CAPITAL CASE
EXECUTION SCHEDULED May 21, 2026, AT 10:00 A.M.

No.

IN THE
Supreme Court of the United States

TONY VON CARRUTHERS,
Petitioner,

v.

STATE OF TENNESSEE,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE TENNESSEE SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Tony Von Carruthers's untreated Schizoaffective Disorder, brain damage, and severe delusions distort his thinking such that he lacks a rational understanding of his conviction, pending execution, and the relationship between them. After the State of Tennessee issued an execution warrant, he sought to prove that he is incompetent to be executed. At the evidentiary hearing before the trial court, Mr. Carruthers's counsel presented lay and expert testimony, and documentary and audiotaped evidence to show that Mr. Carruthers satisfies the standard for incompetence set forth in *Ford v. Wainwright*, 477 U.S. 399 (1986), *Panetti v. Quarterman*, 551 U.S. 930 (2007), and *Madison v. Alabama*, 586 U.S. 265 (2019). The State presented a single witness, a psychologist, who did not evaluate or diagnose Mr. Carruthers or opine whether he was competent to be executed.

The trial court made no factual findings except its conclusion that Mr. Carruthers is competent and ignored the evidence of Mr. Carruthers's delusional thinking as irrelevant. The Tennessee Supreme Court, in turn, held that the trial court's competency determination is presumed correct unless the evidence preponderates against that finding. Using this deferential standard, it endorsed the trial court's analysis. As had the trial court, the Tennessee Supreme Court disregarded the evidence of Mr. Carruthers's severe mental illness and decades of distorted thinking, concluding that such evidence was stale because Mr. Carruthers's mental illness thwarted any contemporaneous, in-person evaluations.

The Tennessee Supreme Court's opinion gives rise to the following important questions:

1. Is the determination of competence to be executed a mixed question of law and fact such that a state court's extreme deference to the trial court's finding on the ultimate issue fails to safeguard the Eighth Amendment right not to be executed while incompetent?

2. May incompetency to be executed be established by credible evidence other than a contemporaneous expert psychiatric evaluation?

3. Did the Tennessee state court improperly limit *Panetti's* requirement that a condemned person must rationally understand the connection between his conviction and execution by finding that *Panetti* does not apply to delusions that the State will not, in fact, carry out the execution?

LIST OF PARTIES TO THE PROCEEDINGS

Petitioner, petitioner-appellant below, is Tony Von Carruthers.

Respondent, respondent-appellee below, is the State of Tennessee.

LIST OF PROCEEDINGS

1. *State v. Carruthers*, 35 S.W.3d 516 (Tenn. 2000) (direct appeal).[1]

2. *Carruthers v. State*, No. W2006-00376-CCA-R3PD, 2007 WL 4355481 (Tenn. Crim. App. Dec. 12, 2007), *perm. app. denied* (Tenn. May 27, 2008) (state post-conviction).

3. *Carruthers v. Carpenter*, No. 2:08-cv-02425 (W.D. Tenn. Mar. 31, 2014) (federal habeas).

4. *Carruthers v. Mays*, 889 F.3d 273 (6th Cir. 2018) (federal habeas).

5. *Carruthers v. Mays*, 586 U.S. 1146 (2019) (federal habeas).

6. *State v. Carruthers*, — S.W.3d —, No. W1997-00097-SC-DDT-DD, 2026 WL 1257769 (Tenn. May 7, 2026) (competency to be executed).

[1] Mr. Carruthers has filed numerous pro se actions. These actions have been omitted.

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JURISDICTION

The Tennessee Supreme Court's decision on the merits denying relief to Mr. Carruthers was issued on May 7, 2026. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment to the United States Constitution states in pertinent part: "nor cruel and unusual punishment inflicted."

The Fourteenth Amendment to the United States Constitution states in pertinent part: "nor shall any State deprive any person of life, liberty, or property without due process of law[.]"

STATEMENT OF THE CASE

I. The Evidence Presented at the State-Court Competency Hearing Regarding Mr. Carruthers's Delusions.

At the competency to be executed hearing in the Shelby County trial court, counsel for Mr. Carruthers presented substantial evidence documenting his currently impaired mental state resulting from Schizoaffective Disorder, Bipolar Type, a severe mental illness that was first diagnosed in 2011, and from brain damage, both of which persist today.[2] Mr. Carruthers has refused all psychiatric and mental health treatment since 2011 and remains unmedicated. These disorders manifest in current symptoms of unending, synergistic, and complex delusions that thwart a rational understanding of his imminent execution. These delusions are so pervasive and controlling that even though he is aware that he was convicted at trial and has an upcoming execution date, he is precluded from rationally understanding his conviction, pending execution, and the connection between them. In fact, he believes that he will not be executed.

At the hearing, counsel for Mr. Carruthers presented a wealth of Mr. Carruthers's statements through taped telephone calls, voicemails, correspondence, and statements. This evidence consisted of 25,935 pages of evidence, including 1,089 of Mr. Carruthers's recorded calls and 21 voicemails–totaling 459 hours from January 1, 2025–February 25, 2026; 2,228 messages from Mr. Carruthers's tablet issued by the Tennessee Department of Correction (TDOC) from March 7, 2025–March 3, 2026; 2,014 TDOC institutional records; 2,199 medical records; 4,652 pages of exhibits, and 978 transcript pages.

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[2] App. A-058–064

Mr. Carruthers's delusions in large measure involve his distorted beliefs of a vast conspiracy that began following his arrest. The criminal case against Mr. Carruthers originally was dismissed in Tennessee's General Sessions Court for lack of evidence. The State was only able to resurrect its case against Mr. Carruthers when it enlisted the help of a career informant named Alfredo Shaw. Shaw testified before the grand jury that Mr. Carruthers confessed to him in the jail law library—a dubious assertion considering that Shaw's and Mr. Carruthers's previous interaction involved fisticuffs. Before trial, Shaw told the media that he had lied to the grand jury, which prompted the prosecution to disavow him as a witness. Mr. Carruthers—involuntarily acting pro se—inexplicably called Shaw as a witness.[3]

Throughout the history of this case, the State repeatedly denied that Shaw was an informant. It was not until 2024, after Mr. Carruthers had exhausted the three-tier appellate process and the State had moved for his execution date, that the Shelby County District Attorney provided documents proving that Shaw was in fact a confidential informant since at least 1986 (eight years prior to when Shaw claimed Mr. Carruthers confessed to him).

