

*****CAPITAL CASE*****

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM REAVES

Petitioner,

vs.

STATE OF FLORIDA.

Respondent.

**On Petition For A Writ of Certiorari To
The Supreme Court of Florida**

**DEATH WARRANT SIGNED
EXECUTION SET OCTOBER 20, 2026 at 6:00 P.M.**

BRITTNEY N. LACY*
Assistant CCRC-South
LacyB@ccsr.state.fl.us
**Counsel of Record*
Member of the Supreme Court Bar

YIITSODIRAH FINAL
Staff Attorney
FinalY@ccsr.state.fl.us

**CAPITAL COLLATERAL
REGIONAL COUNSEL-SOUTH**
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301
Tel. (954) 713-1284

October 17, 2026

COUNSEL FOR PETITIONER

CAPITAL CASE QUESTIONS PRESENTED

Mr. Reaves swore an oath to defend the United States Constitution at just 20 years old before he was sent to defend this Country in Vietnam. When he returned home and committed the crime for which the State's seeks his death, he was repeatedly denied the rights guaranteed under the same Constitution he swore to defend. This Court is called on to provide the relief guaranteed by the Constitution. The Petition presents these questions.

1. Whether the Constitution's promise of due process is violated when state-appointed clemency counsel forecloses a death-sentenced defendant from participating in the preparation and presentation of his own clemency case to the clemency board, and refuses to inform the defendant of the presentation submitted on his behalf.

2. Whether the Florida Supreme Court's repeated failure to take into account the diverse frailties of human kind in capital sentencing by consistently denigrating the force of proffered mitigating evidence, including significant mitigation of a combat veteran, violates the Eighth Amendment's prohibition of arbitrary, capricious and excessive punishment.

PARTIES TO THE PROCEEDINGS

Petitioner William Reaves a death-sentenced inmate facing imminent execution, was the Appellant and Petitioner in the Florida Supreme Court.

Respondent State of Florida, was the Appellee and Respondent in the Florida Supreme Court.

RELATED PROCEEDINGS

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

Underlying Trial:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Judgment and Sentence Entered: March 31, 1992

Direct Appeal:

Florida Supreme Court, SC60-79575
William Reaves v. State of Florida, 639 So. 2d 1 (Fla. 1994)
Opinion Issued: April 7, 1994, reh'g denied June 10, 1994

Supreme Court of the United States
Reaves v. Florida, 513 U.S. 990 (1994)
Certiorari Denied: Nov. 7, 1994

First Postconviction Proceedings:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Summarily Denying Relief: Feb. 10, 2000

Florida Supreme Court (Appeal), SC00-840
William Reaves v. State of Florida, 826 So. 2d 932 (Fla. 2002)
Opinion Issued: June 20, 2002, reh'g denied Sept. 9, 2002

Reversed and Remanded for Limited Evidentiary Hearing

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief Following Limited Hearing: April 20, 2004

Florida Supreme Court (Appeal After Remand), SC04-0891
William Reaves v. State of Florida, 942 So. 2d 874 (Fla. 2006)
Opinion Issued: Sept. 14, 2006, reh'g denied Nov. 2, 2006

State Habeas Proceedings

Florida Supreme Court (State Habeas Proceedings), SC02-15
William Reaves v. James V. Crosby Jr., etc, 837 So. 2d 396 (Fla. 2003)

Opinion Issued: Jan. 9, 2003

Federal Habeas Proceedings:

United States District Court, Southern District of Florida
William Reaves v. Edwin G. Buss, Sec’y, Fla. Dep’t of Corr., 10-14046-CIV-MIDDLEBROOKS, 2011 WL 13243586 (S.D. Fla. 2011)
Order Granting Guilt Phase Relief: Aug. 16, 2011

State’s 60(b) Motion

William Reaves v. Kenneth S. Tucker, Fla. Sec’y, Dep’t of Corr., 10-14046-CIV-MIDDLEBROOKS, 2012 WL 13041431 (S.D. Fla. 2012)
Order Denying Relief: Feb. 23, 2012

United States Court of Appeals, Eleventh Circuit
Case No. 12-11044
William Reaves v. Sec’y, Fla. Dep’t of Corr., 717 F.3d 886 (11th Cir. 2013)
Opinion Reversing Relief: May 30, 2013

On Remand

United States District Court, Southern District of Florida
William Reaves v. Julie L. Jones, Sec’y, Fla. Dep’t of Corr., 10-14046-CIV-MIDDLEBROOKS, 2015 WL 13657202 (S.D. Fla. 2015)
Order Granting Penalty Phase Relief: March 3, 2015

United States Court of Appeals, Eleventh Circuit
Case No. 15-11225
William Reaves v. Sec’y, Fla. Dep’t of Corr., 872 F.3d 1137 (11th Cir. 2017)
Opinion Reversing Relief: Sept. 28, 2017

Supreme Court of the United States
William Reaves v. Julie L. Jones, Fla. Dep’t of Corr., 138 S.Ct. 2681 (2018)
Certiorari Denied: June 25, 2018

Second Postconviction Proceedings:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief: Sept. 8, 2008

Florida Supreme Court, SC2008-1985
William Reaves v. State of Florida, 27 So. 3d 661 (Fla. 2009)
Opinion Issued: Nov. 4, 2009, reh’g denied Feb. 4, 2010

Third Postconviction Proceedings:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief: Feb. 9, 2011

Florida Supreme Court, SC2011-512
William Reaves v. State of Florida, 91 So. 3d 782 (Fla. 2012)
Opinion Issued: April 26, 2012, reh'g denied June 21, 2012

Fourth Postconviction Proceedings:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief: July 13, 2016

Florida Supreme Court, SC2016-1460
Appeal Dismissed

Fifth Postconviction Proceedings:

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief: Oct. 13, 2017

Florida Supreme Court, SC2018-57
William Reaves v. State of Florida, 241 So. 3d 63 (Fla. 2018)
Opinion Issued: May 2, 2018

Successive Postconviction Proceedings (Under Warrant):

Circuit Court in and for Indian River County, Florida
State of Florida v. William Reaves, No. 311986 CF 000729A
Order Denying Relief: Oct. 2, 2026

Florida Supreme Court (Appeal & Habeas), SC2026-1512 & SC2026-1519
William Reaves v. State of Florida, 2026 WL 3071534 (Fla. Oct. 14, 2026)
Opinion Issued: Oct. 14, 2026

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
RELATED PROCEEDINGS	iii
INDEX TO APPENDIX	viii
TABLE OF AUTHORITIES	ix
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL PROVISIONS INVOLVED	1
CITATIONS TO THE RECORD	2
INTRODUCTION	2
STATEMENT OF THE CASE	4
A. Relevant Facts of the Crime	4
B. Indictment and 1987 Trial	6
C. 1992 Retrial	7
D. <i>Direct Appeal and State Court Postconviction Proceedings</i>	13
1. <i>Expert Evidence Establishes Intoxication and PTSD</i>	14
2. <i>Challenges to Hinton’s Testimony</i>	17
3. <i>Counsel’s Failure to Investigate and Present Mitigation Evidence</i>	19
E. <i>Federal Habeas Proceedings</i>	20
F. Clemency	22
G. Current Proceedings	25
REASONS FOR GRANTING THE PETITION	27
I. Florida’s Clemency Process Fails to Comport with Due Process As Mandated by the Fourteenth Amendment	27
a. Florida Must Permit Meaningful Access to Clemency Proceedings	29
b. Florida Cannot Permit Counsel to Abandon his Ethical and Professional Obligations Under the Guise of Separation of Powers	32

