sixth Amendment constitutional right to a fair trial was violated because he was not competent at the time of his 2001 guilt phase jury trial due to suffering from a very serious medical condition or diabetic ketoacidosis caused by the State's misconduct in failing to properly feed him during the guilt phase of trial nor give him prescribed diabetes medication, which failures combined had a synergistic effect to render him incompetent throughout the proceeding.

CONCLUSION.....

APPENDIX

| | Page No.: |
|---|-----------|
| Appendix A: Minute Entry, Conviction and Sentencing, <i>State v. Moore</i> , No. CR1999-016742 (Maricopa Cnty. Super. Ct. June 6, 2007) | 1a |
| Appendix B: Opinion, <i>State v. Moore</i> , No. CR07-0164 AP (Ariz. July 23, 2009)..... | 10a |
| Appendix C: Minute Entry, Ruling Dismissing PCR, <i>State v. Moore</i> , No. CR1999-016742, Maricopa Cnty. Super. Ct. (Sept. 23, 2022)..... | 70a |
| Appendix D: Order denying Amended Petition for Review, <i>State v. Moore</i> , CR23-0199 PC (Ariz. Sept. 9, 2025)..... | 115a |
| Appendix E: Amended Petition for Review, <i>State v. Moore</i> , CR23-0199 PC (Oct. 6, 2023)..... | 119a |
| Appendix F: Amended Petition for Review to Arizona Supreme Court, Petitioner’s Exhibit #40, Affidavit of former Maricopa County Medical Examiner Dr. Archilaus Mosley..... | 266a |
| Appendix G: Amended Petition for Review to Arizona Supreme Court, Petitioner’s Exhibit #52, Affidavit of Criminalist R. Watkins..... | 283a |
| Appendix H: Amended Petition for Review to Arizona Supreme Court, Petitioner’s Exhibit #53, Affidavit of Crimescene & Fingerprint Expert F. Rogers | 361a |
| Appendix I: Amended Petition for Review to Arizona Supreme Court, Petitioner’s Exhibit #83, Declaration and Sworn Interview Transcript of Ray Krone..... | 425a |
| Appendix J: Amended Petition for Review to Arizona Supreme Court, Petitioner’s Exhibit #84, 2 nd Supplemental Declaration of Larry A. Hammond..... | 465a |
| Appendix K: Amended Petition for Review to the Arizona Supreme Court, Petitioner’s Exhibit #85, 6 th Supplemental Declaration of Ballistics/Firearms Expert R. Watkins | 482a |
| Appendix L: Amended Petition for Review to the Arizona Supreme Court, Petitioner’s Exhibit #86, 6 th Supplemental Declaration of Crimescene Expert Frank Rodgers..... | 490a |

APPENDIX
(Cont'd)

Page No.:

| | |
|---|------|
| Appendix M: Amended Petition for Review to the Arizona Supreme Court, Petitioner's Exhibit #32, Affidavit of J. Canby, Esq..... | 498a |
| Appendix N: Amended Petition for Review to the Arizona Supreme Court, Petitioner's Exhibit #44, Affidavit of Capital Representation Legal Expert Larry Hammond..... | 506a |
| Appendix O: Amended Petition for Review to the Arizona Supreme Court, Petitioner's Exhibit #48, Affidavit of Dr. Stephen Williams..... | 537a |

TABLE OF AUTHORITIES

Federal cases:

| | Page(s) |
|--|---------|
| <i>Arizona v. Fulimante</i> , 499 U.S. 279, 310 (1991)..... | |
| <i>Arizona v. Youngblood</i> , 488 U.S. 51, 109 S.Ct. 333 (1988)..... | |
| <i>Banks v. Dretke</i> , 540 U.S. 668, 124 S.Ct. 1256 (2004)..... | |
| <i>Brady v. Maryland</i> , 373 U.S. 83, 87, 83 S.Ct. 1194, 1196 (1963)..... | |
| <i>Brecht v. Abrahamson</i> , 507 U.S. 619 (1993)..... | |
| <i>Blazak v. Ricketts</i> , 1 F.3d 891, 893 (9 th Cir. 1993)..... | |
| <i>California v. Trombetta</i> , 467 U.S. 479, 104 S.Ct. 2528 (1984)..... | |
| <i>Cooper v. Oklahoma</i> , 517 U.S. 348 (1966)..... | |
| <i>Cullin v. Pinholster</i> , 563 U.S. 479, 131 S.Ct. 1388 (2011)..... | |
| <i>Darden v. Wainwright</i> , 477 U.S. 168, 181 (1986)..... | |
| <i>Donnelly v. DeChristofono</i> , 416 U.S. 637 (1974)..... | |
| <i>Dugas v. Coplan</i> , 428 F.3d 317 (1st Cir. 2005)..... | |
| <i>Dusky v. United States</i> , 362 U.S. 402, 80 S.Ct. 788 (1960)..... | |
| <i>Drope v. Missouri</i> , 420 U.S. 162, 95 S.Ct. 896 (1975)..... | |
| <i>Giglio v. United States</i> , 405 U.S. 150, 92 S.Ct. 763 (1972)..... | |
| <i>Gideon v. Wainwright</i> , 372 U.S. 335 (1963)..... | |
| <i>Glover v. United States</i> , 531 U.S. 198 at 203 (2001)..... | |
| <i>Herrera v. Collins</i> , 506 U.S. 390, 113 S.Ct. 853 (1993)..... | |
| <i>Hinton v. Alabama</i> , 571 U.S. 170, 134 S.Ct. 1081 (2011)..... | |
| <i>Kimmelman v. Morrison</i> , 477 U.S. 365, 106 S.Ct. 2574 (1986)..... | |

TABLE OF AUTHORITIES
(Cont'd)

