No.

IN THE

Supreme Court of the United States

MARCUS BERNARD WILLIAMS,
Petitioner,

v.

STATE OF ALABAMA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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CAPITAL CASE
QUESTION PRESENTED

In evaluating prejudice for ineffective assistance of counsel at sentencing in a capital case under *Strickland v. Washington*, a reviewing court asks "whether there is a reasonable probability that, absent the errors," a reasonable sentencer "impartially applying the standards that govern the decision … would have concluded that the balance of aggravating and mitigating circumstances did not warrant death." 466 U.S. 668, 695 (1984). This objective inquiry excludes consideration of "the idiosyncrasies of the particular decisionmaker, such as unusual propensities toward harshness or leniency" or the "sentencing practices" of the court. *Id.* In *Thornell v. Jones*, this Court underscored that the reviewing court must consider how the state court's sentencing framework would account for omitted evidence. 602 U.S. 154, 165 (2024).

The Eleventh Circuit read *Thornell* to require evaluating prejudice by surveying how state courts "frequently" and "typically" weigh the kind of mitigation evidence counsel failed to present. The Eleventh Circuit reinstated Petitioner's death sentence not because a reasonable sentencer applying state law would reach the same result, but because it considered it "common" for Alabama sentencers to impose such a sentence in comparable circumstances. Pet. App. 2a-3a, 17a, 20a. The question presented is:

Did *Thornell* displace *Strickland*'s objective prejudice inquiry in favor of a subjective inquiry turning on the perceived tendencies of state and local sentencers?

PARTIES TO THE PROCEEDINGS

The petitioner is Marcus Bernard Williams. He was the appellee below.

The respondent is the State of Alabama. It was the Appellant below.

RELATED PROCEEDINGS

Williams v. State of Alabama, No. 21-13734 (11th Cir. judgment entered Apr. 3, 2026).

Williams v. State of Alabama, No. 1:07-cv-01276-ACA (N.D. Ala. judgment entered July 14, 2026).

Alabama v. Marcus Bernard Williams, No. 23-682 (U.S. judgment entered July 12, 2024).

Williams v. State, No. CR-04 0711 (Ala. Ct. Crim. App. judgment entered Jan. 12, 2007 denying rehearing).

Ex parte Williams, No. 1060576 (Ala. Sup. Ct. judgment entered June 29, 2007 denying petition for writ of certiorari).

Williams v. State, No. CC-97-57.60 (Ala. St. Clair Cnty. Cir. Ct. judgment entered Jan. 13, 2005 denying motion to reconsider).

Williams v. State, No. CR-03 0681 (Ala. Ct. of Crim. App. judgment entered Mar. 4, 2004 reversing and remanding dismissal of habeas petition).

Williams v. Alabama, No. 01-5052 (U.S. judgment entered Oct. 1, 2001 denying petition for certiorari).

Ex parte Williams, No. 1990902 (Ala. Sup. Ct. judgment entered Mar. 30, 2001 denying rehearing).

Williams v. State, No. CR-98 1734 (Ala. Crim. Ct. App. judgment entered Jan. 28, 2000 denying rehearing).

Williams v. State, No. CC-97-57 (Ala. St. Clair Cnty. Cir. Ct. judgment entered Apr. 6, 1999 imposing death sentence).

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INTRODUCTION

This capital case, before this Court for the second time, raises a foundational question about the prejudice analysis for claims of ineffective assistance of counsel. It calls on the Court to decide whether *Thornell v. Jones*, 602 U.S. 154 (2024), fundamentally changed the prejudice standard articulated in *Strickland v. Washington*, 466 U.S. 668 (1984), from an objective standard that applies nationwide into a subjective one that depends on a defendant's geographic circumstances.

Petitioner Marcus Williams was sentenced to death in 1999. The sentence—based on a non-unanimous advisory verdict—came after his lawyers spent fewer than 15 hours combined preparing for his penalty trial. The jury never heard mitigation evidence—later uncovered during habeas proceedings—revealing the repeated sexual abuse Mr. Williams suffered beginning at age four. Even without that mitigation, one member of the advisory jury did not recommend the death penalty.

The district court granted Mr. Williams federal habeas relief. The district court found—and the state does not dispute—that Mr. Williams received ineffective assistance of counsel. Applying *Strickland*, the district court considered the omitted mitigation evidence in the context of other sentencing factors and determined that there was a reasonable probability that Mr. Williams would have been sentenced to life in prison had counsel performed an adequate mitigation investigation. The Eleventh Circuit affirmed.

In 2024, the State of Alabama petitioned for certiorari, and this Court granted, vacated, and remanded this case in light of its decision the same term in *Thornell*. On remand, the Eleventh Circuit panel wrongly interpreted *Thornell* and reinstated Mr. Williams's death sentence.

The majority noted that under *Thornell*, a reviewing court must account for mitigation evidence in "the same way that the state sentencing judge and [state] appellate courts would have done." Pet. App. 14a-15a. But the majority understood this to mean not that it should take account of the state's sentencing framework and relevant state law, but that it should survey sentencing decisions and assess the *tendencies* of state and local judges and juries.

The court discerned that Alabama courts "frequently" give evidence like Mr. Williams's "little weight," "typically" discount it, and "generally" weigh his aggravator more heavily, such that it is "common" for them to impose the death penalty in such circumstances. Pet. App. 2a-3a, 17a, 20a. Based on this assessment of the proclivities of Alabama courts and local sentencing culture, the panel deemed it "plain" that Alabama courts would have sentenced Mr. Williams to death regardless of counsel's undisputedly deficient performance. Pet. App. 23a-24a.

The Eleventh Circuit's holding grossly misinterprets *Thornell* and sets *Thornell* and *Strickland* in conflict. *Strickland* calls for an objective prejudice inquiry rooted in the strength of the mitigation evidence and guided by the lawful factors that govern sentencing. *Strickland* obligates the reviewing court to

assume a sentencer is "reasonably, conscientiously, and impartially applying the standards that govern the decision." 466 U.S. at 695. That obligation renders "irrelevant to the prejudice inquiry" the "sentencing practices" or "idiosyncrasies of the particular decisionmaker, such as unusual propensities toward harshness or leniency." *Id.*

Thornell reaffirmed this "well-established standard." 602 U.S. at 158. *Thornell* explained that when an ineffective assistance claim is based on a failure to present mitigation evidence at sentencing, the prejudice analysis must take account of how the state court's sentencing framework would account for the omitted evidence. *See id.* at 165. Considering the application of state law to omitted evidence is part of determining, in *Strickland*'s terms, how the "standards that govern the [sentencing] decision" would impact the sentencing decision when considering the mitigation evidence. 466 U.S. at 695. *Thornell* did not hold that prejudice turns on counterfactual predictions based on tendencies or trends in state sentencing culture. That would reflect impermissible actuarial forecasting of the very "propensities toward harshness" that *Strickland* forbids. *Id.* Yet the Eleventh Circuit interpreted *Thornell* effectively to require exactly that.