Mr. Carruthers's distorted thinking has taken these events and facts and woven them into a wide-ranging conspiracy involving a cabal of judges and attorneys. The conspiratorial thinking, fueled by wide-ranging paranoia, has morphed into a belief that he is owed massive financial damages, he and his communications are

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[3] The Tennessee Supreme Court found Mr. Carruthers's decision to call Shaw sufficiently prejudicial to grant Mr. Carruthers's co-defendant James Montgomery a new trial. *State v. Carruthers*, 35 S.W.3d 516, 554 (Tenn. 2000). Mr. Montgomery has subsequently been released from custody. WREG Staff, *Memphis man convicted of triple murder goes from death row to freedom*, WREG (Sept. 26, 2016), https://wreg.com/news/memphis-man-convicted-of-triple-murder-goes-from-death-row-to-freedom/.

constantly monitored by various improbable actors, his life is constantly threatened by poisons, the State seeks his execution to cudgel him into a plea that will foreclose his ability to collect the financial damages he is owed, and ultimately he will be released. As with most delusions, there is a kernel of truth in many of Mr. Carruthers's beliefs. Mr. Carruthers has taken the State's deceptions and incorporated it into a delusional belief system that involves a complex and irrational understanding of the reasons that the State has scheduled his execution, which include the belief that the State, working with Mr. Carruthers's counsel, has set his execution date to coerce him into accepting a non-existent plea that, in Mr. Carruthers's mind, would erase his claim to millions.

Mr. Carruthers is consumed by his "Alfredo Shaw criminal conspiracy" delusion involving a cabal of corrupt judges, prosecutors, confidential informants, and defense attorneys who conspired to secure his conviction and death sentence and continue to conspire to "keep him behind the door," avoid disbarment, and prevent his recovery of various settlements of $3.3 million.

Mr. Carruthers believes the prosecution and various law enforcement agencies committed a "fraud upon the court."[4] Mr. Carruthers also believes "the [Shelby County] clerk's office is in conspiracy with the State." Once this information is revealed, he believes he will be freed and he will be paid various sums of $3.3 million. According to Mr. Carruthers, the reach of the conspiracy extended into the post-

[4] At the competency hearing, predecessor counsel Richard Tennent, Kelley Henry, Houston Goddard, and Chief Paralegal Satyra Deaver all testified that Mr. Carruthers's fixation on the fraud on the court is all consuming and that he believes his counsel is involved in the conspiracy against him.

conviction proceedings and he believes the "corruption in the Shelby County Judicial System" persists today.

Fueled by his paranoia, Mr. Carruthers refuses to speak or visit with counsel because he firmly believes that every defense attorney that has worked on his case are "in a conspiracy with the State to get me hurt," or get him killed. To him, his attorneys "ain't representing me, but really conniving in my defeat," and "connive to get you executed." On October 1, 2025, the day after his execution date was set, he believed his "lawyer has been in a conspiracy" and he planned to "get a [new] lawyer" because his "lawyer did this intentionally to try and get me executed." Mr. Carruthers has asked "for the lawyer to be disbarred for trying to get me killed."

This conspiracy also includes Mr. Carruthers's belief that successive attorneys are trying to harm him and that almost all his past male attorneys have made homosexual advances on him to infect him with AIDS. These irrational delusions have formed the basis for Mr. Carruthers's innumerable grievances that he has filed with the courts and various agencies. Indeed, Mr. Carruthers's complaints to Tennessee Board of Professional Responsibility (BPR) exceed 7,000 pages, not including the board's responses and investigations.

Mr. Carruthers has refused all attorney visits for years. The only time Mr. Carruthers has spoken to current counsel is at the Shelby County Courthouse. When counsel has attempted to engage him on the phone he either refuses or states that he is "taking the Fifth" and "*Miranda v. Arizona*" and asks to be connected to the "wiretap" that he believes is constantly monitoring his legal and non-legal calls

instead.[5] *Id*. Since the hearing, Mr. Carruthers continues to refuse to visit or speak with counsel.

Mr. Carruthers's persistent paranoia and delusions profoundly thwart his understanding of his execution. As is detailed below, despite repeated losses in court and the setting of an execution date, Mr. Carruthers believes his release is imminent. Mr. Carruthers possesses a longstanding delusion that his privileged conversations are monitored and that he is entitled to a massive payout because of various conspirators' malfeasance. All of these delusions are compounded by the fact that Mr. Carruthers does not believe he is mentally ill and that he has refused any mental health assessment or treatment for 15 years.

A. Mr. Carruthers believes he will be released imminently.

Mr. Carruthers does not believe he will be executed. Accordingly—despite repeated losses in court and the setting of his execution date— he prepares for what he believes to be his imminent release by making sure he has his "bags packed" and placed "at the front door." Discussing his January 6, 2026, hearing on his fingerprint petition, Mr. Carruthers stated, "I actually believe that God gonna open the doors and release me that day bro." Mr. Carruthers "need[s] some turquoise pajamas now because these folks fixing to let me out of here." He believes "[i]t's getting time for me to find me a house to move into soon!! I'll be house hunting for the future!!" At the competency hearing, Mr. Carruthers reiterated this delusion that "he's gonna go home when somebody get disbarred."

[5] Mr. Carruthers's delusion involving the "wiretap" is explained below in section I.B.

Mr. Carruthers also believes different actors such as the Board of Professional Responsibility (BPR), Sandy Garrett an attorney that works for BPR, the FBI, the Justice Department, Governor Bill Lee, the Tennessee Attorney General's office, Tennessee Deputy AG John Bledsoe, the National Guard, and Jessica Van Dyke at the Tennessee Innocence Project will get him released "today."

Mr. Carruthers believes the State has tried to "trick" him into taking several plea deals over the last 30 years. "They offered me 25 years before trial." "First day of trial, on trial day, they offered me 10 years." "The *Alford* plea came on May the 2nd, 2006. The day after Montgomery took an *Alford* plea." At this time, Mr. Carruthers believes the State will either offer him a plea or he will just be released because "after 30 [years] they don't get a new trial, but they get you down there and either release you . . . they take time served, take an *Alford* plea." Mr. Carruthers will never take a plea deal because, as he states, "I'm not involved I shouldn't be offered anything."