Federal cases:

| | Page(s) |
|--|----------------|
| <i>Kyles v. Whitley</i> , 514 U.S. 419, 115 S.Ct. 1555 (1995)..... | |
| <i>McCoy v. Louisiana</i> , 584 U.S. ___, 138 S.Ct. 1500 (2018)..... | |
| <i>Medina v. California</i> , 505 U.S. 437, (1992) | |
| <i>Miller v. Pate</i> , 386 U.S. 1, 87 S.Ct. 785 (1967) | |
| <i>Monge v. California</i> , 524 U.S. 721 (1998)..... | |
| <i>Mooney v. Holohan</i> , 294 U.S. 103 (1935)..... | |
| <i>Napue v. Illinois</i> , 360 U.S. 264, 79 S.Ct. 1173 (1959)..... | |
| <i>Pate v. Robinson</i> , 383 U.S. 375, 86 S.Ct. 836 (1966)..... | |
| <i>Phillips v. White</i> , 851 F.3d 567 (6th Cir. 2017)..... | |
| <i>Rose v. Lundy</i> , 455 U.S. 509, 102 S. Ct. 1198, 71 L. Ed. 2d 379 (1982)..... | |
| <i>Shinn v. Martinez Ramirez</i> , 596 U.S. ___ (2022)..... | |
| <i>Strickland v. Washington</i> , 466 U.S. 668, 104 S.Ct 2052 (1984)..... | |
| <i>Townsend v. Sain</i> , 372 U.S. 293, 83 S.Ct. 745 (1963)..... | |
| <i>Trombetta v. California</i> , 467 U.S. 479, 104 S. Ct. 2528 (1984)..... | |
| <i>United States v. Agurs</i> , 427 U.S. 97, 96 S.Ct 2392 (1976)..... | |
| <i>U.S. v. Cronin</i> , 466 U.S. 648, 104 S.Ct. 2039 (1984)..... | |
| <i>United States v. Crumby</i> , 895 F.Supp. 1354 (D.Ariz. 1995)..... | |
| <i>United States v. Glover</i> , 531 U.S. 198 at 203 (2001)..... | |
| <i>United States v. Pope</i> , 841 F.2d 954 (9 th Cir. 1998)..... | |
| <i>United States v. Russell</i> , 411 U.S. 423, 93 S.Ct. 1637 (1973)..... | |

TABLE OF AUTHORITIES
(Cont'd)

State cases:

Page(s)

Federal Statutes

Constitutional Provisions

U.S Const. amend VI

U.S. Const. amend XIV

The Supremacy Clause, U.S. Const. art. VI

Other Authorities

PETITION FOR A WRIT OF CERTIORARI

Petitioner Julius Jarreau Moore, an indigent prisoner sentenced to death in Arizona, respectfully requests that this most honored Court grant certiorari to correct the Arizona state courts' multiple violations of his federal constitutional rights in this case based upon this United States Supreme Court's decisions related to the following: 1) that a criminal defendant has the federal constitutional right to a fair trial under the Sixth Amendment and to Due Process of law under the Fourteenth Amendment which collectively prohibit state misconduct bringing about a *contrived* conviction, *Mooney v. Holohan*, 294 U.S. 103 (1935), which misconduct specifically includes both outrageous governmental conduct in planting evidence to falsely implicate his guilt under *United States v. Russell*, 411 U.S. 423, 93 S.Ct. 1637 (1973) and the purposeful destruction of exculpatory DNA evidence to prevent his exoneration under *Arizona v. Youngblood*, 488 U.S. 51, 109 S.Ct. 333 (1988); 2) that a criminal defendant in a death penalty case has the federal constitutional right under the Sixth Amendment to a fair trial which includes the right to competent counsel throughout having the duty to properly investigate his case under *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984), as reaffirmed by the United States Supreme Court in *Hinton v. Alabama*, 571 U.S. 170, 134 S.Ct. 1081 (2014), and to present all available material evidence in his defense, rather than effectively pleading him guilty by both failing to call a single witness when compelling third party culpability evidence exists, and by purposely cross examining the State's witnesses about the defendant's alleged drug addiction at the time of the underlying Crackhouse homicides, suggesting his guilt to the jury which overall attorney misconduct rivals that which occurred in *McCoy v. Louisiana*, 584 U.S. 414, 138 S.Ct. 1500 (2018); and 3) that a criminal defendant has the federal constitutional right to a fair trial under the Sixth Amendment and to Due Process of law under the Fourteenth Amendment which prohibit him from being tried while incompetent as recognized by the United States Supreme Court in both *Dusky v. United States*, 362 U.S. 402, 80 S.Ct. 788 (1960) and *Drope v. Missouri*, 420 U.S. 162 (1975), especially when said incompetence is due to a serious medical condition, such as diabetic ketoacidosis, caused by the State's misconduct in failing to properly feed the Defendant during trial or give him prescribed insulin for his diagnosed diabetes.

Decisions Below

The Arizona Supreme Court denied discretionary review of Mr. Moore's post-conviction claims on September 9, 2025, in an unpublished order. App. 115a-116a. The Maricopa County Superior Court summarily denied Mr. Moore's post conviction claims in an unpublished minute entry entered on September 23, 2021. App. 70a-114a.

The Arizona Supreme Court's decision affirmed Mr. Moore's convictions and

death penalty sentences on direct review in a written opinion on July 23, 2009, App. 10a-69a, and is reported at *State v. Moore*, 213 P. 3d 150 (Ariz. 2009). The Maricopa County Superior Court entered the convictions and sentences in Mr. Moore's case in an unpublished order on June 6, 2007. App. 1a-9a.

Statement of Jurisdiction

The Arizona Supreme Court entered judgment against Mr. Moore on September 9, 2025, when it denied review of his post conviction case. App. 15a-16a. Mr. Moore applied for additional time to file the instant petition and Justice Elena Kagan extended the time to seek certiorari to February 6, 2026. *Moore v. Arizona*, No. 25A645 (U.S. Dec. 4, 2025). This Court's jurisdiction is invoked under 28 U.S.C. Sec. 1257 (a) and 28 U.S.C. Sec. 2106.

Constitutional Provisions

The Sixth Amendment, U.S. Const. amend. VI. provides in relevant part:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, *** 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 defense.

The Fourteenth Amendment, U.S. Const. amend XIV, provides in relevant part:

No state shall * * * deprive any person of life, liberty, or property, without due process of law[.]

The Supremacy Clause, U.S. Const. art. VI, para. 2, provides in relevant part:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ***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.