The Eleventh Circuit's misreading of *Thornell* creates an untenable framework in which local sentencing culture dictates the content of the Sixth Amendment right for citizens in Alabama, Florida, and Georgia. This Court has repeatedly condemned such variation in the meaning of federal constitutional rights. Just last Term, this Court reiterated

that "local attitudes can neither shrink nor inflate the meaning of fundamental Bill of Rights guarantees," and that the Second Amendment "cannot give way to 'the spirit of Aloha'" in Hawaii. *Wolford v. Lopez*, 609 U.S. 185, 206 (2026). Neither can the Sixth Amendment give way to the "Heart of Dixie" in Alabama.

Yet as it stands, the decision below means that the more frequently a State's sentencers have imposed the death penalty, the less the Sixth Amendment demands of the lawyers who defend capital clients there. It also means that a court reviewing a claim from a state or district with historically more lenient sentencing culture could be duty-bound to grant relief even where the objective balance of factors weigh against it.

The conflict with this Court's longstanding precedent and recent admonitions suffices to merit review. But the Eleventh Circuit's decision also splits with both the Sixth and the Ninth Circuits, which have properly understood *Thornell* as reaffirming an objective, nationally uniform prejudice standard. And this case is an unusually clean vehicle for setting things right and reaffirming the proper prejudice standard. The only disputed, outcome-determinative issue is the interpretation of *Thornell* and its relationship with *Strickland*. The district court and the Eleventh Circuit both found prejudice before, and the panel reversed course only because it thought *Thornell* changed the standard.

The petition should be granted.

OPINIONS AND ORDERS BELOW

The decision of the United States Court of Appeals for the Eleventh Circuit is published at 171 F.4th 1276 and reproduced at Pet. App. 1a-36a. The decision of the United States District Court for the Northern District of Alabama is reproduced at Pet. App. 37a-177a. The Eleventh Circuit's previous opinion in this case is published at 73 F.4th 900 and reproduced at Pet. App. 178a-210a.

JURISDICTION

The Eleventh Circuit denied rehearing en banc on July 1, 2026. Pet. App. 211a. On September 3, 2026, this Court extended the time to file a petition for certiorari to and including October 29, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment provides, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right to … the Assistance of Counsel for his defence."

STATEMENT OF THE CASE

Mr. Williams is sentenced to death.

In 1999, an Alabama jury convicted Mr. Williams of murder, finding that in 1996, he broke into his neighbor Melanie Rowell's home, and raped and murdered her. Pet. App. 3a-4a. At the time of Mr. Williams's murder conviction, Alabama's death penalty regime relied on advisory jury verdicts: A twelve-

member jury would weigh aggravating and mitigating evidence before returning an advisory verdict recommending life without parole or death. Pet. App. 6a. Ten votes were required to recommend death. Ala. Code § 13A-5-46(f). The trial court was then obligated to consider the advisory verdict before imposing the sentence. Pet. App. 6a.

It is undisputed that Mr. Williams's counsel performed deficiently at the sentencing phase of his trial. Pet. App. 15a. In the two years leading up to Mr. Williams's penalty trial, his lawyers spent less than 15 hours combined to prepare. Pet. App. 203a. They met with Mr. Williams only a handful of times: one lawyer met with Mr. Williams for a total of three hours; the other met with him for roughly three-and-a-half hours. Pet. App. 191a. They never asked Mr. Williams about his family background or upbringing. Pet. App. 191a-192a. They never hired a mitigation investigator, despite the court funds allotted for one, or sought any expert opinions. Pet. App. 190a. And they waited until just days before the trial began to seek documentary evidence for the first time. Pet. App. 190a.

In consequence, at the penalty trial, nothing about the staggering domestic and sexual abuse Mr. Williams suffered as a child came to light. Only Mr. Williams's mother and great-aunt testified on his behalf and that testimony was limited. His mother testified about Mr. Williams's difficult upbringing: how she was 16 when Mr. Williams was born; how Mr. Williams's father was absent from his life; and how Mr. Williams sometimes lived with other relatives who could take care of him. Pet. App. 5a, 181a-182a. She explained how Mr. Williams "lost all hope" after a

knee injury ended his athletic career and she chronicled his difficulty finding steady work after dropping out of school. Pet. App. 5a-6a. Mr. Williams's great-aunt also testified. When she took the stand, she testified to much the same challenges as Mr. Williams's mother, adding that Mr. Williams had "started drinking and maybe … doing drugs" before the murder. Pet. App. 6a. It would later be revealed that Mr. Williams's counsel did not meet with his great aunt until the morning of her testimony—and even then, spent only fifteen minutes with her. Pet. App. 191a.

At the conclusion of the trial, the jury rendered a split verdict: eleven jurors voted for death, and one voted for life. Pet. App. 7a, 182a. Following the advisory verdict and victim-impact and character statements, the trial court sentenced Mr. Williams to death. Pet. App. 6a-8a. The trial court identified "several" mitigating circumstances, including Mr. Williams's "lack of significant prior criminal activity" and his difficult upbringing, but found that the aggravating circumstance of murder committed during "a rape, robbery, burglary, or kidnapping" "outweighed the mitigating circumstances." Pet. App. 7a-8a, 182a.

Mr. Williams's death sentence is vacated on federal habeas review.

After Mr. Williams's conviction and sentence became final on direct and state postconviction review, he sought federal habeas relief, arguing that he

received ineffective assistance of counsel at the penalty phase. Pet. App. 184a-186a.

Under *Strickland*, Mr. Williams had to show that counsel's performance was constitutionally deficient and that the deficient performance prejudiced him. 466 U.S. at 687. Prejudice at the penalty phase means there "is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome," and is judged by asking how a "decisionmaker [who] is reasonably, conscientiously, and impartially applying the standards that govern the [sentencing] decision," would have weighed all the evidence. *Id.* at 695. Mr. Williams argued that his counsel's failure to investigate and present available mitigating evidence constituted ineffective assistance of counsel and undermined confidence in his death sentence. Pet. App. 185a-186a.

The district court conducted a three-day evidentiary hearing on Mr. Williams's claims. Pet. App. 185a. The district court heard from Mr. Williams, his family members, one of his two lawyers at sentencing, the legal secretary to his other lawyer at sentencing, a mitigation investigator, and two psychologists. Pet. App. 185a. The hearing uncovered his counsel's cursory investigation into mitigating circumstances and revealed an upbringing marked by sexual and domestic abuse, and a history of rampant family dysfunction that included incest and alcoholism. Pet. App. 185a-186a, 199a. Mr. Williams argued that had counsel performed adequately, they would have presented mitigation evidence that created a reasonable

probability that the trial court would have opted for life over death. Pet. App. 185a-186a.