II.	Florida Consistently “Discount(s) to Irrelevance” Powerful Mitigation in Violation of this Court’s Eighth Amendment Precedent.....	36
CONCLUSION		40

INDEX TO APPENDIX

APPENDIX A:	<i>William Reaves v. State of Florida</i> , SC2026-1512, SC2026-1519, 2026 WL 3071534 (Fla. Oct. 14, 2026) Florida Supreme Court Opinion Affirming Denial of Postconviction Relief	1a
APPENDIX B:	<i>State of Florida v. William Reaves</i> , No. 311986-CF-729A, Circuit Court of the Nineteenth Judicial Circuit in and for Indian River County, Florida, Order Denying Defendant's Successive Motion to Vacate Judgment of Conviction and Sentence, October 2, 2026	5a
APPENDIX C:	Florida Commission on Offender Review Clemency Contract executed by Jonathan Hackworth, March 22, 2023	27a
APPENDIX D:	Brief of Amicus Curiae in Support of William Reaves from Center for Veteran Criminal Advocacy, <i>William Reaves v. Secretary, Florida Department of Corrections</i> , Florida Supreme Court, SC2026-1519 (Oct. 5, 2026).....	43a
APPENDIX E:	Florida Commission on Offender Review Rules of Executive Clemency (2026)	71a
APPENDIX F:	<i>William Reaves v. Secretary, Florida Department of Corrections</i> , No. 10-14046-CIV-MIDDLEBROOKS, 2015 WL 13657202 (S.D. Fla. Mar. 3, 2015), U.S. District Court, S.D. Florida Order Granting § 2254 Petition As To Penalty Phase	93a

TABLE OF AUTHORITIES

Cases

<i>Abdool v. Bondi</i> , 141 So. 3d 529 (Fla. 2014)	28
<i>Armstrong v. Manzo</i> , 380 U.S. 545 (1965)	30
<i>Bates v. State</i> , 416 So. 3d 312 (Fla. 2025)	39
<i>Bunney v. State</i> , 603 So. 2d 1270 (Fla. 1992)	17
<i>Chestnut v. State</i> , 538 So. 2d 820 (Fla. 1989)	16
<i>Dillbeck v. State</i> , 357 So. 3d 94 (Fla. 2023)	39
<i>Eddings v. Oklahoma</i> , 455 U.S. 104 (1982)	29, 38
<i>Ford v. Wainwright</i> , 477 U.S. 399 (1986)	27, 30
<i>Gardner v. California</i> , 393 U.S. 367 (1969)	32
<i>Gregg v. Georgia</i> , 428 U.S. 153 (1976)	38
<i>Gurganus v. State</i> , 451 So. 2d 817 (Fla. 1984)	17
<i>Harbison v. Bell</i> , 556 U.S. 180 (2009)	27, 30
<i>Harris v. Reed</i> , 489 U.S. 255 (1989)	29
<i>Herrera v. Collins</i> , 506 U.S. 390 (1993)	27
<i>Hitchcock v. Dugger</i> , 481 U.S. 393 (1987)	38
<i>Holbrook v. Flynn</i> , 475 U.S. 560 (1986)	8
<i>Hutchinson v. State</i> , 408 So. 3d 752 (Fla. 2025)	39
<i>Jones v. State</i> , 419 So. 3d 619 (Fla. 2025)	39
<i>Lee v. Kemna</i> , 534 U.S. 362 (2002)	29
<i>Lockett v. Ohio</i> , 438 U.S. 586 (1978)	29, 38
<i>Marek v. State</i> , 14 So. 3d 985 (Fla. 2009)	28
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	29

<i>McKoy v. North Carolina</i> , 494 U.S. 433 (1990)	29
<i>Ohio Adult Parole Authority, et al. v. Woodard</i> , 523 U.S. 272 (1998)	26, 27, 28
<i>Parker v. Dugger</i> , 498 U.S. 308 (1991).....	38
<i>Penry v. Lynaugh</i> , 492 U.S. 302 (1989).....	38
<i>Porter v. McCollum</i> , 558 U.S. 30 (2009).....	20, 36, 38, 40
<i>Reaves v. Buss</i> , No. 10-14046-CIV-MIDDLEBROOKS, 2011 WL 13243586 (S.D. Fla. 2011).....	20
<i>Reaves v. Crews</i> , No. 10-14046-CIV-MIDDLEBROOKS, 2013 WL 12309316 (S.D. Fla. 2013)	12
<i>Reaves v. Jones</i> , No. 10-14046-CIV-MIDDLEBROOKS, 2015 WL 13657202 (S.D. Fla. 2015)	2, 21, 22
<i>Reaves v. Sec’y, Dep’t of Corr.</i> , 717 F. 3d 886 (11th Cir. 2013).....	17, 21
<i>Reaves v. Sec’y, Dep’t of Corr.</i> , 872 F.3d 1137 (11th Cir. 2017).....	22
<i>Reaves v. State</i> , 574 So. 2d 105 (Fla. 1991).....	7
<i>Reaves v. State</i> , 639 So. 2d 1 (Fla. 1994).....	8, 13, 18
<i>Reaves v. State</i> , 826 So. 2d 932 (Fla. 2002).....	13, 19, 20
<i>Reaves v. State</i> , 91 So. 3d 782 (Fla. 2012).....	20
<i>Reaves v. State</i> , 942 So. 2d 876 (Fla. 2006).....	16
<i>Reaves v. State</i> , SC2026-1512 & SC2026-1519, 2026 WL 3071534 (Fla. Oct. 14, 2026).....	1, 32
<i>Remeta v. State</i> , 559 So. 2d 1132 (Fla. 1990).....	33
<i>Roberts v. Louisiana</i> , 428 U.S. 325 (1976)	38
<i>Rogers v. Alabama</i> , 192 U.S. 226 (1904).....	28
<i>Rompilla v. Beard</i> , 545 U.S. 374 (2005).....	37
<i>Skipper v. South Carolina</i> , 476 U.S. 1 (1986).....	38
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).....	21

<i>Trotter v. Fla.</i> , 146 S. Ct. 755 (2026).....	31
<i>Wainwright v. State</i> , 411 So. 3d 392 (Fla. 2025)	39
<i>Wiggins v. Smith</i> , 539 U.S. 510 (2005)	37
<i>Williams v. Taylor</i> , 529 U.S. 362 (2000)	37
<i>Woodson v. North Carolina</i> , 428 U.S. 280 (1976)	29, 36, 38
<i>Zakrzewski v. State</i> , 415 So. 3d 203 (Fla. 2025)	27
Statutes	
28 U.S.C. § 1257(a)	1
Fla. Stat. § 922.052(2)(b)	28
Fla. Stat. § 940.031 (2026).....	33
Other Authorities	
ABA’s Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases Trial (1989).....	7
ABA’s Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases Trial (2003).....	35
Russell Stetler, et al., <i>Mitigation Works: Empirical Evidence of Highly Aggravated Cases Where the Death Penalty Was Rejected at Setencing</i> , 51 Hofstra L.Rev. 89, 90 (2022).....	39
Rules	
Fla. R. Executive Clemency.....	1, 29, 30
R. Regulating Fla. Bar, Ch. 4	34
Constitutional Provisions	
U.S. Const. amend. VIII	1
U.S. Const. amend. XIV.....	1

PETITION FOR A WRIT OF CERTIORARI

Petitioner William Reaves respectfully petitions for a writ of certiorari to review the opinion of the Florida Supreme Court.