B. Mr. Carruthers believes he is constantly being illegally monitored.

At all times, Mr. Carruthers believes he is being monitored. It is his understanding that there is a "wiretap" on all of the Riverbend Maximum Security Institution (RMSI) phones in Unit-2 where he is housed that records all of his phone calls and illegally records all his legal calls. Mr. Carruthers is aware that all non-legal calls made from RMSI are monitored and recorded by TDOC and that TDOC is not allowed to monitor or record legal calls. While both of those things are true, Mr. Carruthers believes there is a "wiretap" that monitors and records all of his legal and nonlegal calls. He sometimes describes the "wiretap" as the "federal wiretap" and believes many actors are listening into it live, including the DOJ, FBI, AG's office,

and TDOC. On some occasions, additional listeners include Justice Clarence Thomas, United States Attorney Mary Jane Stewart, and Judge Jon Phipps McCalla. Mr. Carruthers believes he is entitled to $3.3 million for each illegally recorded legal call, and he consistently talks to the "wiretap" and requests $3.3 million on all nonlegal calls as well.

At the start of almost every phone call, Mr. Carruthers speaks directly to the "wiretap," not the actual recipient of the call. Mr. Carruthers believes that the DOJ conspired with TDOC and built a cell tower outside of RMSI and provided cell phones to the other incarcerated individuals on death row to record all of Mr. Carruthers's phone calls.

Mr. Carruthers also believes there is a "wiretap" on his phone and on the Federal Defender Services phone in Detroit. He "hacks into the wiretap and goes to Detroit" every day and somehow gets connected to Federal Public Defender Casey Swanson's work phone.[6] When talking to the Detroit "wiretap" he often speaks directly to the Justice Department that he believes is listening in on these calls. Mr. Carruthers continues to speak to the Nashville and Detroit "wiretap" every day.

Mr. Carruthers's delusions about the "wiretap" includes his fixed belief that the conspirators are listening to the "wiretap" to gather evidence of him and his attorneys engaging in some sort of malfeasance so that "they" do not have to pay him *when he gets released*. "They illegally record my legal calls. So I'm going to earn $3.3 million to call lawyer's phone so they can illegally record it on Global Tel. . . . . They've

[6] Ms. Swanson did not know who Mr. Carruthers was when he first began calling her. Neither she nor anyone in her office has ever been assigned to Mr. Carruthers's case.

been doing it about 16 years . . . they been illegally recording my legal calls cause they know they finna **let me go** down there. So they figure they just got to find him and his lawyer doing something wrong." Mr. Carruthers believes that the "wiretap" will "finally be exposed" and then he will be able to "[a]fford a few [] luxury estates."

C. Mr. Carruthers is fixated with variations of the number 3.3.

All of Mr. Carruthers's delusions are intertwined with his pervasive delusion that he is owed and will be paid $3.3 million. Mr. Carruthers believes he will be paid $3.3 million every time someone, in his mind, wrongs him or commits fraud. As Mr. Carruthers stated to counsel at the competency hearing, "Every time you open your mouth and tell a lie, you are liable under your legal malpractice policy for 3.3 million. That's where the 3.3 come from. Everybody that lied starting from 1994, they are to submit a notice of claim just like car insurance."[7] This includes every time a lawyer or judge lies, every time his legal calls are monitored, intercepted, or illegally recorded on the "wiretap," "when [he] gets TDOC's tablet, it gonn be another $3.3 million," every time a confidential informant (related or unrelated to his case) fails to pay taxes, "$3.3 MILLION DOLLARS FOR EVERY YEAR THEY CONCEALED ALFREDO SHAW FILES," and every time his constitutional rights are violated including when the State deliberately denied him a fair trial and concealed *Brady* material.

Mr. Carruthers's perseveration on 3.3 is connected to his delusions and paranoia that appear in his fixed belief that prison officials and others are attempting

[7] Apparently, Mr. Carruthers derived the $3.3 million amount from his distorted understanding of the ABA Model Rule 3.3, Candor Toward the Tribunal. Mr. Carruthers believes "[lawyers] are absolutely prohibited from lying under ABA Standard 3.3, Tennessee Supreme Court Rule 3.3."

to poison him through his water, toothpaste, and food. He believes he is entitled to $3.3 or $33 million in damages for the injuries he endured through these attempted poisonings. To be sure, he regularly conducts his own poison tests. For example, after straining and applying force to a meat patty that he suspected was poisoned, he saw white powder seep out of it. On two different occasions, he mailed the Nashville Federal Public Defender's office (FPD) meat patties he was served in prison. The second shipment was labeled" "BAD MEAT AS EViDENCE OF THE CONSPiRACY BY ARYAN NATiON ADMiN!" This "bad Beef (fake beef) . . . had more poison in it than the first one I mailed." He requested that the FPD, "Please get [the meat patty] to the FBI in Nashville (ASAP)."

Even though Mr. Carruthers has never been compensated for any of the innumerable violations he believes he has endured, he is certain that he will be paid any day now. On every one of Mr. Carruthers's recorded calls counsel received from TDOC spanning from January 1, 2025–February 25, 2026, Mr. Carruthers speaks directly to the "wiretap" and requests that arbitrators be appointed to settle his 11,000 claims for $3.3 million every day. Mr. Carruthers believes he is entitled to "$3.3 MILLION DOLLARS every day I call my attorneys from this insecure tablet!! . . . . I have 11,000 claims -made a $3.3 MILLION DOLLARS every legal monitored since 9-2-2008 thru.11.28-2025!!"

While Mr. Carruthers believes he is owed $3.3 million from various individuals and groups for a variety of different reasons over almost three decades, the settlement usually only increases to $3.3 billion or trillion or $33.3 million. The $3.3 million never increases in a way that makes sense to people other than Mr. Carruthers. For

instance, Mr. Carruthers wants to take 33 bar cards, each worth $3.3 million, but does not believe he is owed $108.9 million.

D. Mr. Carruthers adamantly denies that he is mentally ill.

Mr. Carruthers adamantly denies that he is mentally ill and believes that any cognitive issues he has are from one side of his brain being damaged because he was forced to drink lead contaminated water in the Tennessee prisons–damages he asserts entitle him to $33 million.