The district court agreed with Mr. Williams. Pet. App. 81a. The court first found that counsel's mitigation investigation fell far below constitutional standards. Pet. App. 81a-83a. Counsel never asked Mr. Williams or anyone else whether he had been sexually abused, and so never learned of the abuse he suffered as a child. Pet. App. 135a, 147a-150a. There was no evidence of any mitigation list or notes from even a single mitigation interview. Pet. App. 141a. Mr. Williams's counsel thus never interviewed several family members who could have shed light on Mr. Williams's "family[] history of alcohol abuse, including by his [mother and other] family members … [he] lived [with] when he was a child," or Mr. Williams's exposure "to adult sexual relations early in his life," including a cousin who "arranged for [Mr. Williams] to watch [the cousin] having sex with girls." Pet. App. 141a, 147a-148a. As the district court put it, "[a]lthough counsel nominally presented a mitigation case, 'the record leaves no doubt that counsel's investigation to support that case was an empty exercise.'" Pet. App. 153a (quoting *Andrus v. Texas*, 140 S. Ct. 1875, 1882 (2020)).

The district court then found that counsel's deficient performance was prejudicial under *Strickland*. Pet. App. 150a-151a. The omitted evidence, the court explained, "'paints a vastly different picture of [Mr. Williams's] background than that created by the actual penalty-phase testimony.'" Pet. App. 153a.

The jury never heard that Mr. Williams was repeatedly sexually abused beginning when he was four; that his alcoholic mother abandoned him when he was a child; that he was exposed to domestic violence and adult sexual relations as a young child; or that sexual abuse and alcoholism pervaded his extended family. Pet. App. 154a-155a. That evidence was not cumulative, the court found, because "the jury never heard any of the specific details of his troubled background," and "the nature, quality, and volume of the mitigation evidence" "'bears no relation' to the cursory evidence that trial counsel presented." Pet. App. 154a.

The district court weighed that evidence against the lone aggravating circumstance the State had argued—that the murder occurred during the commission of a rape—and found "the scale tips in favor of a reasonable probability that the jury would have reached a different conclusion." Pet. App. 163a. The district court found that "[t]he fact that Mr. Williams'[s] case is *not* highly aggravated further supports a finding of prejudice." Pet. App. 173a. It explained that Mr. Williams's expert tied the childhood sexual abuse directly to his later sexual violence, testifying that had the abuse not happened, "'there would not have been the sexual violence.'" Pet. App. 170a. And it emphasized that, "even though the jury heard none of the powerful mitigating evidence produced at the evidentiary hearing, one juror still voted for life without parole," such that there was "a reasonable probability … that more jurors would have followed suit." Pet. App. 174a.

Because the jury and judge "heard almost nothing that would allow them to 'accurately gauge his moral culpability,'" the district court concluded, there was "a reasonable probability exists that the jury and sentencing judge 'would have struck a different balance.'" Pet. App. 174a-175a (quoting *Porter v. McCollum*, 558 U.S. 30, 41 (2009) (per curiam), and *Wiggins v. Smith*, 539 U.S. 510, 537 (2003)). The district court granted habeas relief. Pet. App. 13a, 186a.

The Eleventh Circuit affirms.

The Eleventh Circuit initially affirmed. *Williams v. Alabama*, 73 F.4th 900 (11th Cir. 2023). Judge Wilson, joined by Judge Lagoa, found that the representation Mr. Williams received was "patently unreasonable." Pet. App. 192a. On prejudice, the panel concluded that "there is a reasonable probability that, absent counsel's deficiencies, the balance of aggravating and mitigating factors in [Mr.] Williams'[s] case did not warrant a sentence of death." Pet. App. 199a. The panel explained that the jury heard only brief testimony from Mr. Williams's mother and great-aunt, which "revealed very little about the true extent of [Mr.] Williams' troubled upbringing and family history"; the jury "never heard about [Mr.] Williams' sexual abuse, his early exposure to sexual relations, his exposure to domestic violence, the abandonment by both his father and mother, or the sexual abuse and alcoholism that was pervasive in his family." *Id*.

The panel explained that "not only the sheer volume of but also the powerful nature of the mitigators overwhelmingly outweighs the aggravator," and that,

without minimizing the aggravating circumstance, "our confidence in the outcome of the penalty phase of [Mr.] Williams' trial is undermined." Pet. App. 199a-200a (citing *Wiggins*, 539 U.S. at 534-35, *Rompilla v. Beard*, 545 U.S. 374, 391-93 (2005)). The panel also rejected the State's attempt to discount the sexual-abuse evidence, noting that the district court had credited both Mr. Williams's and his expert's testimony and that the State had not adequately challenged those findings. Pet. App. 201a.

Judge Grant dissented in part. Although she agreed that "counsel's efforts to investigate Mr. Williams's background and prepare for the sentencing phase were unacceptable," she concluded that the new mitigating evidence was insufficient to establish prejudice given the circumstances of the crime. Pet. App. 203a-205a.

This Court decides* Thornell *and GVRs.

The State petitioned for certiorari. While the petition was pending, this Court decided *Thornell*, 602 U.S. 154 (2024).

Thornell involved a defendant, Danny Lee Jones, who was sentenced to death in Arizona after murdering a man, his daughter, and his grandmother. The trial judge imposed death after finding that several aggravating factors—multiple homicides, pecuniary motive, and that the murders were "especially heinous, cruel or depraved," along with the young age of the daughter—outweighed the mitigating circumstances of long-term substance abuse, head trauma, and childhood abuse. *Id.* at 159-61. The Arizona

Supreme Court affirmed. *Id.* at 161. On federal habeas review, Jones argued that his counsel was ineffective at sentencing and introduced new evidence of mental illness, cognitive impairment caused by head trauma, childhood abuse, and substance abuse. *Id.* at 161-62, 166. The district court held an evidentiary hearing and found no prejudice, and the Ninth Circuit reversed and granted relief. *Id.* at 161-62. This Court granted certiorari "to review the Ninth Circuit's interpretation and application of *Strickland*," and reversed the Ninth Circuit. *Id.* at 163.

This Court explained what a proper application of *Strickland* requires: "a court must decide whether it is reasonably likely that the additional evidence would have avoided a death sentence," which "requires an evaluation of the strength of all the evidence and a comparison of the weight of aggravating and mitigating factors." *Id.* at 171-72. That inquiry assumes a sentencer "applying the standards that govern the decision." *Strickland*, 466 U.S. at 695; *see Thornell*, 602 U.S. at 163. The Ninth Circuit departed from that standard. Among other errors, it failed to give the aggravating circumstances the weight Arizona law assigns them, *Thornell*, 602 U.S. at 164, and it "downplayed the serious aggravating factors" while "overstat[ing] the strength of mitigating evidence that differed very little from the evidence presented at sentencing," *id.* at 172.