OPINIONS BELOW

The Florida Supreme Court's opinion affirming the denial of state postconviction relief and denying Mr. Reaves's petition for writ of habeas corpus is unreported. *Reaves v. State*, SC2026-1512 & SC2026-1519, 2026 WL 3071534 (Fla. Oct. 14, 2026) (a1) The state circuit court's order denying Mr. Reaves's motion for postconviction relief pursuant to Florida Rules of Criminal Procedure 3.851 is unreported. (a5)

JURISDICTION

The Florida Supreme Court issued its order affirming the denial of postconviction relief and denying Mr. Reaves's petition for writ of habeas corpus on October 14, 2026. The mandate issued immediately thereafter. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment to the United States Constitution provides:

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

The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides:

[N]or shall any State deprive any person of life, liberty, or property, without due process of law.

Rule 15 of the Rules of Executive Clemency. (a71)

CITATIONS TO THE RECORD

The relevant citations to the record will be as follows:

(R1. Page #) and (T1. Page #) – record on direct appeal to the Florida Supreme Court, Case No. SC60-71148;

(R2. Page #) and (T2. Page #) – record on direct appeal to the Florida Supreme Court, Case No. SC60-79575;

(PCR. Page #) – postconviction record on appeal, Case No SC00-840;

(2PCR. Page #) – postconviction record on appeal following remand, Case No: SC04-0891;

(4PCR. Page #) – successive postconviction record on appeal, Case No: SC11-0512;

(WR. Page #) – successive conviction proceedings under warrant, Case No. SC2026-1512.

INTRODUCTION

You can tell a true war story by the way it never seems to end. Not then, not ever.

Reaves v. Jones, No. 10-14046-CIV-MIDDLEBROOKS, 2015 WL 13657202 (S.D. Fla. 2015). (a93)

The State seeks to execute Mr. Reaves, a Vietnam veteran who suffered inconceivable trauma on behalf of his country, and, after a series of unconstitutional errors marring his proceedings, was ultimately abandoned by clemency counsel during his last opportunity to obtain mercy. In 1969, William Reaves—two months shy of his 21st birthday—was deployed to Vietnam as a ground combat soldier to one of the most dangerous provinces in the country, during one of the most dangerous years of the war. As a consequence of his service, Mr. Reaves, like many others, returned to his home country with inconceivable mental and physical scars. He

experienced prolonged periods of terror and witnessed horrific carnage and violence, and as a result was clinically diagnosed with a mental health condition, Post-Traumatic Stress Disorder (“PTSD”), developed a severe, self-medicating drug habit to deal with his mental illness (which instead aggravated that illness), returned to the community of his youth, which was greatly damaged in the fallout of the war, and struggled with assimilating to normal life. For over a decade, Mr. Reaves grappled with poverty in a post-Jim Crow society, without the resources necessary to manage the impact of the trauma he experienced and his debilitating drug and alcohol addiction—until the night of Deputy Richard Raczkoski’s tragic death.

There is no dispute that Mr. Reaves is responsible for Deputy Raczkoski’s death. Nor is there any question about Mr. Reaves’s remorse. Two days after the shooting, Mr. Reaves was apprehended and voluntarily and freely gave a statement, acknowledging what he had done. Mr. Reaves spoke highly of Dep. Raczkoski, recalling that he’d “never met a finer officer in [his] life.” (WR. 591) Mr. Reaves has continued to openly express his remorse since, including at the penalty phase where he apologized to Dep. Raczkoski’s family:

Your Honor, there’s something I’ve been elaborating on for five years, I feel like I owe some people an apology, and that’s the Raczkoski family. I know the hardship they’ve been through. Through my ignorance, I wish to apologize for what I did to the family. I know that the death penalty, or life sentence, is not going to remove the remorse that you might have. The peace that I found is through Christ, and you can also find that peace and I would just like to apologize, and I mean that from my heart.

(T2. 2330). Mr. Reaves has spent the last 4 decades praying for peace for all involved.

His remorse and acknowledgment of responsibility; however, does not

undermine the constitutional errors compromising the reliability of his convictions and sentence. Mr. Reaves has maintained, and litigated, that Dep. Raczkoski's death was not premeditated, and that the death penalty was not the appropriate sentence. But the jury heard evidence of neither.

While the state court denied postconviction relief, the federal district court granted relief twice, and twice the Eleventh Circuit reversed.

Three years ago, the Governor's Office initiated clemency proceedings, and the Florida Commission on Offender Review ("FCOR") contracted an attorney to represent Mr. Reaves. Mr. Reaves met with the lawyer minutes before his interview. After the interview, he never heard from the attorney again. Counsel never asked him a single question about his life or the case and never consulted with Mr. Reaves about how he would present his clemency case to the Board. Mr. Reaves repeatedly requested a copy of his attorney's written submission to the clemency board on his behalf, which has gone ignored for over three years. Mr. Reaves remains in the dark about what, if anything, his counsel prepared and submitted on his behalf in his final plea for mercy.

This Court's intervention is warranted.

STATEMENT OF THE CASE

A. Relevant Facts of the Crime

On September 23, 1986 around 3:00 a.m., after a night of smoking cocaine, Mr. Reaves went to a nearby convenience store to call for a cab. (WR. 590; T2. 902) After calling twice to no avail, Mr. Reaves dialed 911 and quickly hung up. (T2. 902) Indian River County Sheriff's Deputy Raczkoski was dispatched. (WR. 591; T2. 903) Dep.

Raczkoski first ensured Mr. Reaves had no outstanding warrants, and then called him a cab. (T2. 905, 924) As they were talking, a .38 caliber pistol slipped from Mr. Reaves' waistband onto the ground. He attempted to pick up the gun and the deputy stepped on his hand. Mr. Reaves pushed Dep. Raczkoski's leg aside and retrieved the gun. Dep. Raczkoski told Mr. Reaves to give him the gun, to which he replied, "I'm not [going to] give you my gun . . . All I want to do is go home." (WR. 591, 597-99, 625)

Dep. Raczkoski began to retreat and reach for his weapon. The events triggered a PTSD response, and Mr. Reaves, already under the influence of cocaine, began to shoot. (WR. 594-95) He later told police, "I panicked. . . I was all 'coked' up" and "I just started shooting." (WR. 591, 621) It was dark and raining. Mr. Reaves did not know whether he hit Dep. Raczkoski or that the officer later died, until he saw the news. Dep. Raczkoski fell to the ground and fired his own weapon three times. He was shot three times in his back and once in his arm. (T2. 1086-88) He died later that morning.

Howard Whitaker—a witness nearby—recalled seeing a black man run across the store in an unusual manner: "[T]he crouched position that he was running in, I've only seen in my own experience in one other place, and that was when I was in Vietnam, when you were being shot at." (T1. 977; T2. 958-59, 966))

Mr. Reaves fled to Eugene Hinton's home, and told him "I think I shot a officer just now." (WR. 606) Jerry Bryant picked Mr. Reaves up from Hinton's house, and took him to a hotel in Melbourne, Florida. (WR. 608-09). The following morning, Mr. Reaves took a bus to Albany, Georgia, where he was arrested by an undercover officer.

(T2. 1219)

Upon arrest, Mr. Reaves willingly gave a full confession. He spared no detail. Speaking truthfully and with remorse, Mr. Reaves also told police that he “never met a finer officer in [his] life” and there was not a “per [se], set reason I shot that officer. I was under the (stuttering) influence of cocaine. I panicked . . . paranoid! I, I don’t know anything else, I don’t know.” (WR. 591, 596)

B. Indictment and 1987 Trial

Mr. Reaves was indicted on first-degree murder, possession of a firearm by a convicted felon, and trafficking in cocaine. (R1. 2051-55) The State later dismissed the latter two counts. (R1. 2429, 2532) Due to excessive pre-trial publicity, Mr. Reaves was tried in Sarasota County.