Statement of the Case

The first federal constitutional issue in this case involves alleged State misconduct in violation of the Sixth and Fourteenth Amendments and are effectively the very issues and contemplated fact patterns which this most honored Court respectively outlined or decided in *United States v. Russell*, 411 U.S. 423, 93 S.Ct. 1637 (1973) and *Arizona v. Youngblood*, 488 U.S. 51, 109 S.Ct. 333 (1988), as to whether the planting of evidence by police into a criminal defendant's bed to falsely tie him to a crime constitutes outrageous governmental conduct and whether the purposeful destruction of DNA evidence by police to prevent the testing of the evidence that inferentially would exonerate the defendant and implicate the original suspect mutually require the dismissal of Petitioner Moore's case with prejudice.

The second federal constitutional issue in the case at bar involves the fact that during Mr. Moore's trial in this case he was not represented by competent counsel in violation of the Sixth Amendment. During the pretrial and guilt phase of trial, former trial counsel was admittedly gravely ineffective because he *not only* failed to properly investigate Mr. Moore's case as required by longstanding United States Supreme Court authority in *Strickland v. Washington* (1984) as confirmed by this most honored Court's 2014 decision in *Hinton v. Alabama* related to the 3rd Party culpability of Tony Brown and present this defense at trial, yet *failed to call a single defense witness to testify at trial in Petitioner's defense* and essentially cross examined the State's witnesses in order to frontload mitigation concerning Petitioner's drug use contemporaneous to the homicides effectively admitting his guilt, with such blatant error by counsel rivaling that recently found by the United States Supreme Court to have in *McCoy v. Louisiana* in which

former trial counsel admitted Defendant McCoy's guilt at the beginning of trial, improperly waiving his right to the presumption of innocence without his client's consent, leaving Mr. Moore in this case without any effective representation at a critical phase of trial in apparent additional violation of *United States v. Cronin* which found that the lack of legal representation at a critical phase of trial is *per se* ineffective assistance requiring a new trial.

The third federal constitutional issue presented in Petitioner's Writ for Certiorari involves the alleged fact that at the time of his guilt phase trial, Petitioner Moore was not competent to stand trial, whereby his trial proceeded in violation of both the Sixth and Fourteenth Amendments as his alleged incompetency was due to a serious medical condition called diabetic ketoacidosis that was alleged to the Arizona court to have been caused by the State or the Maricopa County Jail itself by failing to properly feed him throughout trial nor give him his *prescribed* insulin, which misconduct caused him to be so mentally and physically compromised or incompetent at the time of trial, that he was unable to understand the nature of his case, nor assist counsel in his defense.

A. Factual and Procedural Background for the Egregious State Misconduct Issue

The factual and procedural background for the alleged egregious State Misconduct which took place in this case are as follows. Petitioner Moore's federal constitutional rights under the Sixth and Fourteenth Amendments to the United States Constitution respectively guaranteeing his rights to a fair trial and due process were plainly violated. He was the victim of a contrived conviction due to very serious misconduct by the State of Arizona as tacitly approved by the subsequent denial of

review and/or relief in this case by the Arizona Supreme Court despite the specific uncontroverted factual allegations of police misconduct relating to the planting of inculpatory evidence, the tampering with material evidence to cover up the planted evidence, as well as the purposeful destruction of DNA evidence. Petitioner submitted the following in post-conviction to obtain his vindication and freedom, and to the Arizona Supreme Court in his Amended Petition for Review. Appendix E, Petitioner's Amended Petition for Review, pp. 107-120.

It is particularly noteworthy that *capital* Petitioner Julius Jarreau Moore, who definitely benefitted from the near ten (10) year post conviction investigation in this case which merited ongoing investigation and evidentiary submissions, respectfully recognizes the awesomeness of United States Supreme Court's task at hand in considering whether his case may be worthy of granting certiorari or further review.

The ever increasing evidence of State Misconduct resulted in multile amendments and supplemental briefing to his original Petition for Post Conviction Relief, culminating in the Court ordered filing of a Unified Petition which memorialized the discovery of the above referenced alleged State Misconduct found to be of an increasingly grave nature. Petitioner's Amended Petition for Review, pp. 19-84.

With the growing discovery of forensic discrepancies and ever-mounting evidence of improprieties by the State of Arizona at the Maricopa County Superior Court level, a definite pattern of purposeful police misconduct was uncovered by retained defense forensic experts Watkins and Rodgers who were former Assistant Directors of the Phoenix Police Department (PPD) Crime Lab. Petitioner's Amended Petition for Review, pp. 29-78.

These discoveries by career Phoenix Police Department Crimelab Experts Richard Watkins and Frank Rodgers included both the actual planting of incriminating evidence by police in Petitioner Moore's bed in the first instance (E.g., Items 26, 26A, and 26B) meant to falsely implicate Petitioner, and the destruction of physical or ballistics evidence from the Yale Crackhouse Homicides' (YCH's) crime scene to cover-up the wrongdoing in planting the evidence, including the purposeful destruction of DNA evidence, which implicitly would have exonerated Petitioner. Petitioner's Amended Petition for Review, pp. 70-74.

For each of these issues it was respectively argued that applicable federal law required that Arizona Courts to dismiss Mr. Moore's underlying case with prejudice or at least grant him an evidentiary hearing because if the evidence presented in post conviction were true, such would undermine confidence in his death penalty and related convictions. Petitioner's Amended Petition for Review, pp. 107-120.

First, it was argued that the blatant planting of evidence in this case constituted outrageous governmental conduct pursuant to this most honored Court 's holding in *United States v. Russell*, 93 S.Ct 1637, 1641-43, 411 U.S. 429, 430-32 (1973). Petitioner's Amended Petition for Review, pp. 114-15.

Petitioner Moore submitted that in *Russell*, the United States Supreme Court had held that, although entrapment by police in a criminal case may not constitute "outrageous governmental conduct" barring prosecution, there was such a defense that could be raised if the question presented constituted "whether the police conduct falls below standards ... for the proper use of governmental power." *Id.* Petitioner's Amended Petition for Review, pp. 114-15. The Supreme Court suggested in the *Russell*

decision that although such a threshold may be elusive, the Court “may someday be presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction.” *Id.*, at 43; *see also, Miller v. Pate*, 386 U.S. 1, 87 S.Ct. 785 (1967) [“the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence” *citing Mooney v. Holohan*, 294 U.S. 103 (1935)]. Petitioner’s Amended Petition for Review, p. 114.