Applying "the proper understanding of *Strickland*," this Court found that "[m]ost of the mitigating evidence" Jones presented in federal court "was not

new," and that "what was new would not carry much weight in Arizona courts" in light of Arizona appellate decisions that would bind the sentencer considering it. *Id.* at 165. The cognitive evidence "at most corroborate[d] testimony the Arizona courts already credited," and the substance-abuse evidence was duplicative. *Id.* at 168-171. The new mental-health testimony lacked the causal link Arizona law requires, *id.* at 167, and the new abuse allegations flunked the corroboration and causal-connection requirements under Arizona law, *id.* at 168-69. Weighed against the aggravating circumstances, *id.* at 170-71, the evidence "would barely have altered the sentencing profile presented to the sentencing judge," and so could not establish prejudice, *id.* at 166 (quoting *Strickland*, 466 U.S. at 700). Thus, this Court found that there was no reasonable probability the new evidence would have affected Jones's death sentence.

Following the decision in *Thornell*, on June 10, 2024, the Court granted, vacated, and remanded "for further consideration in light of *Thornell v. Jones*." *Alabama v. Williams*, 144 S. Ct. 2627 (2024).

The Eleventh Circuit reverses course and finds no prejudice in Mr. Williams's case.

On remand, the Eleventh Circuit reversed itself and vacated the district court's grant of habeas relief. Pet. App. 3a, 26a-27a. This time, Judge Grant wrote for the panel majority, joined by Judge Lagoa. Pet. App. 1a. The new majority expressed "no doubt" about the "earlier holding that" Mr. Williams's counsel was

"deficient," but concluded that the deficient performance was not prejudicial. Pet. App. 15a.

Central to that conclusion was the majority's interpretation of *Thornell*. Mr. Williams explained in a supplemental brief that *Thornell* "broke no new ground" as to the objective prejudice standard articulated in *Strickland* and reversed the Ninth Circuit's decision in that case by "merely appl[ying]" *Strickland* correctly. CA11 Dkt. 60 at 1, 5 (Pet'r's Supplemental Br.). The panel majority nonetheless read *Thornell* as "clarif[ying]" the *Strickland* prejudice inquiry in a manner that worked a significant change and required it to reach the opposite outcome on the same record. Pet. App. 14a-15a.

The panel observed that *Thornell* "requires habeas courts to weigh [the evidence] the same way that the state sentencing judge and [state] appellate courts would have done." Pet. App. 14a-15a. But it interpreted this mandate to mean not that it should take account of Alabama law as it pertains to the weighing of sentencing factors, but that it should survey Alabama sentencing decisions and assess what they have historically done in cases with some similarity to Mr. Williams's in order to gauge the tendencies of Alabama sentencers and the prevailing sentencing culture. Pet. App. 23a-24a. The court reasoned that Alabama courts "frequently," "typically," and "common[ly]" impose the death penalty in other cases involving mitigating evidence of the general variety uncovered during the habeas proceeding and the statutory aggravator in Mr. Williams's case. Pet. App. 17a-21a.

Specifically, the panel believed that "Alabama trial courts … *frequently* accord 'little weight' or 'very little weight' to similar evidence." Pet. App. 17a (emphasis added). The court added that "Alabama courts *typically* do not assign much, if any, mitigating weight to voluntary drug or alcohol use." Pet. App. 20a (emphasis added). The panel also credited the strength of the existing aggravating factors based on a similar predictive assessment. It reasoned that "Alabama sentencing courts *generally* weigh the aggravating circumstances of his crimes—burglary, rape, and murder—more heavily than the kinds of mitigating evidence he offered." Pet. App. 2a-3a (emphasis added). It further stated that "[i]t is *common* for Alabama sentencing courts to impose the death penalty" in cases with the same aggravating factors. Pet. App. 21a (emphasis added).

In light of these assessments about the tendencies of local sentencing courts, the majority thought it "plain" that "Alabama courts are likely to have" sentenced Mr. Williams to death. Pet. App. 23a-24a. Thus, under its interpretation of *Thornell*, there was no "reasonable probability" of a different outcome if counsel had developed and presented the omitted mitigation evidence. Pet. App. 23a-26a.

Judge Wilson dissented. Pet. App. 28a. He warned that the majority's interpretation of *Thornell* left federal courts without a meaningful role in safeguarding the Sixth Amendment right to effective assistance of counsel in capital cases. Pet. App. 35a-36a (Wilson, J., dissenting). By anchoring *Strickland* prejudice to a state's historical sentencing practices, the majority displaced the objective, neutral review

required by the Sixth Amendment. "Tethering a critical federal constitutional right to idiosyncrasies of particular American geographic regions distorts the meaning and the purpose of the right itself." Pet. App. 35a (Wilson, J., dissenting). In doing so, he concluded, the majority left *Strickland* prejudice to "mean[] one thing in one state and something else in another" based on local sentencing culture. Pet. App. 34a (Wilson, J., dissenting).

The court sua sponte ordered that the mandate be withheld and Mr. Williams sought en banc review days later. CA11 Dkt. 86. While the petition was pending, this Court issued its decision in *Wolford v. Lopez*, which emphasized that "[m]erely local attitudes can neither shrink nor inflate the meaning of fundamental Bill of Rights guarantees that apply to the States through the Fourteenth Amendment." 609 U.S. at 206. Mr. Williams notified the court of appeals about *Wolford*, explaining that it "undercuts the panel majority's Sixth Amendment prejudice analysis, which centered on "follow[ing] Alabama's approach in considering whether an Alabama sentencing court would have concluded that the post-conviction evidence tipped the balance in favor of life rather than death." CA11 Dkt. 89. Shortly thereafter, the court of appeals withdrew the order withholding the mandate and denied en banc review.

REASONS FOR GRANTING THE WRIT

I. The Court Should Correct The Eleventh Circuit's Fundamental Misconstruction Of *Thornell* As Modifying *Strickland*.

The Eleventh Circuit fundamentally misinterpreted *Thornell*. The panel interpreted *Thornell* in a manner that directs reviewing courts to defer to states' typical sentencing patterns. This interpretation violates *Strickland*'s command that a sentencer's "idiosyncrasies" and "propensities toward harshness" are "irrelevant to the prejudice inquiry." *Strickland*, 466 U.S. at 695. And it is directly contrary to *Thornell*, which *reaffirmed* "the well-established standard articulated by this Court in *Strickland*." *Thornell*, 602 U.S. at 158.

Nothing in *Thornell* authorizes a reviewing court to use the tendencies of judges and juries to deny relief based on a forecast of how they "frequently" or "typically" behave. While this Court's opinion in *Thornell* repeatedly discussed state court decisions, it did so to ascertain the *law* that would guide and bind the sentencing court in considering omitted mitigation evidence, not to forecast a result based on general tendencies or predispositions of local sentencing courts. The Eleventh Circuit's contrary decision fundamentally distorts the prejudice analysis.

A. *Strickland* requires an objective prejudice inquiry that excludes the tendencies and predilections of sentencing courts.