Because Mr. Reaves’s confession lacked the premeditation the State needed to secure a death sentence, the State solicited embellished and plainly false testimony from Hinton. Hinton gave police three inconsistent statements within the first few days of the crime. Notably, Hinton engaged in an off-record conversation with police before presenting his final statement in which he exaggerated the events to assist in his own negotiations. He and Bryant, were facing accessory after the fact charges for their role in helping Mr. Reaves get out of town.

According to Hinton, Mr. Reaves pointed the gun at Dep. Raczkoski’s face and Dep. Raczkoski begged for his life. Hinton said Dep. Raczkoski offered to let Mr. Reaves run, and Mr. Reaves responded “one of us has to go, me or you.” (T1. 1181-85, 1218) Hinton claimed Mr. Reaves appeared clearheaded and in control of his

faculties. (T1. 1225) As a clear indicator Hinton was dishonest, he claimed Mr. Reaves called Dep. Raczkoski a pejorative. Likewise, Hinton added embellishments claiming another person shot at Mr. Reaves after Dep. Raczkoski had fallen and that Mr. Reaves had had the hammer back on the gun, suggesting premeditation. The gun had no hammer. (T1. 1186) Notably, he claimed to have seen the gun yet he offered three different descriptions. Counsel did not cross Hinton on these topics.

The jury found Mr. Reaves guilty and the trial court imposed death. The Florida Supreme Court reversed because the prosecutor had been Mr. Reaves's public defender in a prior matter. *See Reaves v. State*, 574 So. 2d 105 (Fla. 1991).

C. 1992 Retrial

Mr. Reaves was retried in Marion County, again on a change of venue due to excessive pre-trial publicity. Mr. Reaves's case continued to garner an overwhelming amount of media and local attention. Mr. Reaves, a Black¹ man standing trial for killing a white police officer, was tried by an entirely white jury.

Trial counsel, Jonathan Kirchner, was permitted to represent Mr. Reaves alone despite having no experience and failing to meet established criteria of the ABA's Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases Trial (1989) ("ABA Guideline"). ABA Guideline 5.1(1)(A)(iii). Counsel sought the assistance of co-counsel and was denied. On appeal, the Florida Supreme

¹ The racial tension continued to grow. In July 1993, Mr. Reaves reported to Florida Department of Corrections that in the late evening hours, an officer approached his cell on death row with a sheet over his head similar to that of the Ku Klux Klan. Following an investigation, that officer resigned. (2000-PCR. 91)

Court affirmed because, at the time, Florida did not have any requirement that co-counsel be appointed. *Reaves v. State*, 639 So. 2d 1, 6 (Fla. 1994). Florida had not yet adopted any minimum requirements for representing defendants in capital cases.

Counsel also unsuccessfully moved to disqualify Judge James Balsiger, arguing that the county court judge lacked jurisdiction to hear a capital case. At the time, Florida had yet to implement standards for judges requiring specific training and qualifications to preside over capital matters. It bears mentioning the inescapable irony of events that led to Judge Balsiger being assigned to the case. Mr. Reaves had successfully moved to disqualify the prior judge based on improper comments. At the time, the circuit was down a judge because Judge Dwight Geiger had been called to serve in war himself, a calling Mr. Reaves answered 25 years earlier, the aftermath of which, Judge Balsiger excluded from the jury's consideration. The fact that Mr. Reaves's attorney had never tried a capital case and Judge Balsiger had never presided over one set the tone for the entire trial.

At separate points during Mr. Reaves's trial, uniformed IRCISO officers appeared in the courtroom gallery. (T2. 703-04) Counsel sought to remove the officers. The court improperly denied the motion. *See Holbrook v. Flynn*, 475 U.S. 560, 570 (1986) (finding "the threat that a roomful of uniformed and armed policemen might pose to a defendant's chances of receiving a fair trial");

1. Guilt Phase

The State again sought to present Hinton; however, Hinton claimed he did not remember anything from the trial five years earlier. Hinton said he had been in

prison twice since then and had no memory of anything that had occurred so long ago. (R2. 1122-27) The Court ruled that Hinton was unavailable, and permitted the State to read his testimony from the 1987 trial into the record. (R2. 1128-29)

Counsel moved to permit reading Hinton's prior inconsistent statements relating to his credibility and admit 9 certified copies of his felony convictions. (R2. 1130-31; 1145-47) The trial court precluded both, but allowed counsel to proffer.

a. Excusable Homicide

In opening, trial counsel told the jury that the shooting was an "accident" and that "Mr. Reaves indulged in something called survivor behavior" he "learned" in Vietnam. Counsel promised the jury that "the evidence will be clear that the survivor behavior in conjunction with his use of narcotics contributed to this accidental killing. (R2. 752-53) None of this was established.

Counsel unilaterally decided to pursue a defense of excusable homicide as the primary theory. (2004-PCR. 17-18; 20; 21-24) In support, counsel planned to rely on two pieces of evidence: 1) licensed psychologist, Dr. William Weitz's diagnosis of "Vietnam Syndrome"² to establish Mr. Reaves's state of mind, and 2) Eugene Hinton's testimony, about which counsel believed, **without anything to support his belief**, Hinton would tell the truth and recant his prior inflammatory remarks which supported the State's theory of premeditation. Both were deeply flawed from the

² This is yet another glaring piece of evidence demonstrating counsel's inexperience. Vietnam Syndrome, coined in the 1970's, is not a mental health condition at all, and is instead used in U.S. politics to describe public opinion about the war.

outset. A month before trial, the State successfully moved to preclude any testimony relating to Mr. Reaves's mental health due to his service. Despite knowing the most critical aspect of his defense was precluded, counsel waited until the morning of Reaves's trial began to investigate the second portion of the defense and actually speak with Hinton. (2004-PCR. 30) Counsel hung his hat on a belief he could flip the State's star witness—who would face substantial prison time for having perjured himself at the first trial—the morning he needed him to testify. When counsel met with Hinton at the jail that morning, Hinton had already refused to testify.

With no other evidence to support the excusable homicide theory, **he stuck with the defense**. Counsel went to trial with a theory on which he had no evidence.

b. Involuntary Intoxication

Mr. Reaves had admitted in his statement to police that he had smoked cocaine that evening. He explained that the fact that he was “coked up” impacted how he reacted that evening. Counsel acknowledged that when Mr. Reaves was arrested in Georgia, police reports indicated he, was “complaining of head injuries, left eye, **and also coming down off cocaine.**” (2004-PCR. 29) (emphasis added).

Notwithstanding significant evidence of voluntary intoxication, counsel did not even consider the defense himself. The **trial court** suggested the possibility of voluntary intoxication and counsel requested the relevant instruction, but he admitted it was only a “fall-back.” (2004-PCR. 78-9, 62) Notably, counsel never even discussed voluntary intoxication as a defense with Mr. Reaves. Although counsel promised in opening evidence of intoxication, he presented no such evidence, nor did

he argue it in closing.

Counsel had interviewed some family members and friends during trial preparation as “mitigation witnesses.” Counsel had asked about Mr. Reaves’s drug use after he came back from the war in Vietnam with “a significant drug problem,” however, he admitted he failed to ask any of the witnesses about Mr. Reaves’ drug use at or around the time of the offense. (2004-PCR. 37)

Counsel failed to retain an expert in substance abuse. He hired Dr. Weitz, who diagnosed Mr. Reaves with “Vietnam syndrome,” to opine only about Mr. Reaves’s mental health. Counsel did not recall if he ever asked Dr. Weitz about how “Vietnam syndrome” might interact with the use of drugs, but counsel did explicitly state that he did not retain Dr. Weitz to opine about Mr. Reaves’s substance abuse. (2004-PCR. 38, 80). Counsel never requested funds for a neuropharmacologist or any other expert to explain how the drugs Mr. Reaves was using might have affected his behavior at the time of the offense. (2004-PCR. 38) Dr. Weitz was precluded at the guilt phase.