Despite Mr. Carruthers's belief that he is not mentally ill, he was diagnosed with Schizoaffective Disorder, Bipolar Type in 2011 after an evaluation conducted by Dr. Agharkar. After receiving this diagnosis, Mr. Carruthers denied having met Dr. Agharkar. Mr. Carruthers's inability to identify or acknowledge his condition is a common complication of severe mental illness. Dr. Agharkar testified at the hearing, "[i]f I directly questioned [Mr. Carruthers] about things like hallucinations, even paranoia, he denied it, entirely, even though he is visibly paranoid with me, and I could tell he is paranoid. He's denying being paranoid. Again, lack of insight is something you see in the seriously mentally ill." "[Mr. Carruthers] has a lack of insight and an impaired reality testing, because there are clearly other people who have observed things about him and he's just saying that didn't happen or that's not true or they're lying." Since the 2011 evaluation, Mr. Carruthers has refused to engage with all psychiatric and mental health providers because, in his mind, all psychiatrists are liars, and many of them are homosexuals who are trying to harm and infect him with AIDS.

II. The Mental Health Expert Evidence Presented at the Hearing.

A. Dr. Bhushan Agharkar opined that Mr. Carruthers is not competent to be executed.

At the competency hearing, counsel for Mr. Carruthers presented the expert testimony of Bhushan Agharkar, M.D., who was the only expert introduced at the hearing who conducted a clinical examination of Mr. Carruthers. Dr. Agharkar, a psychiatrist who is board certified in adult and forensic psychiatry, maintains a clinical practice in addition to his extensive forensic work.[8] He is also a professor at Emory and Morehouse Universities. Dr. Agharkar has extensive training and experience treating patients, including treating those suffering from acute psychosis and other debilitating conditions. He has published peer reviewed works on delusional disorders.

Dr. Agharkar has been recognized as and testified as an expert witness in over 150 cases. Although much of his work is for defense teams, he has been retained by the FBI and currently works for the Department of Defense in a classified capacity relating to detainees at Guantanamo Bay. He has extensive familiarity with prison mental health care and has served as an accreditation site visitor and estimates that he visits penal facilities twice a week.

Dr. Agharkar conducted a comprehensive, in-person psychiatric evaluation of Mr. Carruthers in 2011.[9] Mr. Carruthers has not consented to *any* subsequent mental

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[8] App. at A-083.

[9] App. at A-058. Dr. Agharkar's evaluation also include Mr. Carruthers's history of mental illness, which first documents when he was a child. When Mr. Carruthers was fourteen years old, his mother recognized that his mental illness was out of control and sought psychiatric evaluation and treatment. During that hospitalization, Mr. Carruthers was found to exhibit possible Schneiderian symptoms (exhibiting signs of schizophrenia) and was diagnosed with moderate

health treatment or evaluation. Dr. Agharkar attempted to conduct two additional in-person evaluations of Mr. Carruthers in 2026. On January 6, 2026, Dr. Agharkar observed Mr. Carruthers at a court proceeding and attempted to evaluate him in the holding cell pursuant to the trial court's instructions. Mr. Carruthers refused to acknowledge or engage with Dr. Agharkar. On February 24, 2026, Dr. Agharkar went to the prison to conduct an in-person psychiatric evaluation pursuant to the trial court order appointing him as an expert in Mr. Carruthers's competency hearing. Mr. Carruthers again refused to acknowledge or engage with Dr. Agharkar.

Dr. Agharkar testified that Mr. Carruthers is aware that an execution date has been scheduled and that he has been convicted of murder but, as a result of his numerous delusions, he lacks a rational understanding of the connection between his offense and impending punishment. Dr. Agharkar based this conclusion upon Mr. Carruthers's extensive and dominating delusions, which include Mr. Carruthers's fixed beliefs that the State is merely threatening to execute him to cover up a vast conspiracy and he will soon be released.

As Dr. Agharkar opined:

> Mr. Carruthers suffers from many, persistent, debilitating delusions that compromise his perceptions of that which is going on around him and render his understanding of the relationship between his conviction and his execution irrational. Mr. Carruthers is paranoid about his lawyers, their role in what he perceives as the injustice of his case, and their role in the setting of his execution date. He illogically believes that—execution date not withstanding—he is about to be released from custody as soon as various improbable actors (the Board of Professional Responsibility, the Attorney General's office, the Department of Justice, Governor Bill Lee, and "Kim Kardashian mama") agree to accomplish various improbable acts. These actions include making his hashtag go

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depression. The emergence of Schneiderian symptoms, a first-rank symptom of schizophrenia, is consistent with Dr. Agharkar's current diagnosis. At seventeen years old, Mr. Carruthers was admitted to another psychiatric center.

> "viral" or posting Judge Addison's order authorizing the release of information about Alfredo Shaw. Each of which Mr. Carruthers believes will result in his immediate release. Finally, his paranoia about the conspiracy against him has evolved into a belief that his continued incarceration is to prevent him from receiving the $3.3 or $33.3 million rightly due to him for exposing various bad acts (the non-payment of taxes by criminal informants nationwide, his claims against TDOC, and his entitlement because of the illegal wiretap on his attorneys' phone). Each of these delusions interlocks or overlaps with the others, combining synergistically to prevent a rational understanding of the State's rationale for his execution. *Panetti v. Quarterman*, 551 U.S. 930, 959 (2007).

At the competency hearing, Dr. Agharkar testified, consistent with his report, that Mr. Carruthers is not competent under *Panetti*:

> based on my assessment and certainly everything I've reviewed, that's where it fails, that he doesn't have a rational connection and rational understanding between why he was convicted and – and execution, that he thinks there's a vast conspiracy against him, not only that's put him in this situation, but is also keeping him from the money that he's owed. And in order to keep him from the money that he's owed, he'll be executed or he'll be bludgeoned into a settlement of some kind, essentially that that's what this is really about.

In so testifying, Dr. Agharkar, who is the expert upon whom the District Court for the Western District of Texas relied in finding Scott Panetti not competent to be executed, testified that Mr. Carruthers is incompetent in the same manner as Mr. Panetti:

> Q: . . . [W]hat was at issue in Panetti was the fact that his understanding was compromised by this belief that was a delusion?
>
> A: Exactly.
>
> Q: Do you believe that Mr. Carruthers' understand[ing] is compromised by a delusion?
>
> A: Yes, I do.