To obtain relief for ineffective assistance of counsel under *Strickland*, a defendant must show "that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." 466 U.S. at 687. That requires establishing "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different," where "[a] reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* at 694.

The *Strickland* prejudice inquiry is thus an objective one, rooted in the reviewing court's assessment of the significance of counsel's deficient performance in light of the law binding and guiding the sentencing court. Although the prejudice analysis requires the reviewing court to step into the shoes of the sentencing court and assess how it would have ruled but for counsel's deficient performance, *Strickland* established two parameters for how a reviewing court is supposed to do so. First, "the assessment of prejudice should proceed on the assumption that the decisionmaker is reasonably, conscientiously, and impartially applying the standards that govern the decision." *Id.* at 695. Second, the inquiry "should not depend on the idiosyncrasies of the particular decisionmaker, such as unusual propensities toward harshness or leniency." *Id.* Such considerations are "irrelevant to the prejudice inquiry." *Id.*

In other words, reviewing courts must evaluate prejudice in view of the relevant governing law—"the standards that govern the [sentencing] decision," assuming that the sentencing court will apply them "reasonably, conscientiously, and impartially." *Id.* But the reviewing court may not credit a sentencing court's "propensities toward harshness or leniency." *Id.* "[E]vidence about … a particular judge's sentencing practices, should not be considered in the prejudice determination." *Id.*

This distinction is rooted in the foundations of the Sixth Amendment. The prejudice component of *Strickland* exists to identify those cases in which counsel's failure truly "undermine[s] confidence in the outcome" of the trial. *Id.* at 694. In the context of a claim of ineffective assistance for failure to develop and present mitigation evidence, whether confidence is undermined depends on the strength of the omitted evidence measured against the law that governs its use, not on whether the defendant happened to be convicted in a forum predisposed to discount or credit that evidence.

The reason for that is straightforward: A sentence warrants confidence when it can be said that there is no reasonable probability that a decisionmaker faithfully "applying the standards that govern the decision" would reach a different decision based on the complete evidentiary record. *Id.* at 695. A prediction about what a sentencer in a particular jurisdiction is *likely to do*, however, does not define what is warranted based on the law and complete record in a particular case. That is why this Court in *Strickland* said that historical habit is "irrelevant to the prejudice

inquiry," *id.,* and why circuit courts have repeatedly read *Strickland* as requiring an "objective" prejudice standard. *E.g.*, *Harris v. Thompson*, 698 F.3d 609, 648 (7th Cir. 2012) (*Strickland* requires "the effect the evidence would have had on an unspecified, objectively reasonable decision-maker"); *White v. Ryan*, 895 F.3d 641, 670-71 (9th Cir. 2018) ("the test for [*Strickland*] prejudice is an objective one"); *Garner v. Lee*, 908 F.3d 845, 862 (2d Cir. 2018) ("the proper focus of the inquiry is the reliability of the result, from an objective viewpoint, and not the 'unusual propensities' of particular judges or jurors"); *Saranchak v. Sec'y*, 802 F.3d 579, 588, 591 (3d Cir. 2015) (prejudice "focuses on 'the effect the same evidence would have had on an unspecified, objective factfinder'"); *Hewitt-El v. Burgess*, 53 F.4th 969, 979 (6th Cir. 2022) ("speculation about what the panel of judges … would have done … is beside the point" because "'[t]he assessment of prejudice' is objective").

B. The panel majority relied instead on an assessment of the tendencies of Alabama sentencing courts.

The panel majority concluded that Mr. Williams was not prejudiced by his counsel's undisputedly deficient performance because it believed that Alabama sentencers "frequently," "typically," and "generally" discount the kind of mitigation evidence that was never developed or presented. Pet. App. 2a-3a, 17a, 20a.

The panel's reasoning left no doubt that its ruling rested on its predictive view of the tendencies of Alabama courts, not its assessment of the operation of

Alabama law as it governs the weighing of mitigation evidence. The panel majority specifically observed that under Alabama law the "weight to be attached to the aggravating and the mitigating evidence is strictly within the discretion of the sentencing authority." Pet. App. 6a, 15a-16a (quoting *Gobble v. State*, 104 So. 3d 920, 989 (Ala. Crim. App. 2010)). The panel's own assessment of Alabama law thus demonstrates that its assessment of how mitigation evidence like Mr. Williams's is "typically" and "generally" weighed in Alabama courts thus necessarily reflects predictive speculation of how sentencing discretion will be exercised.

For example, as noted, in discussing the aggravating factors, the panel majority noted that "Alabama courts give heavy weight to the aggravating circumstance at issue here—murder committed during the course of a rape, robbery, burglary, or kidnapping," and stated that "[i]t is common for Alabama sentencing courts to impose the death penalty when this aggravating factor applies, and for Alabama appellate courts to uphold that penalty[.]" Pet. App. 20a-21a (citing Ala. Code § 13A-5-49(4)). The only legal authority cited for the proposition that this aggravator carries "heavy weight" is the statute that lists the aggravating circumstances, a provision that says nothing whatsoever about weight. What remains is a bald prediction grounded in the panel majority's assessment that the death penalty is "common" in such cases. Pet. App. 21a.

This predictive analysis departs sharply from *Strickland*, which prohibits consideration of the likely "sentencing practices" in "particular" courts.

Strickland, 466 U.S. at 695. *Strickland* explicitly holds that such evidence "should not be considered in the prejudice determination." *Id.* What *Strickland* instead requires is an objective assessment of the strength of the omitted mitigation evidence against the existing aggravating factors, measured by the legal standards prescribed by state law that govern sentencing, on the assumption that the sentencer follows them.

C. The panel majority wrongly understood *Thornell* to call for a predictive analysis.

The panel majority understood *Thornell* to authorize this predictive analysis, in service of "weigh[ing] the aggravating and mitigating circumstances in the same way that the state sentencing judge and appellate courts would have done." Pet. App. 14a-15a; *see* Pet. App. 2a-3a, 25a-26a. But *Thornell* authorizes no such thing. *Thornell* expressly embraced *Strickland* and reaffirmed that the prejudice analysis calls for the reviewing court's objective "evaluation of the strength of all the evidence and a comparison of the weight of aggravating and mitigating factors" in light of governing law. 602 U.S. at 165, 171-72.

Thornell's instruction to consider the omitted evidence "the same way that the state sentencing judge and appellate courts would have done," Pet. App. 14a-15a, means to consider it in light of governing state law, not to forecast an outcome based on the prevailing sentencing climate of the state, as the panel majority believed.

The *Thornell* opinion's references to the way Arizona courts "would" view the omitted mitigating evidence demonstrate exactly this. In each instance in which *Thornell* discusses Arizona state court decisions, it is describing how binding Arizona caselaw would guide and constrain the sentencer in weighing the omitted mitigation evidence. The Court does not rely on an assessment of how Arizona courts "typically" or "generally" behave.