In Petitioner’s case, he submitted to the Arizona Courts that the government’s egregious misconduct in planting evidence in his bed in order to falsely tie him to a crime for which the State lacked both physical and eyewitness related evidence, constituted outrageous governmental conduct whereby the principles of due process would absolutely bar the government from benefitting from such misconduct in a resultant death penalty conviction, and mandated vacating such conviction or related convictions, and the dismissal with prejudice of the underlying case or prosecution. Petitioner’s Amended Petition for Review, p. 115. Unlike the defendant in *Russell*, in which a predisposition to commit a crime by a particular defendant barred such an outrageous governmental conduct finding - despite that defendant being effectively ‘aided and/or abetted’ by the State to commit the crime - the government did not act to promote criminality; here, the government committed a criminal act to falsely convict an innocent individual, one for whom the government lacked the requisite probable cause to arrest, and literally “created” the evidence used to effect the arrest in the first place. *Id.* As described by Legal/Exonerations Expert Hammond who had founded the Arizona Justice Project, the police and prosecution basically “rode” their own criminal

misconduct in planting the evidence and repeatedly raised its egregious head throughout Petitioner's case, from the time of his indictment by the grand jury through conviction, then at the jury's death penalty imposition. See Petitioner's Amended Petition for Review, pp. 115-16 citing Petitioner's Exhibit #84; 2nd Suppl. Declaration of Larry A. Hammond, pp. 10-12.

Secondly, Petitioner submitted that the purposeful destruction of exculpatory evidence by police in his case, including *critical* DNA evidence, entitled him to dismissal of his charged offenses under *Arizona v. Youngblood*. *Id.*, 488 U.S. 51 [Purposeful or bad faith destruction of evidence by police creates the inference that evidence when purposely destroyed is exculpatory, entitling a defendant to dismissal in such a case]. Petitioner's Amended Petition for Review, p. 116.

Specifically, Petitioner Moore had argued that both the purposeful destruction of both ballistics evidence or shell casings (to cover up the planting of evidence by police), as well as DNA or blood evidence which plainly was present on the tip of a knife (Item #22) found at the crimescene near the foot of the first chronological homicide victim's foot (which the original Medical Examiner, Dr. Archilaus Mosely, opined likely contained the blood of the actual perpetrator), required Petitioner's case be dismissed with prejudice. *Id.* This remedy, it was respectfully submitted, was the only remedy available under applicable federal constitutional authority for such an egregious and ultimate *Brady* type due process violation considering the principles of fundamental fairness, especially given that unlike *Brady* violations which are remedied by a new trial at which the previously undisclosed evidence would be presented leveling the playing field for both the State and defense, a *Youngblood* violation, which is effectively the

ultimate “Brady violation”, must be remedied by a dismissal with prejudice given that the undisclosed evidence was destroyed and could never be presented at a later trial. *Youngblood v. Arizona*, 488 U.S. 51, 109 S.Ct. 333, 335-38 (1988). Petitioner’s Amended Petition for Review, p. 116.

In his argument to the Arizona Supreme Court, Petitioner Moore submitted that evidence destruction by the State in a criminal case constitutes a due process violation entitling him to an appropriate federal constitutional remedy. *Id. citing Trombetta v. California*, 467 U.S. 479, 104 S. Ct. 2528 (1984), Petitioner explained that in holding that the State of California’s failure to preserve DUI-related Intoxilyzer breath samples was not a violation of due process because the State was merely following its normal practice, it was nonetheless pointed out that the United States Supreme Court had recognized that a conscious or calculated effort to circumvent disclosure requirements related to exculpatory *Brady* evidence may result in a violation of due process. *Id.* at 2532-35. Petitioner’s Amended Petition for Review, pp. 116-17.

Thereafter, Petitioner argued that absent the bad faith destruction of evidence by the State (as distinguished from mere negligent evidence destruction), no due process violation occurs when the State or police merely fail to properly preserve evidence. Petitioner’s Amended Petition for Review, pp. 116-17. However, the *Youngblood* holding recognized that the actual bad faith evidence destruction, such as occurred in this case, implies the evidence purposely destroyed was, in fact, exculpatory, providing the most drastic remedy: dismissal. Petitioner’s Amended Petition for Review, pp. 117-19. Mr. Moore further argued to the Arizona Supreme Court that for this most egregious due process or ultimate *Brady* violation (*i.e.*, the actual destruction of exculpatory evidence),

given that the evidence will never again be available to use at a later trial or retrial due to such inexcusable police misconduct or purposeful destruction of evidence, the most dramatic constitutional remedy was required: dismissal with prejudice under the United States Supreme Court's holdings in *Youngblood* and *Brady*. Petitioner's Amended Petition for Review, pp. 118-20.

As an example of the State Misconduct discovered during post conviction, the Arizona Courts learned that evidence discovered during *capital* Petitioner's ongoing investigation had prompted further review of forensic evidence by Petitioner's retained experts Watkins and Rodgers¹ principally concerning major discrepancies and improprieties they had found related to three (3) different items of highly material evidence which included both the alleged planted and tampered with evidence by police and the DNA evidence alleged to be purposely destroyed while in the custody of the Phoenix Police Department Crimelab as follows:

- 1) That regarding Item #26A [a shell casing found in a plastic ziplock bag (Item 26) with a spent bullet or projectile (Item #26B)] purportedly collected by police from 1833 E. Coronado or Petitioner's residence, the proper collection protocols were *not* followed by police requiring that evidence be *photographed in place* where it was purportedly first discovered (ie. under the bedspread of Petitioner Moore's bed), *not moved* from the location of discovery (to the top of the bed spread with items #26A and #26B in bag perfectly lined up), and that a numbered placard also be used or placed with the evidence before being photographed;

Amended Petition for Review at p. 51 *citing* Exhibit #53 (Affidavit of

¹ Petitioner's retained Firearms/Ballistics expert Richard Watkins and Fingerprints/Crime Scene expert Frank Rodgers respectively served as Assistant Directors of the PPD Crime Lab in 1997 and 1998-2001 *See* Petitioner's Unified Appendix of Exhibits, Petitioner's Exhibit #52 (Affidavit of R. Watkins at. pp. 1-2) and Exhibit #53 (Affidavit of F. Rodgers) at p. 1).