Dr. Agharkar relied on numerous contemporaneous accounts and evidence of Mr. Carruthers's incompetence. For example, in January 2026 Mr. Carruthers stated on

a recorded phone call that he believed he would be released at his January court proceeding.

Dr Agharkar concludes:

> Based on the data reviewed, it is my professional opinion, which I hold to a reasonable degree of medical certainty; that **Mr. Carruthers is not competent to be executed under the *Panetti* standard. While ideally I would be able to interview him to gauge his current state of mind, his paranoia precludes any such evaluation**. Nonetheless, there is voluminous data available to reach my determination. His continued conviction that he will be released imminently, paranoia regarding his attorneys, and his fixation on his entitlement to payments for illogical and delusional claims to the exclusion of concern regarding his execution all are indicators that he is not able to rationally comprehend the connection between his conviction and his impending execution.

In light of the overwhelming evidence that Mr. Carruthers's delusions persist and because Mr. Carruthers remains unmedicated and continues to refuse all mental health treatment, Dr. Agharkar opined that the mental illnesses and the resulting controlling delusions that he personally observed in 2011 continue to thwart Mr. Carruthers's rational understanding of his impending execution. Schizoaffective Disorder, Bipolar Type "is a severe and persistent debilitating mental illness with an extremely poor prognosis if untreated" as Mr. Carruthers's has been. If anything, his symptoms will only worsen. Because of these facts, it is almost certain that Mr. Carruthers's delusions will not abate before May 21, 2026.

B. The State's expert, Dr. Thomas Schacht, did not opine on Mr. Carruthers's competency.

The only witness that the State presented to counter the evidence of Mr. Carruthers's incompetency was Thomas Schacht, Ph.D. Dr. Schacht is a psychologist and a professor emeritus from East Tennessee State University. He has never assessed Mr. Carruthers. Dr. Schacht currently has no clinical practice and his

clinical work has been minimal since 1994. Although he has published on psychotherapy, he has no publications regarding psychotic disorders. He does not treat patients in an inpatient setting and has not done so in years.

Dr. Schacht did not diagnose Mr. Carruthers and reached no conclusions regarding whether Mr. Carruthers was competent to be executed. Dr. Schacht suggested that there was evidence in Mr. Carruthers's medical history that suggested the possibility of a personality disorder.

Thus, the only expert testimony presented at the competency hearing concerning whether Mr. Carruthers is competent to be executed was Dr. Agharkar's expert opinion.

REASONS FOR GRANTING THE WRIT

In considering Mr. Carruthers's incompetency to be executed claim, the Tennessee Supreme Court reviewed the trial court's decision as a finding of fact and applied a highly deferential standard. By imposing on Mr. Carruthers a heightened and controversial standard on appeal—one that has split the various state and federal courts—the Tennessee Supreme Court failed to conduct adequate appellate review of the application of the constitutional doctrine to the factual findings. The Tennessee Supreme Court then faulted Mr. Carruthers for failing to include a contemporary in-person psychiatric evaluation when the undisputed evidence presented was that Mr. Carruthers's severe mental illness thwarted such an evaluation and the expert who had previously evaluated Mr. Carruthers supports his current assessment with numerous recent letters, voice mails, telephone conversations, and witness accounts. Finally, the Tennessee Supreme Court interpreted this Court's jurisprudence as limiting incompetency to only delusions that

mirror the precise delusion suffered by Mr. Panetti—that the State will execute him for a reason other than the crimes which resulted in his death sentence. As a result, the Tennessee state court authorized the execution of a person whose delusion is that he will not be executed under any circumstances. Each of these approaches warrants this Court's plenary review.

I. Certiorari is warranted to resolve the split of authority regarding whether competency determinations are purely an issue of fact requiring a deferential standard or whether competency determinations present a mixed question requiring de novo review of the legal conclusions.

In *Maggio v. Fulford*, 462 U.S. 111, 117 (1983) (per curiam), this Court appeared to suggest that an adjudication of competency may be a purely factual determination that is subject only to a clearly erroneous standard of review. However, four justices expressly held that competency is a mixed question of law and fact. *Id.* at 119 (White, J. concurring in the judgment); *id.* at 120 (Brennan, J. dissenting) (joined by Justice Stevens and holding that competency was not a factual determination); *id.* at 120 (Marshall, J. dissenting) (holding that competency is a mixed question of law and fact). Since this Court's decision in *Maggio* over forty years ago, a split of authority among state courts of last resort and the federal circuits has emerged regarding whether appellate courts should review trial court competency determinations as purely a question of fact or a mixed question of law and fact.

Several jurisdictions—including the Tennessee Supreme Court in this case, App. at A-029—treat competency determinations, including competency to be executed, as factual determinations that are subject to deferential review on appeal and do not independently examine the legal basis for that determination. *See, e.g.*, *Austin v. Davis*, 876 F.3d 757, 778 (5th Cir. 2017) ([C]ompetence to stand trial is a

finding of fact.");[10] *State v. Roberts*, 998 N.E.2d 1100, 1118 (Ohio 2013); ("A criminal defendant's competency to stand trial, including competency to assist in a sentencing proceeding, is a question of fact."); *Pennsylvania v. Banks*, 29 A.3d 1129, 1135 (Pa. 2011) (adopting an abuse of discretion standard for competency to be executed); *Shoen v. State*, 648 N.W.2d 228, 231 (Minn. 2002) (holding that competency is a finding of fact subject to a clearly erroneous standard of review); *State v. Byrge*, 614 N.W.2d 477, 491 (Wisc. 2000) (same); *United States v. Gigante*, 166 F.3d 75, 84 (2d Cir. 1999) (same); *United States v. Green*, 544 F.2d 138, 145 (3d Cir. 1976) (Competency "is a finding of fact by the trial court which may not be set aside on review unless it is clearly erroneous); *United States v. Hogan*, 986 F.2d 1364, 1371 (11th Cir. 1993) (same); *Ray v. Duckworth*, 881 F.2d 512, 516 (7th Cir. 1989) (holding competency determinations are a matter of fact); *U.S. ex rel. Mireles v. Greer*, 736 F.2d 1160, 1168 (7th Cir. 1984) (same). On this side of the split, this approach has expressly been adopted in competency to be executed proceedings. For example, the Eighth Circuit held that the "district court's application of the *Ford* test to the present facts was not erroneous." *Rector v. Clark*, 923 F.2d 570, 573 (8th Cir. 1991); *see also id.* at 573 ("[P]etitioner's competency to stand trial is a factual issue for the state court to decide. Finding no basis to question the state court's findings, those findings are presumed to be correct."); *accord State v. Irick*, 320 S.W.3d 284, 292 (Tenn. 2010) ("[T]he trial court's finding on the issue of competency is reviewed as a question of fact and presumed correct unless the evidence in the record preponderates against the finding."); *Billiot v. State*, 655 So. 2d 1, 12 (Miss. 1995) (rejecting the inmates request

[10] *But see Washington v. Johnson*, 90 F.3d 945, 951 (5th Cir. 1996) ("The question of competency is treated in our circuit as a mixed question of law and fact.").

for de novo review and holding that competency to be executed determinations "can only be reversed if it is against the overwhelming weight of the evidence or an abuse of discretion.").