Start with *Thornell*'s treatment of the omitted mitigation evidence in Mr. Jones's case. The Court explained that "[b]ecause none of Jones's experts provided a real link between Jones's disorders and the murders, their testimony *would have done him little good in the Arizona courts*." 602 U.S. at 167 (emphasis added). Supporting this statement, the Court cited Arizona Supreme Court decisions holding that "evidence of causation is required before mental impairment can be considered a significant mitigating factor." *Id.* (quoting *State v. Stuard*, 176 Ariz. 589, 608 n.12 (1993) and citing *State v. Poyson*, 250 Ariz. 48 (2020)).

In another passage, the Court stated: "*Arizona courts would give* … self-reported and uncorroborated evidence 'little … mitigating weight,'" quoting the Arizona Supreme Court's articulation of how such evidence is to be weighed. *Id.* at 169 (quoting *State v. Sharp*, 193 Ariz. 414, 425 (1999) (emphasis added)). The Court also observed: "Given Jones's 'obvious motive to fabricate,' Arizona courts would view this abuse allegation with some 'skepticism,'" quoting governing caselaw about the weight assigned to a mitigating factor in light of motive to fabricate. *Id.*

(quoting *State v. Medrano*, 185 Ariz. 192, 194 (1996)). These references to what Arizona sentencing courts "would" do are statements about how governing law guided them, supported by citations to binding caselaw, not predictions based on their tendencies or "propensities."

The same is true of *Thornell*'s discussion of the countervailing aggravators. The Court explained: "[M]ultiple homicides, cruelty, pecuniary motivation, and murder of a child—*are given great weight in Arizona*." *Id.* at 170 (emphasis added). To support this statement, the Court cited five Arizona appellate decisions governing the comparative weight state law assigns to these sentencing factors. *See State v. Garza*, 216 Ariz. 56, 72 (2007) (cited in *Thornell*, 602 U.S. at 170) (holding that the multiple-homicide aggravator is entitled to "extraordinary weight"); *Poyson*, 250 Ariz. at 57 (cited in *Thornell*, 602 U.S. at 170) (describing the legal weight afforded to specific statutory aggravators); *State v. Newell*, 212 Ariz. 389, 406 (2006) (cited in *Thornell*, 602 U.S. at 170) (explaining how the victim's age operates under Arizona law); *State v. Hampton*, 213 Ariz. 167, 185 (2006) (quoting *State v. Wallace*, 160 Ariz. 424, 427 (1989)) (cited in *Thornell*, 602 U.S. at 170) (holding that a single statutory aggravator can, as a matter of law, outweigh "not insubstantial" family background mitigation, because a difficult family background "'is not a mitigating circumstance' sufficient to mandate leniency in every capital case"); *State v. McKinney*, 245 Ariz. 225, 227 (2018) (cited in *Thornell*, 602 U.S. at 170) (describing the application of those rules on a specific record).

Thornell's statement that the relevant aggravators "are given great weight in Arizona" was thus a statement of state law and a description of Arizona appellate courts' holdings as to those factors—not a statement of how Arizona courts "typically" or "generally" behave.[1]

Read correctly, *Thornell*'s treatment of state law is seamlessly consistent with *Strickland*'s instruction to assume a decisionmaker who is faithfully "applying the standards that govern the decision." *Strickland*, 466 U.S. at 695. The Court's identification of governing Arizona law and evaluation of how it would bear on the omitted mitigation evidence is part and parcel of "assum[ing] that the decisionmaker is reasonably, conscientiously, and impartially applying" those

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[1] In some other passages, *Thornell* discusses "Arizona courts" to describe what specific Arizona courts had already done in Mr. Jones's own case. For example, the Court observed that "Arizona courts had already received testimony that Jones 'suffers from a major mental illness,' likely a 'form of Bipolar Affective Disorder,'" yet "declined to give this evidence much weight because Jones did not 'establish a causal connection between his alleged mental illness and his conduct on the night of the murders.'" *Id.* at 166. The Court noted that "Arizona courts had already heard extensive evidence about Jones's head trauma and cognitive impairment." *Id.* at 167. And the Court explained that, as to "significant childhood abuse," "Arizona courts had heard much on this topic." *Id.* at 168. In each of these instances, "Arizona courts" means the courts that actually sentenced Jones and reviewed his sentence. Each sentence would be equally accurate if it read "the sentencing court" or "the Arizona Supreme Court on direct review." These passages do not make predictions about the way a class of judges or juries would view evidence in the abstract.

governing standards. *Id*. The Court did not consider or authorize lower courts to stray into speculation about how Arizona judges and juries as a whole *tend* to view certain categories of evidence—a deviation from an objective prejudice inquiry that would squarely conflict with *Strickland*'s prohibition on considering the "idiosyncrasies" of the sentencer. *Id*. The panel majority, however, read *Thornell* to do exactly that.

The panel majority defended its approach by stating that "when trying to determine how a state court would have weighed evidence, it is a good idea to consult state court opinions weighing similar evidence." Pet. App. 25a. The panel majority also explained that "relying on state court opinions rather than our own unbounded intuition allows federal courts to avoid overstepping our habeas authority when reviewing state decisions." Pet. App. 26a. But these observations miss the point. No one disputes that "state court opinions" are relevant to the prejudice inquiry; the question is how.

It is appropriate to consult state court opinions for the law they articulate, which guides and binds the sentencer. That use, on display in *Thornell*, is fully consistent with *Strickland*, because it equips the reviewing court to imagine a decisionmaker faithfully "applying the standards that govern the decision." *Strickland*, 466 U.S. at 695. It is not permissible to use state court opinions to discern the "general" tendencies of Alabama courts. That approach, on display in the panel majority's opinion below, finds no support in *Thornell* and is contrary to *Strickland* because it incorporates the "idiosyncrasies" and

"propensities toward harshness" of the sentencing court. *Strickland*, 466 U.S. at 695.

D. The decision below pits *Strickland* against *Thornell*.

The Eleventh Circuit's reading of *Thornell* works a revolution in the *Strickland* prejudice inquiry, displacing *Strickland*'s objective decisionmaker, one "reasonably, conscientiously, and impartially applying the standards that govern the decision," 466 U.S. at 695, with a subjective portrait of how a State's sentencers "generally," "frequently," and "typically" behave, Pet. App. 2a-3a, 17a, 20a; *see also* Pet. App. 14a-15a.

On the Eleventh Circuit's telling, *Thornell* "clarified" *Strickland* to require habeas courts to weigh the evidence "in the same way that the state sentencing judge and appellate courts would have done." Pet. App. 14a-15a. But this Court was clear in *Thornell* that it was not altering the basics of *Strickland*. The Court granted certiorari "to review the Ninth Circuit's interpretation and application of *Strickland*," 602 U.S. at 163, and it decided the case expressly "[w]ith the proper understanding of *Strickland* in mind," *id.* at 165. It described the governing rule as "the well-established standard articulated by this Court in *Strickland*," *id.* at 158 and faulted the Ninth Circuit for "depart[ing] from these well-established rules," *id.* at 164. Nonetheless, as Judge Wilson explained in dissent below, the majority's interpretation of *Thornell* "effectively and detrimentally *changes* the *Strickland* standard," Pet. App. 29a, destabilizing the

foundations of *Strickland* prejudice this Court in *Thornell* stressed it was preserving.