The trial court had given counsel a month’s notice that his primary theory would be unsubstantiated. Thus, *some* effort was required to prepare said “fall-back” theory of voluntary intoxication, particularly given that counsel was aware Hinton previously testified Mr. Reaves was “normal” that night, and not at all under the influence. When counsel met with Hinton the morning of trial, he never asked Hinton any questions about Mr. Reaves’ drug use that evening. (2004-PCR. 31)

Counsel agreed that a voluntary intoxication defense would have gone directly to Mr. Reaves’ ability or lack thereof to form the specific intent to commit

premeditated. (2004-PCR. 32) Yet, he made no argument in opening nor did he voir dire the jury on the issue. Counsel admitted he did not prepare for the defense because he believed “[s]ometimes there are defenses that you don’t suggest, that you let the jury reach through their own logic, you have them available.” (2004-PCR. 62) As a result, the only evidence supporting the theory was Mr. Reaves’s statement, which the court called self-serving.

That counsel failed to prepare for *either* defense prejudiced Mr. Reaves. The record shows the jury struggled with whether the crime rose to the level of first-degree murder. After ten hours of deliberation, during which they asked several questions about second degree murder, the definition of premeditation, and whether a retrial would occur if there was a hung jury, the jury returned a guilty verdict. (T2. 1791, 1798-99, 1811) There can be no question that had the jury heard the significant evidence counsel failed to present, Mr. Reaves would very likely not be before this court counting down the final hours of his life.

2. *Penalty Phase*

The penalty phase was limited to six witnesses and one expert whose testimony on Mr. Reaves’s “Vietnam Syndrome” was excluded. (T2. 1481, 1533) A “very brief” presentation lasting half a day, the mitigation case was essentially “[he] was once a good kid and a kind person until he went to Vietnam and he returned a changed and troubled man.” *Reaves v. Crews*, No. 10-14046-CIV-MIDDLEBROOKS, 2013 WL 12309316, *2 (S.D. Fla. 2013). While the two service members from Vietnam did offer some testimony about what the groups witnessed and Mr. Reaves’s drug addiction,

much of the detail and gravity of Mr. Reaves's experience was not presented.

The jury recommended death by a vote of 10 to 2. (T2. 2320; R2. 2969) The trial court sentenced Mr. Reaves to death. In aggravation, the court found 1) Mr. Reaves had a prior violent felony; 2) the murder was committed to avoid arrest; 3) and the murder was heinous, atrocious and cruel (HAC). (T2. 1829; R2. 2328-34). On appeal, the Florida Supreme Court struck the HAC aggravator, however, finding it harmless in light of the "relatively weak mitigation" presented at trial. *Reaves*, 639 So. 2d 1. The court found only that Mr. Reaves was discharged from military, he had good reputation in community until he was 16, and he was a considerate son and good to his siblings. *Id.*

D. Direct Appeal and State Court Postconviction Proceedings

On appeal, Mr. Reaves challenged the trial court's preclusion of the evidence of the so called "Vietnam Syndrome." The Florida Supreme Court determined that because the condition is not commonly understood, it was not admissible. *Reaves*, 639 So. 2d at 4. The court further determined that "there is no reasonable possibility that it would have affected the jury's verdict." *Id.*

Mr. Reaves timely pursued postconviction relief, which was summarily denied. On appeal, the Florida Supreme Court remanded the case for an evidentiary hearing on guilt phase ineffectiveness, and related subclaims, determining that "**counsel had evidence supporting [voluntary intoxication] which he did not present.**" *Reaves v. State*, 826 So. 2d 932, 938-39, 944 (Fla. 2002) (emphasis added). The court further noted that the defense was "available" at the time. *Id.*

1. Expert Evidence Establishes Intoxication and PTSD

In postconviction, Mr. Reaves presented substantial evidence regarding his level of intoxication the night of the shooting, including in depth testimony from several experts, and evidence that his PTSD impacted his ability to form the specific intent required for first-degree murder. The experts included the psychologist from trial, a psychiatrist, a board-certified neuropsychologist and certified addiction specialist, a professor of neurology and molecular cellular pharmacology with a primary interest in the effects of cocaine, a board-certified clinical psychologist and psychoanalyst who also treated veterans, and a doctor specializing in behavioral neurology.

The experts met with Mr. Reaves and reviewed lengthy records, including medical records and jail records following Mr. Reaves's arrest. Of significance, the experts explained, in depth, the impact of each type of stressor Mr. Reaves experienced on his brain and behavior, including his training as a soldier, his experience on the front lines in combat during a violent and dangerous war, and his significant drug addiction that developed as a result of those traumas. For example, experts explained how Mr. Reaves exhibited behaviors exactly in line with "well conditioned, well learned, highly automated behaviors [soldiers are taught] which allow veterans to survive." (2004-PCR. 106) The effects of Mr. Reaves's time at war was so significant that he suffered from paranoia, suspiciousness, altered clarity, and inability to make reasonable to rational decisions, all which were compounded by the drug use. (2004-PCR. 115,121) Mr. Reaves also suffers from organic brain damage, and as a result, "stressors such as drugs, alcohol, lack of sleep, generalized stress,

depression, anxiety, and so on, will have a greater affect on him.” Indicating specific intent was impossible, one expert explained that in a heightened situation Mr. Reaves “would have difficulty with concentration, with attention, with understanding the long-term consequences of immediate behavior, which in a sense is forming intentionality, or direction, instead would act in a rather impulsive way.” (2004-PCR. 243, 244-45, 246-47, 250) The experts indicated that at the time of the offense, Mr. Reaves was “[f]ully intoxicated, fully paranoid, fully neuroadapted to the cocaine, no frontal lobe functioning, basically shutting down the frontal lobes which would get him out of trouble, and he is now in this heightened state.” (2004-PCR. 292-93). The expert continued:

[Reaves] as described by his friends and himself, wasn't there anymore. This was the kind of person who would go and just sit for hours, after hours, after hours, hitting that pipe by himself alone, in a state of full cocaine paranoia, and this is what happens. When the brain neurons adapt you don't even get the pleasurable effects anymore, you go straight to a paranoid state of mind. In that paranoid state of mind - this is really bizarre to watch - and this is what he did every day, stayed in that state, fully hyperaroused, completely paranoid, completely wired.

(2004-PCR. 282-285)

In rebuttal, the State presented only psychiatrist Dr. Cheshire. He was also the State's expert at trial. (2004-PCR. 483) Dr. Cheshire opined Mr. Reaves made a conscious decision to kill the deputy, without ever even meeting or examining Mr. Reaves. This should have rang every alarm for the court. As should the fact that the State had never sought to evaluate Mr. Reaves. Cheshire claimed it was not necessary for him to meet with Reaves: “at the time of the commission of the crime, he knew

what he was doing, he knew right from wrong, and he understood fully the responsibility of what he was doing.” (2004-PCR. 485)

Despite the substantial evidence presented, the postconviction court denied relief. On appeal, the Florida Supreme Court affirmed, holding counsel was not ineffective for failing to pursue an involuntary intoxication defense because Mr. Reaves failed to present any evidence showing his “intoxication at the time of the murder.” *Reaves v. State*, 942 So. 2d 876, 879 (Fla. 2006). Further, the court determined that because the evidence of intoxication and mental health did not rise to the level of insanity, the testimony would have been inadmissible at trial pursuant to *Chestnut v. State*, 538 So. 2d 820 (Fla. 1989).