Other jurisdictions treat competency as a mixed question of law and fact and defer to trial court factual findings but conduct de novo review of the ultimate question of competency. *See, e.g.*, *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010) ("[W]e review a trial court's decision as to a defendant's competency to stand trial de novo and overrule any of our prior cases holding otherwise."); *United States v. Klat*, 213 F.3d 697, 702 (D.C. Cir. 2000) (applying a mixed standard); *State v. Woodland*, 945 P.2d 665, 667 (Utah 1997) (same).[11] Solidifying the split, jurisdictions on this side of the split utilize this standard for competency to be executed cases. For example, the Florida Supreme Court has recently affirmed that *Ford* proceedings are reviewed as mixed questions. "Our review of any legal issues is de novo. . . . If no legal error is shown, we will affirm where there is 'competent, substantial evidence supporting the circuit court's determination.'" *Hutchinson v. State*, 416 So. 3d 283, 288 (Fla. 2025),

[11] It bears mentioning that a few jurisdictions fall somewhere in the spectrum of these two approaches. The First Circuit, for example, holds that as long as the district court "applies the correct legal standard to a competency question, we review for clear error." *United States v. Mahoney*, 717 F.3d 257, 265 (1st Cir. 2013). While not a full-throated assertion of independent constitutional review, this approach does suggest a level of independent legal review of competency claims. Texas law "afford[s] almost total deference to a trial court's determination of the historical facts." *Green v. State*, 374 S.W.3d 434, 441 (Tex. Crim. App. 2012) (competency to be executed). And "appellate courts should afford the same amount of deference to trial courts' rulings on 'application of law to fact questions,' also known as 'mixed questions of law and fact,' if the resolution of those ultimate questions turns on an evaluation of credibility and demeanor." *Id.* But "courts may review de novo 'mixed questions of law and fact' not falling within this category . . . An abuse of discretion standard does not necessarily apply to 'application of law to fact questions' whose resolution does not turn on an evaluation of credibility and demeanor." *Id.*

cert. denied sub nom. Hutchinson v. Florida, 145 S. Ct. 1981 (2025) (quoting *Owen v. State*, 363 So. 3d 1035, 1038 (Fla. 2023)); *see also Coe v. Bell*, 209 F.3d 815, 824 (6th Cir. 2000) (applying a "mixed question of fact and law" standard to a *Ford* proceeding).

Even this Court has remarked that "[i]t must be acknowledged, however, 'that the Court has not charted an entirely clear course in this area." *Thompson v. Keohane*, 516 U.S. 99, 110 (1995) (quoting *Miller v. Fenton*, 474 U.S. 104, 113 (1985)). Some state courts acknowledge the same. In *State v. Lyman*, the Iowa Supreme Court conceded that "we have been somewhat inconsistent as to the standard of review we use to determine if a defendant is competent to stand trial." 776 N.W.2d at 871. In sum, the issue has perplexed the courts.

Treating competency as purely a question of fact, however, is inconsistent with this Court's jurisprudence in other areas of criminal law. As this Court has recognized, for mixed questions of law and facts "'historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the [relevant] statutory [or constitutional] standard, or to put it another way, whether the rule of law as applied to the established facts is or is not violated.'" *Ornelas v. United States*, 517 U.S. 690, 696-97 (1996) (quoting *Pullman-Standard v. Swint*, 456 U.S. 273, 289 n.19 (1982)). To ensure consistent application of constitutional doctrines, this Court has reviewed de novo the application of those doctrines while deferring to findings of fact. Thus, in the context of review of reasonable suspicion and probable cause, "[i]ndependent review is therefore necessary if appellate courts are to maintain control of, and to clarify, the legal principles." *Ornelas*, 517 U.S. at 697. Similarly, this Court's "confession cases hold that the ultimate issue of

'voluntariness' is a legal question requiring independent federal determination." *Miller*, 474 U.S. at 110. These cases "leave no doubt" that there is an "independent obligation to decide the constitutional question." *Id.*; *see also Thompson*, 516 U.S. at 111 (noting the "the ultimate question" has a "uniquely legal dimension").

If decisions of constitutional dimensions were solely decided by trial courts it would result in "varied results" that "would be inconsistent with the idea of a unitary system of law." *Ornelas*, 517 U.S. at 697. In the context of the Fourth Amendment, this Court has noted that "[a] policy of sweeping deference would permit, '[i]n the absence of any significant difference in the facts,' 'the Fourth Amendment's incidence [to] tur[n] on whether different trial judges draw general conclusions that the facts are sufficient or insufficient to constitute probable cause." *Id.* at 697 (quoting *Brinegar v. United States*, 338 U.S. 160, 171 (1949) (alterations original)).

This Court's seminal competency decisions have, likewise, consistently independently evaluated the substantive application of the constitutional principle as an issue of law. In *Drope v. Missouri*, "the dispute concern[ed] the inferences that were to be drawn from the undisputed evidence and whether, in light of what was then known, the failure to make further inquiry into petitioner's competence to stand trial, denied him a fair trial." 420 U.S. 162, 174–75 (1975). This Court emphasized that "it is 'incumbent upon us to analyze the facts in order that the appropriate enforcement of the federal right may be assured.'" *Id.* at 175 (quoting *Norris v. Alabama*, 294 U.S. 587, 590 (1935)). This Court emphasized its independent duty to review the federal constitutional issue of law and held "[w]hen the corrective process is provided by the state but error, in relation to the federal question of constitutional violation, creeps into the record, we have the responsibility to review the state

proceedings." *Id.* (cleaned up). *Drope* also clarified that in fact intensive assessments such as competency, that factual inquiry does not solely determine the substantive federal constitutional question.