F.Rodgers at pp. 2, 4-5)].

- 2) That the picture of Item #26A taken at the time of its purported collection definitely shows an obvious or *plainly visible* “dent” in the side of the cartridge casing

Amended Petition for Review at p. 51 *citing* Exhibit #53 (Affidavit of F.Rodgers at pp. 2, 4-5)]; [Petitioner’s UAE, Exhibit #52 (Affidavit of R.Watkins at pp. 3-4, Para. 12).

- 3) That the “dent” in the side of original Item #26A is now no longer present in existing Item #26A

Amended Petition for Review at p. 51 *citing* Exhibit #52 (Affidavit of R.Watkins at pp. 3-4, Para. 12) and Petitioner’s Exhibit #53 (Affidavit of F.Rodgers at p. 5, Para. 16-17).

- 4) That inspection of other cartridge casings related to the present case to determine if original Item #26A had been lost or misplaced among the other cartridge casings yielded a determination that original Item #26A was not lost or misplaced among the other case related cartridge casings given none of them have such a dent, yet purposely removed from the present case

Amended Petition for Review at pp. 51-52 *citing* Exhibit #52 (Affidavit of R.Watkins at pp. 4-5, Paras. 14-16) and Exhibit #53 (Affidavit of F.Rodgers at p. 5, Paras. 16-18).

- 5) That Item #45 consists of a cartridge casing found in tire track at the YCH crimescene by PPD Detective Dillian, with Item #45 found on the ground inside tire track immediately after shooting having been run over by vehicle.

Amended Petition for Review at pp. 51-52 *citing* Petitioner’s Exhibit #52 (Affidavit of R.Watkins at p. 3, Para. 10) and Exhibit #53 (Affidavit of F.Rodgers at pp. 5-6, Para. 19).

- 6) That a vivid description of Item #45 at the time of its collection from the YCH crimescene was given by PPD Det. Sally Dillian during Moore’s trial in which Item #45 was “compressed” or “crushed”, “and” having other “damage”.

Amended Petition for Review at p. 52 *citing* Exhibit #59 (Supplemental Affidavit of R.Watkins at p. 3, Paras. 10-11) and Exhibit #60 (Supplemental Affidavit of F.Rodgers at pp. 2-3).

- 7) That a visual inspection or analysis of Item #45 at the *present* time has resulted in a finding that the Item #45 currently in existence in Moore's case has absolutely ***no*** visible damage whatsoever, whereby original Item #45 has also been removed or taken out of the present case, with a wholly different cartridge casing replacing it.

Amended Petition for Review at p. 52 *citing* Exhibit #59 (Supplemental Affidavit of R. Watkins at pp. 3-4, Paras. 110-14) and Exhibit #60 (Supplemental Affidavit of F.Rodgers at p. 3, Para. 11).

- 8) That the destruction of blood on the tip of YCH crimescene Item #22 or State's Exhibit #130 (knife found near foot of first chronological victim Sergio Mata) *pursuant to State agent's order* causing destruction of the evidence before any DNA testing could be performed under the Superior Court DNA testing Order and said destruction is "unprecedented" and greatly calls into question the integrity of the State's case.

Amended Petition for Review at p. 52 *citing* Exhibit #52 (Affidavit of R.Watkins at p. 5-6, Paras. 17-19).

- 9) That a review of the *Chain of Custody* documents related to Exhibit #130 or Yale Crackhouse crime scene Item #22 (knife with blood stain found near foot of first chronological victim Sergio Mata) shows after that PPD Detective Olson had ordered that the evidence ***not be preserved*** for DNA testing on 12/15/99, and that it was immediately checked out of evidence by Evidence Technician C.Westbrooks for over 60 days from 12/17/99 thru 2/24/00 without any testing taking place until it was forwarded to Latent Print Examiner J.Cynowa on 2/24/00.

Amended Petition for Review at p. 52 *citing* Exhibit #53 (Affidavit of F.Rodgers at p. 3, Para. 11.c)

- 10) That the latent fingerprint recovered from the knife blade of Item #22 may be a good source of biological material for supplemental DNA testing.

Amended Petition for Review at p. 53 *citing* Exhibit #53 (Affidavit of F.Rodgers at p. 4, Para. 12)]; and

- 11) That given the discrepancies or improprieties involving not just one (1), yet three (3) different items of material evidence in the present *capital case* (ie. Items 26a, 45 and 22), the integrity of the State's investigation/prosecution of Petitioner is ***gravely suspect***.

Amended Petition for Review at p. 53 *citing* Exhibit #59 (Supplemental Affidavit of R.Watkins at p. 4, Para. 15) and Petitioner's Exhibit #60 (Supplemental Affidavit of F.Rodgers at pp. 3-4, Para. 12)].

- 12) That given unexplained discrepancies/improprieties related to YCH Item #45 and purported Item #26A, the destruction of evidence related to Item #22 or State's Trial Exhibit #130 (knife found at crime scene next to victim Mata) which ***destruction*** occurred in a *capital* case in regards to readily apparent blood on the knife tip at the time of the initial police investigation as shown in State's Exhibit 110 which former assigned Maricopa County Medical Examiner Dr. Archilaus Mosley may have identified assailant) said destruction ***was not routine or accidental***, yet done to eliminate any possible evidence undermining State's theory that the shooting was committed by Moore.

Amended Petition for Review at p. 55 *citing* Exhibit #40 (Affidavit of former Maricopa County Medical Examiner Dr. A. Mosley) at p. 2, Paras. 4-9.²

Following the foregoing initial discoveries related to both the planting/tampering with evidence and the purposeful destruction of DNA evidence in this case, key additional discoveries were made by which forensic experts as well as both fact and other professional expert witnesses by which it was determined that the following additional findings were made with respect to Petitioner Julius Jarreau Moore's capital or death penalty post conviction relief case and presented to the Arizona Courts in order to prove the alleged State's Misconduct and highlighted in Petitioner's Amended Petition for Review to the

² It is highly questionable why, in the present *capital* case, such evidence destruction as to Item #22 would have occurred in the first place, let alone, why it would have occurred in conjunction with the destruction of other material items of the State's evidence discovered during the present collateral appeal as to Items #45 and #26A. It is especially telling that ***none*** of these discrepancies were ever favorable to Moore, for if they were merely happenstance or just coincidental, the law of averages would suggest at least one (1) favorable occurrence.