Of significance, Justice Anstead disagreed with the court’s conclusion:

I cannot concur in the majority's approval of the conduct of counsel in failing to properly investigate or present an intoxication defense to explain Reaves' bizarre conduct that ultimately resulted in the death of a police officer when he responded to defendant's emergency 911 call for help. Unfortunately, the record is as devoid of an explanation for counsel's failure to investigate and assert this defense as it was when we reversed and remanded for an evidentiary hearing in our earlier review of the summary denial of the claim. All that has been added to the record is *more* evidence, expert and otherwise, of the defendant's cocaine addiction and intoxication at the time of the offense.

Id. at 882 (Anstead, J., concurred in part, and dissented in part) (emphasis in original).

Under warrant, Mr. Reaves petitioned the Florida Supreme Court to exercise its inherent habeas authority and explicit exception to procedural bars and correct the manifest injustice that occurred in the court’s handling of his postconviction

motion. The court's denial was based on a misapplication of the law at the time. *Chestnut* determined that a mental condition, on its own, that did not rise to the level of insanity, was insufficient to prove a defendant could or could not form specific intent. *Chestnut* **did not** conclusively preclude consideration of intoxication coupled with a mental health condition for the voluntary intoxication defense. And several cases explicitly permitted the introduction of voluntary intoxication.³ Without engaging with the substance, the court improperly denied relief.

2. Challenges to Hinton's Testimony

According to the Eleventh Circuit, Hinton's testimony was the single most damaging piece of evidence. *Reaves v. Sec'y, Dep't of Corr.*, 717 F. 3d 886 (11th Cir. 2013). The State relied on Hinton's testimony at closing to argue that the crime was premeditated; and his testimony undermined both theories of defense.

Without a defense, counsel's only opportunity to attack the State's case was to undermine Hinton. However, because the court precluded the admission of Hinton's prior inconsistent statements and his certified convictions, the jury heard Hinton's exaggerated recitation of the facts. Hinton knowingly testified falsely about the sequence of events Mr. Reaves purportedly recounted to him, and as the record demonstrates, counsel did nothing to investigate and challenge his story.

On appeal, Mr. Reaves raised a confrontation clause challenge. The Florida Supreme Court agreed that the court's exclusion of the prior inconsistent statements

³ *Bunney v. State*, 603 So. 2d 1270, 1273 (Fla. 1992); *Gurganus v. State*, 451 So. 2d 817 (Fla. 1984).

was error, but deemed the error harmless. *Reaves*, 639 So. 2d at 3. This finding was unreasonable. Hinton was the State's key witness, and because Hinton did not testify and the court precluded the admission of any impeachment material, Mr. Reaves was deprived an opportunity to undermine his credibility.

In postconviction, Mr. Reaves spent years investigating Hinton. He came forward in the late 90's and changed parts of his trial testimony. Prior to the 2002 remand, Mr. Reaves amended his postconviction motion with an affidavit from Hinton establishing that he had been untruthful. Hinton admitted Mr. Reaves was not at all normal or clear minded the night of the crime. Instead, Hinton explained that Reaves "was all strung out, he had been smoking crack and was pretty much out of his head" that night. (2004-PCR. 426) He further admitted that Mr. Reaves was "scared and thought people wanted to kill him." (2004-PCR. 426)

However, Hinton never testified. At the time, Hinton was incarcerated. Mr. Reaves sought to have him transported to the evidentiary hearing. The State objected and the postconviction court denied transport. In support of its denial, the court determined that Hinton's affidavit was irrelevant to the ineffective assistance of counsel claim because he didn't testify at the second trial and his testimony was played from the first trial. (2004-PCR. 423)

In other words, Mr. Reaves was denied an opportunity to present Hinton to establish his intoxication the night of the shooting because Hinton had testified in

1987 and the issues before the court concerned counsel's failures at the 1992 trial,⁴ yet the postconviction court denied Mr. Reaves's claim determining that he failed to present any evidence of his intoxication that night.

That Hinton lied about Mr. Reaves's intoxication is relevant beyond the direct issue. It shows that Hinton was willing to be untruthful to save himself, and possibly garner favor with the officers who were later determined to be taking kickbacks from the drug dealer both Hinton and Reaves purchased and sold drugs for at the time. It is noteworthy that Mr. Reaves was arrested with cocaine and charged, but that charge was later dismissed, which occurred around the time one of the investigating officers was prosecuted for the kickbacks. Notably, Hinton, who still risks prosecution for his embellished testimony if he reveals the truth, has been willing to revisit Mr. Reaves's drug use but continues to outright refuse to speak about the circumstances that led to his third statement to police.

3. Counsel's Failure to Investigate and Present Mitigation Evidence

At penalty, trial counsel, who was required to proceed without assistance or co-counsel, had never tried a capital case before and had no experience in mitigation investigations, failed to properly investigate and present details about Mr. Reaves's life. At the postconviction hearing, counsel admitted he failed to adequately prepare:

I didn't think it was going to go to a Phase 2. I might have been delusional but I thought that we might be able to get away with a second or, who knows, maybe they would go

⁴ Again, appellate counsel failed to raise a cognizable and meritorious issue on appeal. Counsel never challenged that Hinton was declared unavailable and Mr. Reaves was denied his Sixth Amendment right to confrontation. The postconviction court denied the claim as procedurally barred. *Reaves*, 826 So. 2d at 936 n3.

for excusable homicide.

(2004-PCR. 35) Although the voluminous testimony at the hearing was relevant to the guilt and penalty phase claims, the postconviction court refused to consider the evidence for the latter. The court summarily denied Mr. Reaves's challenges to counsel's failures, ruling that any evidence above and beyond the half day of testimony presented at trial was simply cumulative. *Reaves*, 826 So. 2d at 941.

Following the issuance of *Porter v. McCollum*, 558 U.S. 30 (2009), Mr. Reaves challenged the constitutionality of his penalty phase based on the relevance of his military service and trial counsel's failure to present such mitigation to the jury. Because Florida determined *Porter* did not apply retroactively to cases on collateral review, Mr. Reaves was granted relief. *Reaves v. State*, 91 So. 3d 782 (Fla. 2012). Despite Mr. Reaves's Vietnam service being analogous to Porter's Korean War service, and Mr. Reaves offering similar evidence of his overwhelmingly horrifying experience serving this Country, Mr. Reaves was not given the grace, mercy, nor benefit Porter was.

E. Federal Habeas Proceedings

Mr. Reaves sought review in federal court. The district court determined that the state court's conclusion was premised on an unreasonable determination of the facts in light of the state court record, "[w]hile the exact level of intoxication is not entirely clear from the record, there was enough evidence of intoxication that counsel should have investigated this as a possible defense." *Reaves v. Buss*, No. 10-14046-CIV-MIDDLEBROOKS, 2011 WL 13243586 (S.D. Fla. 2011). Citing an Eleventh Circuit opinion, the court determined "[t]he duty to investigate requires that counsel

‘conduct a substantial investigation into any of his client’s plausible lines of defense”
Id. (citing *Fortenberry v. Haley*, 297 F.3d 1213, 1226 (11th Cir. 2002))

The State appealed and the Eleventh Circuit reversed, ruling that it disagreed that Mr. Reaves could “demonstrate[e] a substantial likelihood of a different result.” *Reaves v. Sec’y, Dep’t of Corr.*, 717 F. 3d 886, 901 (11th Cir. 2013). Of significance, the Eleventh Circuit relied on the fact that the state court had interpreted Florida law at the time to preclude the admission of voluntary intoxication if it were coupled with a mental health diagnosis. Regardless of the validity of the merits of Mr. Reaves’s ineffective assistance of counsel claim, because the court’s decision denying relief was premised on interpretation of state law, the federal court was without authority to intervene. As Mr. Reaves argued below, the court denied his claim based on an incorrect interpretation of Florida law.