> 'But 'issue of fact' is a coat of many colors. It does not cover a conclusion drawn from uncontroverted happenings, when that conclusion incorporates standards of conduct or criteria for judgment which in themselves are decisive of constitutional rights. Such standards and criteria, measured against the requirements drawn from constitutional provisions, and their proper applications, are issues for this Court's adjudication . . . . Especially in cases arising under the Due Process Clause is it important to distinguish between issues of fact that are here foreclosed and issues which, though cast in the form of determinations of fact, are the very issues to review which this Court sits.'

Id., n.10. (quoting *Watts v. Indiana*, 338 U.S. 49, 51 (1949)).

Similarly, in *Panetti*, this Court analyzed Mr. Panetti's competency claim under 28 U.S.C. section 2254(d)(1) because the "state court's adjudication of a claim is dependent on an antecedent unreasonable application of federal law." 551 U.S. at 953. Only by analyzing the "antecedent" legal question was this Court able to determine that "the factfinding procedures upon which the court relied were 'not adequate for reaching reasonably correct results' or, at a minimum, resulted in a process that appeared to be 'seriously inadequate for the ascertainment of the truth.'" *Id.* at 954 (quoting *Ford*, 477 U.S. at 424 (Powell, J. concurring)). *Panetti* makes clear that analysis of a competency claim is not a strictly factual assessment because this Court independently analyzed the application of the legal framework to the facts of the case.

Certiorari is warranted in this case because there is a clear split of authority among the federal circuits and the state courts of last resort on this issue that will not resolve itself. This conflict implicates core constitutional protections and the duty of reviewing courts to independently apply coherent principles of constitutional law

and promote uniformity of law. In the absence of such a rule, competency will be relegated "to turn on whether different trial judges draw general conclusions that the facts are sufficient or insufficient to constitute" incompetency. *Ornelas*, 517 U.S. at 697 (cleaned up).

II. Certiorari is warranted to clarify that incompetency to be executed may be established by credible evidence other than a contemporaneous expert psychiatric evaluation.

As the undisputed testimony at the hearing proved, Mr. Carruthers has fixed beliefs that defy reality. Mr. Carruthers's current incompetency involves three interrelated delusions.[12] First, Mr. Carruthers believes he is entitled to an astronomical financial settlement because he believes (falsely) that his privileged telephone calls are wiretapped and contemporaneously monitored by various improbable figures including Justice Clarence Thomas and Tennessee Governor Bill Lee. Mr. Carruthers believes that each purported wiretap violation entitles him to $3.3 million.[13] Mr. Carruthers also believes that other purported wrongdoing by various defense attorneys, prosecutors, and judges entitles him to $3.3 million per violation.

This leads to Mr. Carruthers's second delusion. Central to Mr. Carruthers's claim that he is currently incompetent to be executed is his delusion that the State is

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[12] The court below repeatedly used scare quotes around prior counsel's belief that Mr. Carruthers suffered from "delusions." Although counsel are not mental health experts, Dr. Agharkar had no hesitation in characterizing Mr. Carruthers's beliefs as delusional. The State's testifying experts even conceded that many of Mr. Carruthers's beliefs were delusional.

[13] As the evidence unambiguously showed at the hearing, Mr. Carruthers's belief that he is owed damages often balloons to $3.3 billion or $3.3 trillion dollars. Curiously, regardless of the number of violations the sum is inevitably some variant of 3.3. The evidence also showed that Mr. Carruthers has elaborate plans for how he will use this windfall when he is released imminently.

only pretending to seek to execute him so to force him to accept an *Alford* plea and thereby forfeit the payment of several sums of $3.3 million to which he is entitled. Mr. Carruthers believes that execution is merely a threat so to extort him into accepting a non-existent *Alford* plea, which will result in a time served sentence but would erase his claim to damages. Mr. Carruthers believes that his own attorneys have been working with the State throughout his entire case and conspired with the State to set his execution date to avoid disbarment. Mr. Carruthers expressed to counsel his delusion that under no circumstances would he being willing to accept such a settlement.

Mr. Carruthers suffers from a third delusion that directly bears upon his competency. Despite repeated legal losses and the setting of an execution date, Mr. Carruthers believes that his release from prison is imminent. This stems from his related belief that that the State *knows* he is innocent and is merely engaging is a threat to execute him to erase his claim to millions. The evidence at his competency hearing proved that Mr. Carruthers believes that various "silver bullet" legal actions will result in his imminent release. Immediately prior to his January 2026 hearing related to his petition for fingerprint analysis, he predicted that he would be set free.[14] This was but the latest example of Mr. Carruthers believing his release is imminent. At numerous times in the past, he "had his bags packed" because he thought release was imminent.

[14] Even if Mr. Carruthers had prevailed in this action, the only result would have been that he would be granted the right to have the fingerprints analyzed. Release was never a legally contemplated outcome of that hearing.

Mr. Carruthers presented proof through the testimony of prior counsel to whom Mr. Carruthers expressed the delusion that the State was attempting to coerce him into an *Alford* plea and through expert testimony that this delusion renders Mr. Carruthers incompetent. Dr. Agharkar testified that he based his expert conclusion that Mr. Carruthers's delusions are unchanged on the overwhelming proof in the recorded calls, voice mails, TDOC records, and testimony of the case paralegal that demonstrate that Mr. Carruthers remains delusional. Furthermore, Dr. Agharkar noted that Schizoaffective Disorder, Bipolar Type is not a condition that spontaneously resolves without medical treatment and anti-psychotic medication. He likewise stated that Mr. Carruthers suffers from persistent, fixed delusions that clearly persist based upon his review of Mr. Carruthers's communications.

In its denial of Mr. Carruthers's petition, the Tennessee Supreme Court focused on a temporal requirement, emphasizing that Mr. Carruthers must "offer evidence at the *Van Tran* hearing related to his *present* incompetency." App. at A-028 (citing *State v. Irick*, 320 S.W.3d 284, 292 (Tenn. 2010)) (emphasis original). In so doing, the court discounted the testimony of Dr. Agharkar and prior counsel Richard Tennent, Kelley Henry, and Houston Goddard as somehow stale. The Court reasoned that "[a]bsent any recent contact with Mr. Carruthers, former counsel also arguably could not offer informed testimony on the ultimate question of whether Mr. Carruthers meets the *Panetti* standard." App. at A-029.