Arizona Supreme Court at pp. 75-77 as follows:

- 1) That evidence had been planted in Petitioner Moore's bed [Items 26 (Ziplock Plastic Bag), 26A (Shell Casing) and 26 B (Projectile) in order to falsely tie him to the homicides in this case and shell casing evidence had been tampered with to cover up the planting of the evidence in the first instance.

Amended Petition for Review at pp. 75-77 citing (Affidavits of Forensic Experts R. Watkins and F. Rodgers, Exhibits 85 and 86, *See* Petitioner's Appendix K and L, respectively.

- 2) That DNA evidence had been destroyed apparently while still in the custody and control of the PPD Crimelab and that the PPD Detective who had ordered the destruction of evidence in this case was the same Detective (Detective Olson) who had also been responsible for hiding DNA evidence in the Ray Krone case, with the planted evidence in Petitioner Moore's bed being used throughout his case to wrongly convict him and sentence him to death.

Amended Petition for Review at pp. 75-77 citing Affidavits of R. Krone & Larry Hammond, Exhibits 83 & 84, *See* Petitioner's Appendix I and J, respectively.)

B. The Factual and Procedural Background for the Pervasive Ineffective Assistance of Counsel Issue.

With regard to the factual and procedural background for the alleged violations by Arizona Courts of Petitioner Moore's federal constitutional rights under the Sixth and Fourteenth Amendments to the United States Constitution respectively guaranteeing his rights to a fair trial and due process at the State level, including the right to be

represented by competent legal counsel at trial Petitioner submitted the following in post-conviction consideration and to the Arizona Supreme Court in his Amended Petition for Review. Petitioner's Amended Petition for Review at pp. 37-39, 98-106.

As presented in substantial briefing to the Arizona Courts, especially, the Arizona Supreme Court, the allegations as to trial counsel's deficient performance was primarily related to his total failure to properly investigate and present readily available evidence supporting Petitioner's consistent claims of innocence, including compelling evidence supporting third-party culpability as to original suspect, Tony Lamont Brown.

In fact, it was uncontroverted that Petitioner Moore had an alibi which was never presented to the jury in that he was 1.5 hours and five (5) miles removed from the crimes at the time they were committed. Additionally, there was compelling evidence of his good character and non-violent nature, which when considered together, would likely have created a reasonable doubt as to his guilt.

Petitioner made the following arguments related to the IAC claim in his Amended Petition for Review at pp. 98-106.

The right to effective counsel is a well-established fundamental tenant in criminal cases. *Gideon v. Wainwright*, 372 U.S. 335, 350 (1963); *U.S. v. Cronin*, 466 U.S. 648, 104 S.Ct. 2039 (1984). Although generally a presumption that counsel was effective for 6th Amendment purposes, in some cases a presumption of ineffectiveness may arise. If so, it is not necessary to inquire as to counsel's actual performance. *Kimmelman v. Morrison*, 477 U.S. 365, 106 S.Ct. 2574 (1986); *Cronin, supra*. In *Cronin*, ineffective assistance will be presumed under the following pertinent circumstances:

- 1) ...
- 2) Where defense counsel fails to subject the prosecution's case to *meaningful adversarial testing*;
- 3) Where *surrounding circumstances* may *justify* such presumption of ineffectiveness; and
- 4) *Cronic* at 2045-49.

If not presumed, a successful claim requires finding the attorney's conduct was both deficient and sufficiently prejudicial so as "to undermine confidence in the outcome" of the case, creating the current standard two-part showing. *Strickland v. Washington*, 446 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).³

First, Petitioner must show that counsel made errors so serious that he [] was not functioning pursuant to the 6th Amendment guarantee. *Strickland, supra*. The 6th Amendment right to counsel envisions counsel playing a role *critical to the ability of the adversarial system to produce a just and fair result*.⁴ *Id.*

³ In its recent decision in *Hinton v. Alabama*, involving an African American death penalty inmate who had similarly and consistently as Petitioner has, maintained his innocence, the United States Supreme Court reaffirmed its decision in *Strickland* and found that former counsel had essentially failed to properly investigate and present evidence in his case undermining the State's ballistics evidence used to convict Mr. Hinton.

⁴ Justice Stevens, in his opinion in *Strickland*, noted that the "purpose of the effective assistance guarantee of the 6th Amendment is not to improve the quality of legal representation, although that is a goal of considerable importance to the legal system",

Next, the term “deficient performance” has been generally defined as counsel's actions falling below objective standards of reasonable representation measured by the prevailing professional “norms” which would unquestionably include the duty to fully investigate a case.⁵ *Strickland, supra* at 691.

Second, Petitioner must also show trial counsel's performance *prejudiced* him such that the errors deprived him of a fair disposition. *Strickland* at 691. Recently affirming that prejudice in the Rule 32 context is established if the facts presented on collateral appeal *undermine confidence in the outcome* of the case.

Hinton v. Alabama, 571 U.S. 170, 134 S.Ct. 1081 (2014) *citing Strickland, supra*.

The Supreme Court also held that prejudice from the *Strickland* test is met if deficient performance or error by counsel leads to any deprivation of a substantive or procedural right, and would include “[a]ny amount of [additional] actual jail time” caused by the deficient performance. *Glover v. United States*, 531 U.S. 198 at 203 (2001).

In this case, Petitioner submitted in post-conviction and to the Arizona Supreme Court that his 6th Amendment right to effective assistance of counsel during the guilt, penalty, and appellate phases of the proceedings had been violated. This included both former counsels’ failures to investigate and present readily available evidence supporting

but that “[t]he purpose is simply to ensure that criminal defendants receive a fair trial” or related proceeding. *Id.*

⁵ Under the *Strickland* holding, “[c]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary”. *Id.*

innocence (including compelling third-party culpability regarding original suspect Brown, substantial evidence supporting Petitioner's alibi defense, and Petitioner's good character/non-violent nature). Additionally, other highly prejudicial deficient performance at trial, including 'frontloading mitigation' for a drug-induced rage theory that may have prejudiced the jury against Petitioner.