On remand, the district court held a hearing on Mr. Reave’s claim challenging counsel’s failure to investigate and present mitigating evidence of Mr. Reaves’s childhood and his combat experience. Mr. Reaves presented substantial expert and lay witness testimony. The district court granted penalty phase relief, holding the state’s court’s resolution of the claim unreasonable in light of *Strickland v. Washington*, 466 U.S. 668 (1984). *Reaves v. Jones*, No. 10-14046-CIV-MIDDLEBROOKS, 2015 WL 13657202 (S.D. Fla. 2015).

The district court explicitly highlighted how the State “belittled Mr. Reaves’s service to this Country by arguing, ‘[t]he defendant served one year in Vietnam. He did not have a distinguished record to any degree. He received the medals anyone

else would have received for simply going there.” *Id.* at *5. Counsel’s failures, the court noted, were more than simply inexperience, as exhibited by his disregard for the fact that Vietnam Syndrome was not a recognized mental disorder—a fact the prosecution hammered to the jury. “His claim that ‘there’s nothing magical’ about whether a mental disorder in the diagnostic manual relied upon by experts is simply stunning.” *Id.* at 24. The court found trial counsel’s closing arguments at penalty “harmful” *Id.* at 30.

The State appealed and the Eleventh Circuit again reversed. *Reaves v. Sec’y, Dep’t of Corr.*, 872 F.3d 1137 (11th Cir. 2017). The Eleventh Circuit took issue with the district court’s reliance on cumulative errors of counsel’s performance at guilt and penalty. Although Mr. Reaves has raised claims attacking counsel’s performance at each stage, the court determined he had not independently pled a claim of cumulative error when looking at both. *Id.*

F. Clemency

In March 2023, the Executive Office of the Governor initiated clemency proceedings in Mr. Reaves’s case. FCOR contracted Attorney Jonathan Hackworth to represent Mr. Reaves. (a27)⁵ Hackworth’s contract required him to perform a range of tasks in his representation including: “communicate with [Reaves] to determine how [he] would like to proceed in [his] clemency review process”; “attend the clemency

⁵ FCOR contracts for clemency counsel had been publicly available online for years. Days after Mr. Reaves filed his motion under warrant challenging counsel’s actions and attaching the contract, **all** of the FCOR contracts were removed from Florida Department of Financial Services website and remain inaccessible.

interview in person [. . . and] provide legal representation to [Reaves] during the clemency interview”; and “prepare a written statement, brief, or memorandum on behalf of [Mr. Reaves].” (a28-29) FCOR required that his written submission include “information relevant to [Mr. Reaves] to the issue of clemency for the Clemency Board’s consideration.” (a29) Even more, Hackworth’s contract required that he abide by all requirements of “federal, state, county, and municipal statutes, ordinances, rules, regulations, and the Rules of Professional Conduct in the performance of [Hackworth’s] obligations under this Agreement.” (a29).

Mr. Reaves received a letter from the Clemency Board in April. The letter indicated the proceedings had initiated and the interview would be in June that year. For reasons unknown to him, the interview was pushed to August.

After, Mr. Reaves received an email from Hackworth. In the email, Hackworth indicated he had been appointed and that the next time they spoke, the two would discuss how Mr. Reaves wanted to proceed. The next time Mr. Reaves heard from Hackworth was just minutes before his scheduled clemency interview. During this brief meeting, Hackworth did not ask Mr. Reaves how he wanted to proceed, nor about records in his case, nor about himself or about the case. He did not ask Mr. Reaves a single question. Hackworth simply told Mr. Reaves that the clemency board would want to know his side of what happened.

The two relocated to a conference room where four members of the Clemency Board were waiting. Mr. Reaves cannot recall how long the interview lasted nor all of the specifics; however, he recalls that Hackworth said very little during the

interview, and when the Board asked Hackworth questions directly, Hackworth looked to Mr. Reaves to answer. It was apparent to Mr. Reaves that Hackworth had done no preparation for the interview.

Mr. Reaves also recalls becoming emotional. The question, which has continued to stand out to him, was why he shot the Deputy in the back. Mr. Reaves explained, that the situation included two panicked men. He knew he had panicked when the gun dropped, and he could only imagine the Deputy was also panicked. Mr. Reaves shot the gun. He didn't even comprehend whether or where the bullets hit the Deputy—it was dark and raining. He did not know he shot the Deputy until he found out from the five o'clock news.

Mr. Reaves recalls that at the end of the interview, one of the Board members shook his hand and commented something to the effect of "I'm glad to hear you taking responsibility for what happened."

Following the interview, Mr. Reaves never heard from Hackworth again. He sent several emails to Hackworth requesting a copy of the written submission, to no avail. Hackworth also refused to respond to undersigned counsel's nine separate attempts to contact him between February 2024 and March 2025. Byron Reaves, Mr. Reaves's brother, also attempted. On February 25, 2026, Hackworth finally returned a call from Byron, and stated that he was precluded from giving Byron or Mr. Reaves any materials, because "the attorney-client relationship is different in clemency proceedings." (WR. 446) It was only after Hackworth actually returned Byron's call earlier this year that Mr. Reaves had any reason to believe Hackworth had submitted

a written document to the Clemency Board on his behalf. To date, Mr. Reaves is unaware of the case Hackworth made on his behalf. Again, Hackworth did not speak to Mr. Reaves at all about the substance of the case or what he intended to submit.

On September 18, 2026, the Office of Executive Clemency issued a letter indicating the Governor denied Mr. Reaves clemency “[a]fter a review of the clemency investigation material provided by [FCOR].” Under warrant, Mr. Reaves requested, and was denied, limited records from FCOR including Hackworth’s written submission and a transcript of the proceedings.

G. Current Proceedings

On September 18, 2026, Governor DeSantis signed Mr. Reaves’s death warrant and scheduled his execution for October 20, 2026.

Mr. Reaves filed three claims for postconviction relief including challenges to 1) the clemency process as violative of the Fourteenth Amendment as Mr. Reaves was precluded from accessing the procedures when his own attorney refused to disclose what, if anything, he submitted on Mr. Reaves’s behalf and refused to provide a transcript of Mr. Reaves’s own clemency interview; 2) the lethal injection protocols as applied to Mr. Reaves violate the Eighth Amendment because they are silent as to the steps required in a consciousness check, and Mr. Reaves, who suffers from significant hearing impairment, has not had operable hearing aids since May 2026; and 3) Hinton’s trial testimony based on newly discovered evidence that a second police officer was receiving kickbacks from the drug dealer who supplied Hinton and Reaves, and was also the source that led police to Hinton. The postconviction

summarily court denied all of his claims, notwithstanding factual issues in dispute.

Mr. Reaves asserted two arguments on appeal: 1) the clemency process violates this Court's mandate that the Fourteenth Amendment guarantee of due process applies to clemency proceedings, *see Ohio Adult Parole Authority, et al. v. Woodard*, 523 U.S. 272 (1998), because Mr. Reaves was precluded from meaningfully accessing his proceedings when his lawyer failed to speak with him his clemency presentation or provide him the brief submitted on his behalf; and 2) that Florida's lethal injection protocols as applied to Mr. Reaves create a substantial risk of serious harm in violation of the Eighth Amendment where they are silent as to procedures concerning the consciousness check following the State's administration of the first drug, etomidate, known to cause pulmonary edema, and are silent as to steps necessary to ensure Mr. Reaves is unconscious before administering the second drug, rocuronium bromide, known to cause incredible burning pains.