Like many mentally ill individuals, Mr. Carruthers believes that he does not suffer from mental illness and since Dr. Agharkar's 2011 evaluation, he has steadfastly refused to engage with mental health providers, including experts

retained by his counsel or prison mental health providers who hope to treat him.[15] Dr. Agharkar attempted to evaluate Mr. Carruthers multiple times in anticipation of the competency hearing, but in each instance Mr. Carruthers refused the visit. Similarly, when the State's experts attempted to evaluate Mr. Carruthers, he refused to engage at all. The evidence introduced at the evidentiary hearing showed that Mr. Carruthers responds to prison mental health officials' attempts to discuss his condition by holding up a sign indicating that his mental health is "excellent" or by invoking *Miranda v. Arizona* and refusing to speak.

Consequently, the available contemporary evidence regarding Mr. Carruthers's delusions was derived from his voluminous communications and prior counsel's description of the nature of Mr. Carruthers's fixed delusions. The Tennessee Supreme Court's conclusion that evidence of Mr. Carruthers's delusions was stale relied upon the fact that no expert was able to assess Mr. Carruthers immediately prior to the hearing. *See* App. at A-029. As a result of erecting this factual burden, the Tennessee Supreme Court then concluded that there was "limited direct evidence of Mr. Carruthers' present beliefs," *id.*, despite the voluminous evidence introduced at the hearing from numerous other sources. That evidence included hundreds of hours of non-privileged calls, which nearly uniformly begin with a demand for $3.3 million dollars and involve Mr. Carruthers speaking directly to conspirators who he believes are simultaneously listening to his calls on a "wiretap." The proof also included thousands of pages of Mr. Carruthers's writings that, likewise, involve

[15] As Mr. Carruthers states, he "ain't got no goddamn schizophrenia."

rambling demands for $3.3 million. This evidence demonstrates that these delusions have existed for years and that the delusions persist today.[16]

In this case the State conceded that Mr. Carruthers had satisfied *Ford*'s substantial threshold showing to have a competency to be executed hearing. This showing included the findings of a psychiatric evaluation conducted in 2011, the results of which revealed profound mental illness that left untreated would continue to distort Mr. Carruthers's view of the world, numerous witness accounts, and Mr. Carruthers's words and deeds as reflected in his telephone calls, messages, and letters. Mr. Carruthers's severe mental illnesses, however, precluded a further mental health in-person expert evaluation. Nonetheless, Dr. Agharkar digested, evaluated and relied on the wealth of evidence demonstrating Mr. Carruthers's current mental functioning and presented the only expert evidence regarding whether Mr. Carruthers was competent to be executed.[17] The Tennessee Supreme Court discounted this evidence and found that Mr. Carruthers had failed to meet his burden because there was not recent evidence obtained in a forensic evaluation. This Petition asks this Court to clarify whether an inmate may satisfy his burden under *Ford* and *Panetti* through lay observations and documentary evidence that is reviewed by a qualified expert and whether the State may execute a person whose mental illness precludes a contemporaneous in-person evaluation.

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[16] Witnesses also noted historical events indicative of mental illness, such as Mr. Carruthers's paranoia that he is being poisoned and his urging that counsel test a meat patty that Mr. Carruthers sent in the mail.

[17] The State's testifying expert neither opined regarding the ultimate issue of Mr. Carruthers's competency nor did he opine about Mr. Carruthers's diagnosis.

III. Certiorari is necessary to prevent lower courts from unreasonably limiting *Panetti*.

The Tennessee courts found Mr. Carruthers competent under *Panetti* because, rather than a delusion that the state seeks to execute him for a secret, non-judicial reason (as with Mr. Panetti's belief that his execution was to stop his preaching), Mr. Carruthers's delusion is that the State will ultimately *not* execute him. This finding unnaturally cramps *Panetti's* logic: under *Panetti* what matters is whether the condemned person's understanding of the reason for his execution is rational—not whether he understands that the execution will happen.

Mr. Carruthers does not have a rational understanding of the reason for his execution under *Panetti* because he believes that the purpose of the "execution" is a ploy by the State and his counsel to deprive him of several awards of $3.3 million. The Tennessee court, rather than engaging with Mr. Carruthers's delusion, instead found that he "has a rational understanding that his execution is scheduled for May 21, 2026." App. at A-030. Untrue. Mr. Carruthers is *aware* that the execution is scheduled for that date, but the proof at the hearing is that he believes that no execution will happen—rather the State and his own attorneys are conspiring together and will attempt to force him to accept an *Alford* plea such that he forfeits his (delusional) entitlement to several awards of $3.3 million. That is not a rational understanding.

In *Panetti*, this Court held that "[a] prisoner's awareness of the State's rationale for an execution is not the same as a rational understanding of it." *Panetti*, 551 U.S. at 959. Mr. Carruthers has never claimed he is not aware of the State's rationale. He is aware of the State's putative rational, but—like Scott Panetti—he does not believe that is the *real* rationale. Mr. Carruthers's persistent delusion that

the execution is nothing more than a ruse to get him to plead guilty and forfeit a monetary settlement renders his awareness of the State's rationale irrational.

The Tennessee court, however, distorted *Panetti* and substituted Mr. Carruthers's awareness of the State's rationale for a rational understanding of it. The court found that because Mr. Carruthers indicated the State "is going to execute him because of the use of the false testimony of Alfredo Shaw" he, therefore, "knows that he is being executed for the murder convictions"—which satisfied the Tennessee court that he rationally understands the connection between his conviction and the execution. App. at A-027–028. The same could have been said for Scott Panetti: he knew that the state said that it intended to execute him because of the murders, but this Court held that his background delusion—his belief that the real reason was other than the state's stated one—had to be considered in determining his competence. *Panetti*, 551 U.S. at 955 (Panetti "believe[d] in earnest that the stated reason is a 'sham.'"). This Petition asks this Court to clarify that background delusions—such as that suffered by Mr. Panetti and Mr. Carruthers—not merely a condemned person's ability to recite the state's rational must be considered in determining competency to be executed.

CONCLUSION

For the foregoing reasons, this Court should grant this petition for a writ of certiorari.

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Respectfully submitted,

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