II. The Decision Below Conflicts With The Decisions Of Two Other Circuits.

This Court's review is warranted because the decision below creates a circuit split. The circuits are divided on how *Strickland* prejudice applies after *Thornell*. The Eleventh Circuit's holding tying prejudice to the proclivity of state sentencers conflicts with the Sixth and Ninth Circuits, which properly recognize that "the test for [*Strickland*] prejudice is an objective one," *White*, 895 F.3d at 670 (citing *Strickland*, 466 U.S. at 695); *accord Hewitt-El v. Burgess*, 53 F.4th 969 (6th Cir. 2022), and that *Thornell* did not disturb that standard. This Court should grant review to make clear that *Strickland*'s objective prejudice inquiry endures after *Thornell*.

The Sixth Circuit, sitting en banc, has described and applied *Thornell* as a reaffirmation of *Strickland*'s objective prejudice standard. It has explained that, in assessing whether unpresented evidence "undermine[s] confidence in the outcome," a reviewing court must "consider the totality of the evidence" by itself evaluating "the strength of all the evidence" and comparing "the weight of aggravating and mitigating factors." *Hodge v. Plappert*, 136 F.4th 648, 659 (6th Cir. 2025) (quoting *Thornell*, 602 U.S. at 164, 171-72 and *Strickland*, 466 U.S. at 694). Nowhere did the Sixth Circuit suggest that, following *Thornell*, *Strickland* prejudice now turns on the proclivities of Kentucky sentencers to impose, or Kentucky courts to uphold, the death penalty. The touchstone of

Strickland prejudice, as Judge Nalbandian's concurrence explained, is what a "reasonable" decisionmaker would do in light of all the evidence. *Id.* at 668.

Adhering to that standard, the Sixth Circuit on AEDPA review focused on the mitigating and aggravating evidence before the state court and agreed that the state court properly asked, "as required," "whether there was a reasonable probability that [the sentencer] could 'have concluded that the balance of aggravating and mitigating circumstances did not warrant death.'" *Id.* at 666 (citation omitted). The Sixth Circuit also looked to *this* Court's decisions addressing *Strickland* claims from multiple states to analyze how an objective decisionmaker would weigh the mitigation evidence. *See id.* at 659-662 (analogizing prejudice analysis to *Strickland* and *Shinn v. Kayer*, 592 U.S. 111 (2020), and distinguishing prejudice analysis from the one in *Porter*, *Wiggins*, and *Rompilla* based on the more favorable evidence for the defendant in each of those cases). The Sixth Circuit's approach reflects that *Strickland* embodies—and *Thornell* preserves—a nationally uniform prejudice standard, not one that improperly yields to states' "unusual propensities toward harshness or leniency." *Strickland*, 466 U.S. at 695.

The Ninth Circuit similarly applies an objective federal standard to *Strickland* prejudice after *Thornell*. Prejudice there turns on whether there is a "reasonable probability" that an objective decisionmaker "[c]onsidering the particularized record" would impose a lesser sentence. *Ramirez v. Thornell*, 172 F.4th 771, 787, 790 (9th Cir. 2026). That approach involves

considering the state's legal standards governing sentencing decisions; weighing the new mitigation evidence against the aggravating circumstances; and drawing from this Court's decisions analyzing prejudice in *Strickland* cases from other states. *Id.* at 788-790 (addressing *Porter* (out of Florida), *Williams v. Taylor,* 529 U.S. 362 (2000) (out of Virginia), *Rompilla* (out of Pennsylvania), and *Wiggins* (out of Maryland)).

By looking to cases nationwide, the Ninth Circuit, like the Sixth, correctly recognizes that *Strickland* prejudice does not turn on the happenstance of geography or the proclivities of a state to impose death. Instead, the Constitution requires a sentencer to "treat the defendant as a 'uniquely individual human being[],'" not as a trend, which is why neither a defendant's "inability" to marshal state case examples granting leniency nor "how horrific the crime" is disposes of *Strickland* prejudice. *Id.* (first part quoting *Woodson v. North Carolina*, 428 U.S. 280, 304 (1976)). Each case requires case-specific analysis based on a reasonable decisionmaker's evaluation of the evidence under the governing law, which explains why the Ninth Circuit—even when denying habeas relief—has expressly left room for "different defendant[s] with the same number and combination of aggravating circumstances" to "present mitigating evidence warranting leniency." *Id.* at 790.

III. This Court's Review Is Also Needed Because The Decision Below Has Profound Doctrinal And Practical Implications.

The Eleventh Circuit's holding also calls out for this Court's review because of its doctrinal and practical consequences. The decision below sets two of this Court's precedents at war with one another; binds every federal court in states that together account for a significant share of the country's capital cases; and makes the content of a federal constitutional right turn on regional sentencing culture, something this Court has forbidden in multiple other contexts.

A. The decision below distorts a critical component of capital litigation.

The decision below binds every district court in the Eleventh Circuit, including Alabama and Florida, which together maintain some of the largest death-sentenced populations in the country. *See* Death Penalty Information Center, Death Row Overview, https://tinyurl.com/3u7zrnv2 (last visited Oct. 26, 2026). And it will govern one of the most important issues in capital litigation. Ineffective assistance of counsel is among the most frequently litigated claims in capital habeas proceedings, and the prejudice analysis is where those claims are most often won or lost.

The decision below means district courts will be required to evaluate prejudice in light of local sentencing habits. If the panel's analysis stands, district courts considering claims from Alabama will be bound to deny relief based on sentencing culture alone, even where objective indicators of prejudice point toward

relief. Instead of applying the objective assessment *Strickland* requires, a district court asked to decide whether omitted mitigation resulted in prejudice must first ask whether courts in the State have "*frequently* accord[ed] 'little weight' or 'very little weight' to similar evidence," Pet. App. 17a (emphasis added), and whether it is "*common*" for sentencers in the State to impose death under similar circumstances, Pet. App. 21a (emphasis added). If they have, prejudice is all but foreclosed no matter how compelling the omitted evidence or how close the original sentencing decision. By the same token, a district court considering a claim from a location with more lenient sentencing culture could be bound to *grant* relief even if the objective balance of factors weighed against it.

The upshot is perverse: the more willing a jurisdiction's sentencers have historically been to impose death notwithstanding substantial mitigation, the less the Sixth Amendment will demand of the lawyers who represent defendants there. A prisoner who suffered egregious ineffective assistance could be denied relief simply because the judges and juries around him have shown themselves willing to sentence people to death. And the panel's approach also inverts the logic of *Strickland* itself: a jurisdiction's readiness to impose death becomes the reason for confidence in the outcome, when that readiness is the very "propensit[y] toward harshness" *Strickland* says cannot inform the prejudice inquiry. 466 U.S. at 695.