Notwithstanding ample IAC evidence, the post-conviction court found that former counsel's performance was not prejudicially deficient despite the fact he failed to properly investigate and present readily available third-party culpability, alibi, and good character witnesses evidence because former counsel - though failing to call a single witness in Petitioner's defense - had cross examined the State's witnesses somewhat as to identification, and had used the defense cross examination to frontload mitigation. Appendix C, Summary Dismissal dated 9/23/21 at pp. 3538. Despite submitting uncontroverted IAC evidence, the Arizona Courts at both the Superior Court and Arizona Supreme Court level refused to properly consider the alleged grave Ineffective Assistance of Counsel in this case.

Trial counsel *admittedly* failed to properly investigate evidence supporting Petitioner's innocence and three (3) compelling, complimentary defenses (*E.g.*, third-party culpability, alibi, and good character/non-violent nature). First, it was pointed out to the court that former counsel Canby was *not* qualified to represent Petitioner.

Appendix M, Amended Petition for Review, Exhibit #32, Affidavit of J.Canby@pp. 1-2; and Appendix N, Amended Petition for Review, Exhibit #44; Affidavit of Capital Representation Expert L.Hammond. at p. 10, Para. 27. Moreover, according to Canby he was assigned forty (40) other felony cases, and was so busy he did *not* have time to

adequately investigate/prepare Moore's case. Appendix M, Amended Petition for Review, Exhibit #32, Affidavit of J. Canby at pp. 1-2; Appendix N, Amended Petition for Review, Exhibit #44; Ibid. at p. 10.

Secondly, it was submitted Canby admitted in failing to investigate he did not challenge the State's prosecution, effectively pleading Moore guilty at trial *without consent*, and merely frontloaded "drug induced rage" mitigation. Appendix M, Amended Petition for Review, Exhibit #32, Affidavit of J. Canby at p. 3. Canby admitted if he had investigated the TPC evidence concerning suspect Brown, he would have put on a TPC defense with Moore's good character and non-violent nature evidence. Appendix M, Amended Petition for Review, Exhibit #32, Affidavit of J. Canby @ pp. 5-6.

This decision not to investigate was made even before deciding upon a trial strategy that essentially abdicated counsel's duty to properly challenge the State's case by effectively pleading Petitioner guilty. *Supra*. These failures by counsel may have been, in part, due to his admitted inexperience and heavy caseload, and is strongly supported by other evidence submitted to the lower court confirming the factual basis for each defense and included in affidavits of both Expert Hammond, Esq. Appendix N, Amended Petition for Review, Petitioner's Exhibit #44, Declaration of Capital Legal Expert L. Hammond at pp. 7-18.

As Petitioner's expert, Mr. Hammond opined, counsel had the duty to investigate the guilt phase, which was *never* properly conducted. He stated:

"First, it is my opinion that [Petitioner] did not have constitutionally effective representation in connection with the guilt/innocence phase of his trial. In large

measure, defense counsel and the team appointed to assist in [Petitioner's] representation failed adequately to conduct a constitutionally appropriate investigation of the facts and circumstances relevant to the guilt/innocence phase of this case." Petitioner's Exhibit #44, Declaration of Capital Legal Expert L. Hammond at pp. 7-9, Paras. 22-24.

Petitioner submitted in post-conviction and to the Arizona Supreme Court that this specific aspect of counsel's performance - the failure to investigate - renders the performance *per se* prejudicially ineffective under *Cronic, supra*, or at least showed, given the Supreme Court's emphasis in *Strickland* regarding the specific duty to investigate, that counsel's performance did not fall within the wide range of reasonable professional assistance and/or trial strategy.

Under applicable federal law in *Strickland* and *Sanders*, counsel had a duty to properly investigate Petitioner's case, or conduct a reasonable investigation enabling counsel to make informed decisions about how to best represent him.⁶ *Strickland* at 691; *Sanders v. Ratelle*, 21 F.3d 1466, 1456 (9th Cir.1994). No proper - or even sufficiently reasonable - investigation was ever conducted from which counsel could make an informed decision. *Id.* This substantial failure to investigate, considered in light of the strength of the evidence discovered through the Rule 32 investigation, has met both prongs of the applicable test: the performance was both deficient and sufficiently prejudicial "to undermine confidence in the outcome" of the case. *Strickland, Hinton, supra*.

It is noteworthy that Petitioner's retained Capital Standard of Care Expert,

⁶ See Petitioner's Amended Unified Petition at pp. 150-51.

Hammond, opined that counsel was substantially deficient at the trial's guilt phase in failing to investigate and present the complimentary defenses shown above. Hammond further opined that counsel failed to not only challenge the State's eyewitness testimony by offering expert testimony at trial, counsel failed to properly investigate and test available biological evidence that would have identified the homicides' actual perpetrator. Counsel also failed to anticipate or recognize Petitioner's non-competence during the guilt phase trial rendering Petitioner unable to assist in his own defense nor appreciate events that occurred during the guilt phase trial, according to Hammond. Appendix N, Amended Petition for Review, Petitioner's Exhibit #44, Declaration of Capital Legal Expert, L. Hammond, at pp. 10-17 (Paras. 27-43), and p. 23, (Para. 47).

Essentially, counsel not only effectively pled Petitioner guilty without his consent at the guilt phase trial by failing to present a defense or any defense witnesses (including related to his alibi defense), he failed to properly challenge the State's evidence through appropriate cross examination, and he used that cross examination to "front load" mitigation.

Sadly, Petitioner's legal representation fell below objective standards of reasonable representation pretrial and at the guilt phase as measured by the prevailing professional "norms". *Strickland* at 691. However, the Arizona Courts refused to properly consider Petitioner Moore's evidence and legal argument, refusing to grant him relief or even an evidentiary hearing.

Therefore, Petitioner Moore respectfully requests both review and appropriate

relief in this case from the United States Supreme Court.

C. The Factual and Procedural Background for the Petitioner Moore's Incompetency at his Guilt Phase Trial.

The factual and procedural background for Petitioner Moore's incompetency at the time of his 2001 trial due to the serious medical diabetic ketoacidosis was presented to the Arizona Courts and especially the Arizona Supreme Court in his Amended Petition for Review at pp. 41-43, 127-34.