B. The decision below contravenes this Court's repeated insistence on the uniformity of the Bill of Rights.

This Court's review is especially warranted because the panel majority's rule means that the content of the Sixth Amendment right to counsel varies from state to state—or even district to district—based on regional sentencing culture. Judge Wilson put the point precisely: under the majority's approach, "*Strickland* prejudice means one thing in one state and something else in another," yielding "at least fifty standards—at least one per state, maybe more depending on changes in the state court's disposition over time." Pet. App. 34a (Wilson, J., dissenting). "That cannot be so," he explained, because "[t]he Sixth Amendment right to effective assistance of counsel is a universal right afforded to all citizens of the United States, no matter what state they are from or what state they are charged, tried, and sentenced in." Pet. App. 35a (Wilson, J., dissenting). "Tethering a critical federal constitutional right to idiosyncrasies of particular American geographic regions distorts the meaning and the purpose of the right itself." *Id.*

Of course, as explained, a reviewing court must ask how a sentencer "applying the standards that govern the decision" would have ruled, *Strickland*, 466 U.S. at 695, and those standards are supplied by state sentencing law. Differences in that predicate law—which aggravators a State recognizes, what weight its law assigns them—can and do produce different results. But this Court has repeatedly made clear that the Constitution does not tolerate variation in federal protection driven by local habits or attitudes.

Last Term, in *Wolford*, the Court rejected the argument that the scope of the Second Amendment should be measured against "Hawai'i's particular customs and laws," "whatever the situation in other parts of the country." 609 U.S. at 205. The Court explained that "the Second Amendment has the same meaning in all parts of the United States," and that it "cannot give way to 'the spirit of Aloha' in Hawaii, ... any more than it can yield to the spirit of the Big Apple (*Bruen*) or the Windy City (*McDonald*)." *Id.* at 206 (citation omitted).

The governing principle could not have been stated more plainly: "Merely local attitudes can neither shrink nor inflate the meaning of fundamental Bill of Rights guarantees that apply to the States through the Fourteenth Amendment." *Id.* As Justice Barrett added, "a majority's opposition to a constitutional right is not a permissible basis for restricting it," because "[t]he very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy" and "to place them beyond the reach of majorities and officials." *Id.* at 225 (Barrett, J., concurring) (quoting *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 638 (1943)).

This Court's other decisions hold similarly. In *Virginia v. Moore*, 553 U.S. 164 (2008), the Court held that a State's more restrictive arrest rules do not alter the Fourth Amendment's protections, deeming it "obvious that the Fourth Amendment's meaning did not change with local law enforcement practices," because while such practices "vary from place to place and from time to time," Fourth Amendment protections cannot "be made to turn upon such trivialities." *Id.* at

172 (citation omitted). Linking constitutional protections to local practice, the Court explained, would impermissibly "cause them to 'vary from place to place and from time to time.'" *Id.* at 176.

The Eleventh Circuit's approach does precisely what this Court forbids: it allows "[m]erely local attitudes" toward mitigation and the death penalty to "shrink" a "fundamental Bill of Rights guarantee[]." *Wolford*, 609 U.S. at 206. The decision below cannot be reconciled with these principles. If the Fourth Amendment's meaning does not change with local practices, *Moore*, 553 U.S. at 172, neither can the Sixth Amendment's guarantee. And if the Second Amendment cannot "yield to the spirit" of Aloha in Hawaii, *Wolford*, 609 U.S. at 206, the right to the effective assistance of counsel cannot yield to the general tendencies of Alabama sentencing courts. This Court should grant certiorari to ensure that the Sixth Amendment applies evenhandedly nationwide.

IV. This Case Is An Ideal Vehicle.

This case is an unusually clean vehicle to resolve the question presented because that question is conclusively outcome determinative.

It is undisputed that counsel's performance was unconstitutionally deficient. The district court so held, and the Eleventh Circuit panel agreed both times it considered this case, most recently explaining that it had "no doubt" that counsel was deficient. Pet. App. 15a; *see also* Pet. App. 192a. And before the panel majority adopted its predictive analysis based on a misreading of *Thornell*, both the district court

and the Eleventh Circuit had found prejudice. Pet. App. 13a. The *only* thing that caused the panel to reverse course and find no prejudice was its misunderstanding of *Thornell* following this Court's GVR.

Under the appropriate standard, as the district court found, the unpresented evidence would have "paint[ed] a vastly different picture" of Mr. Williams's mitigation circumstances, which included suffering repeated sexual abuse as a child, exposure to sexually deviant behavior from a young age, and an upbringing marked by alcoholism and abandonment by those charged with his care. *Supra* 9. That evidence, the district court continued, in its "nature, quality, and volume," was "significant enough to conclude that it 'bears no relation' to the cursory evidence that trial counsel presented," and it created a "reasonable probability" that the jury and trial court "would have struck a different balance" if presented with it. Pet. App. 153a-154a, 174a-175a (quoting *Wiggins*, 539 U.S. at 537); Pet. App. 198a-202a. After all, even without the unpresented evidence, one juror had already voted for life.

It is thus no surprise that the panel, initially heeding *Strickland*'s objective prejudice standard, agreed that Mr. Williams's counsel prejudiced him by presenting only meager mitigation evidence that "revealed very little about the true extent of Mr. Williams' troubled upbringing and family history." Pet. App. 198a-201a. It was only in applying what the Eleventh Circuit misperceived as *Thornell*'s new prejudice standard that the decision below, over Judge Wilson's dissent, flipped to hold that Mr. Williams

was not prejudiced by his counsel's deficient performance. Pet. App. 15a.

Moreover, this is the rare capital case where the question presented can be answered directly without regard to AEDPA. Mr. Williams's "failure-to-investigate claims … were not decided 'on the merits,'" so no AEDPA deference is owed. Pet. App. 184a. This case thus allows the Court to resolve conclusively what standard governs *Strickland* prejudice.

Finally, there is no need to wait for further percolation. The Sixth, Ninth, and Eleventh Circuits—the courts that have already addressed and split over the question presented here—cover nearly 70% of the death-row population. NAACP Legal Def. Fund, *Death Row U.S.A.: Summer 2026* 39-40 (2026), https://tinyurl.com/bdd4yuhs. Whether *Strickland* prejudice is an objective standard has long been settled in the circuit courts, *supra* 21 (listing circuit decisions calling *Strickland* prejudice an "objective" standard), and any delay in reaffirming that well-settled standard will leave prisoners in the Eleventh Circuit to be executed without guarding the Sixth Amendment's guarantee of a fair trial.

CONCLUSION

The Petition should be granted.

Respectfully submitted,

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