According to Moore's Medical Records he was diagnosed with *Type I* Diabetes in June, 1999. Appendix O, Exhibit #48; Affidavit of Dr. S. Williams @pp. 3-4.

Petitioner was then treated with insulin for 1 year, and prescribed a diabetic diet/diabetes medication. *Id.* at p. 4, Para. 8.b. The records confirmed that 6 months prior to trial the Maricopa County Jail suddenly stopped Moore's diabetic medication/diabetic diet and stopped monitoring blood sugars due to a mistaken idea that he was no longer diabetic. *Id.* at p.4, Para. 8.c. This mistake was not discovered until 2 months *after* trial, when medical records confirmed Moore was having problems with his vision, his blood sugar level *was over 300* and *ketones were found in his urine*, at which time he restarted his diabetic diet/ diabetic medication.⁷ *Id.* at p. 4, Para. 8.d.

It was further conveyed to the Arizona Courts that at the time of trial Moore was *only* fed at 4:00am and was not fed until 6:00pm. Exhibit #48 at pp. 2-3. Moreover, a granted pretrial motion requesting Moore be fed lunch during trial was ignored, whereby

⁷ That except for 6 month period prior to the 2001 trial, and 2-3 month period afterward, Petitioner continually been treated for diabetes. *Id.*

Judge Cates sent an e-mail to the parties regarding the issue. Appendix O, Exhibit #48;

Affidavit of Dr. Stephen Williams at p. 3, Para. 7.f.

As the result of not being fed lunch or prescribed medications Petitioner suffered from diabetic ketoacidosis during trial. *Id.* at p. 7.

Moore's symptoms included the following:

- 1) Appearing to be *drugged*/lethargic/inattentive during the afternoon sessions of trial;
- 2) Suffering a substantial weight loss during relevant period (reflecting his body burning fat rather than blood sugars w/o necessary insulin to absorb normal blood sugars from food);
- 3) Experiencing a fruity taste in mouth, as well as hunger/thirst/polyuria;
- 4) Being fatigued/sleepy to the point of difficulty keeping head up; and
- 5) Not being cognizant during trial.

Appendix O, Exhibit #48; Affidavit of Dr. S. Williams at pp. 5-6.

Moore's 2001 symptoms were similar to those observed by ADC Eyman Visitation Officer CO2 Molina in 2013 when his diabetes medications were suspended when other inmates overdosed on prescribed medications. *Id.* at p. 6.

CO2 Molina noted during this ten (10) day period that

Petitioner had the following symptoms:

1. That he looked pale, tired and groggy;
2. That his speech was slow; and
3. That he not only had glassy eyes, yet bags under his eyes.

Petitioner's Appendix O, Exhibit #48; Affidavit of Dr. S. Williams @pp. 5-6.

That as the result of clinical review of the evidence, including a review of 2001 guilt phase trial video, Dr. Williams concluded as follows:

“to a reasonable degree of medical probability Petitioner Moore was suffering from diabetic ketoacidosis during the afternoons of his 2001 guilt phase trial, and that as the result, was unable during these episodes, to appreciate the nature of the proceedings, and was unable to assist his attorney in his defense because the diabetic ketoacidosis had impaired his mental faculties to a grave extent.” (Emphasis added)

Petitioner's Appendix O, Exhibit #48; Affidavit of Dr. S. Williams @ p. 7, Para. 17.

That although the foregoing evidence supporting Defendant's trial incompetency claim was submitted to the Arizona Courts, both the Maricopa County Superior Court and the Arizona Supreme Court apparently deemed it to be “insufficient” for either constitutional error, or to grant Evidentiary Hearing.

REASONS FOR GRANTING CERTIORARI

First of all, the State's alleged egregious misconduct in both *planting evidence* in Petitioner Moore's bed to wrongfully tie him to the 1999 Yale Crackhouse homicides, and *purposely destroying exculpatory DNA evidence* related to blood plainly evident on knife found near the 1st chronological homicide victim's foot violated Petitioner's Sixth

and Fourteenth Amendments to the United States Constitution and respectively constituted *prima facie* violations of the U.S. Supreme Court's holdings in *U.S. v. Russell* and *Arizona v. Youngblood* by which such plainly outrageous governmental conduct and the purposeful destruction of evidence by the State respectively require dismissal of his case with prejudice. Given the foregoin, it is requested that Certiorari be granted in this case.

Secondly, *Capital* Petitioner Julius Jarreau Moore's Sixth Amendment right to be represented by effective trial counsel as applied to the State of Arizona under the Fourteenth Amendment was pervasively violated throughout his case due to substantial Ineffective Assistance of Counsel (IAC) under *Strickland v. Washington* and *Hinton v. Alabama* by which former counsel's failure to not only properly investigate and present readily available 3rd Party culpability evidence, yet failure to call a single witness in Mr. Moore's defense effectively pleading him guilty before the jury, along with defense counsel's cross examination of the State's witnesses in order to frontload "mitigation" as to Mr. Moore's drug addiction, suggesting to the jury that he was actually guilty in this case, constituting such grave ineffective assistance of counsel or misconduct so as to rival that which occurred in *McCoy v. Louisiana*. Therefore, it is respectfully requested that Certiorari be granted as to the Ineffective Assistance of Counsel issue.

Finally, Petitioner Julius Jarreau Moore's Sixth Amendment constitutional right to a fair trial was violated because he was not competent at the time of his 2001 guilt phase jury trial due to suffering from a very serious medical condition or diabetic ketoacidosis caused by the State's misconduct in failing to properly feed him during the guilt phase of trial nor give him prescribed diabetes medication, which failures combined had a

synergistic effect to render him incompetent throughout the proceeding. As the result, Petitioner respectfully requests that this most honored Court grant certiorari as to the competency issue as well.

CONCLUSION

Based upon the foregoing facts and legal argument, Petitioner Moore's request that certiorari be granted in this case as to the referenced federal constitutional violations should be granted.

Respectfully submitted this 6th day of February, 2026.

_____/s/_____
Patrick Coppen, Esq., Attorney for
Capital Petitioner Julius Jarreau Moore