Relevant to the petition, Florida denied Mr. Reaves's claim based on a misapprehension of his argument, determining he is not entitled to clemency records nor he entitled to effective representation in the clemency proceedings.

Mr. Reaves simultaneously filed a petition for habeas corpus in which he detailed the numerous constitutional errors in his case warranting judicial intervention, including the state court's denial of his guilt phase claim relying on a misapplication of the relevant law, and the court's continual refusal to hear and evaluate the plethora of compelling mitigation counsel failed to investigate and present. The Center for Veteran Criminal Advocacy filed a Brief of Amicus Curiae in

support. (a43) The court denied the petition, ruling his claim was barred and did not “justify relief.” (a3-4).

REASONS FOR GRANTING THE PETITION

I. Florida’s Clemency Process Fails to Comport with Due Process As Mandated by the Fourteenth Amendment.

In the context of the death penalty, where the punishment is “the most irremediable and unfathomable of penalties,” *Ford v. Wainwright*, 477 U.S. 399, 411 (1986), clemency is the last forum to challenge violations undermining the reliability of the convictions and sentences before a capital defendant is executed. “Far from regarding clemency as a matter of mercy alone, we have called it “the ‘fail safe’ in our criminal justice system.” *Harbison v. Bell*, 556 U.S. 180, 192 (2009) (quoting *Herrera v. Collins*, 506 U.S. 390, 415 (1993)). While the Court has yet to define what, if any, procedures are required, it has explicitly determined capital defendants have a Fourteenth Amendment due process interest in clemency proceedings. *See Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272 (1998). These protections are required to ensure capital defendants have access to “the historic remedy for preventing miscarriages of justice where judicial process has been exhausted.” *Herrera*, 506 U.S. at 411–412 (footnote omitted). Such is the case here, where as explained above and in Reason II, the court’s have failed to correct grotesque constitutional violations.

Because clemency is governed solely by the executive branch, Florida continues to deny *any* challenges to the process, deferring to the Governor. *Zakrzewski v. State*, 415 So. 3d 203, 211 (Fla. 2025) (“We reiterated that, due to important considerations about the separation of powers, we do not second-guess the executive branch in

matters of clemency in capital cases.”). Florida acknowledges “some minimal procedural due process requirements should apply to clemency procedures;” however, it refuses to engage with what minimal process is required when “none of the opinions [in *Woodard*] required any specific procedures.” *Marek v. State*, 14 So. 3d 985, 998 (Fla. 2009). As a result, Florida wholly ignores the Fourteenth Amendment’s mandate under the façade of separation of powers. However, the state’s abject refusal to engage with these challenges is rooted in its misinterpretation of *Woodard*.

While successful challenges to clemency are rare, “[j]udicial intervention might, for example, be warranted in the face of a scheme whereby a state official flipped a coin to determine whether to grant clemency, or ***in a case where the State arbitrarily denied a prisoner any access to its clemency process.***” (emphasis supplied). *Woodard*, 523 U.S. at 289 (O’Connor, J., concurring in part and concurring in the judgment). Indeed, “clemency proceedings are not as divorced from judicial proceedings,” as Florida maintains. *Harbison*, 556 U.S. at 194.

Florida law provides that capital defendants are entitled to clemency proceedings prior to execution. *See Abdool v. Bondi*, 141 So. 3d 529, 545 (Fla. 2014) (“no capital defendant will be executed unless executive clemency proceedings have concluded”); Fla. Stat. § 922.052(2)(b). A state court may not “under the color of local practice,” *Rogers v. Alabama*, 192 U.S. 226, 230 (1904) (Holmes, J.), use a cloudy and manipulable state-law standard to evade review of a federal constitutional right it disfavors. When a state court engages in such behavior, the federal courts will ignore the purported state ground and reach the constitutional merits. *See, e.g., Lee v.*

Kemna, 534 U.S. 362 (2002); *Harris v. Reed*, 489 U.S. 255 (1989). It is immaterial that the state court decision rests on a matter of state law when the state law violates the constitution.

a. Florida Must Permit Meaningful Access to Clemency Proceedings.

As this Court held in *Mathews v. Eldridge*, “the fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and *in a meaningful manner.*’” 424 U.S. 319, 333 (1976) (quoting *Armstrong*, 380 U.S. at 553) (emphasis added). Nowhere can these principles be more important than in a capital case, where this Court has repeatedly emphasized that the Eighth Amendment requires a heightened degree of reliability in the process. *See, e.g., Herrera*, 506 U.S. 390; *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality); *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976). “If the Constitution renders the fact *or timing* of his execution contingent upon establishment of a further fact . . . then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being.” *Herrera*, 506 U.S. at 405-406 (quoting *Ford*, 477 U.S. at 411).

Clemency investigations are conducted by FCOR. Executive Rule 15(c) requires the clemency investigation commence either at the direction of the Governor or once the Eleventh Circuit has ruled on a petitioner’s federal habeas petition, if the petitioner timely filed state and federal challenges. (a89) The investigation “shall include” an interview with the petitioner, “who may have clemency counsel present,” (Rule 15(B)), and following, “the **inmate’s clemency counsel** [. . .] may file a written

statement, brief, or memorandum on the case. . .” Rule 15(G) (emphasis added). (a88, 90-91)

Upon appointment, attorney Hackworth told Mr. Reaves the two would meet and go over how Mr. Reaves would like to proceed in his clemency proceedings. That did not occur. Instead, Mr. Hackworth spoke with Mr. Reaves briefly before the clemency interview, in which he asked no questions about Mr. Reaves or the crime, nor did he discuss whether he would file a written submission or what that submission would entail. Mr. Reaves had no input as to his own presentation to the clemency board. Hackworth then refused to provide Mr. Reaves with a copy of the written submission and the interview transcript. As a result, Hackworth’s actions precluded Mr. Reaves from accessing his proceedings and denied him a meaningful opportunity to be heard.

A fundamental tenant of due process is ‘the opportunity to be heard’ . . . which must be granted at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (quoting *Grannis v. Ordean*, 234 U.S. 385, 394 (1914)); see *Ford*, 477 U.S. 399. A primary function of clemency counsel is to facilitate a client’s access to his own proceedings so he can be heard. Clemency counsel operates as the client’s voice in the only “fail-safe” proceeding in our criminal justice system. *Harbison*, 556 U.S. at 192. The Rules of Executive Clemency and FCOR concede the significance of clemency counsel’s role by pursuing appointment of counsel and through the explicit delineation of counsel’s role throughout the proceedings.

To date, Mr. Reaves is unaware of what, if anything, was submitted on his

behalf. Mr. Reaves cannot know if the information was compelling, complete, or even accurate—or if Hackworth even advocated for a grant of clemency. Such a system cannot comport with due process if a capital litigant is precluded from accessing the information his own lawyer submits/argues on his behalf. Under Florida’s veiled clemency process, an attorney could disparage the client, submit false information, or submit nothing at all, and the client would not and could not know. The mere presence of an attorney, without more, is comparable to being without assistance. Mr. Reaves was stripped of any assistance with and access to his own proceedings where his counsel precluded him from accessing his own proceedings and materials. A proceeding cannot meet minimal due process where an attorney wholly removes the petitioner from the process.⁶

Mr. Reaves was likewise precluded from accessing the transcript of his own interview. (a19)⁷ This Court has recognized constitutional error where an incarcerated person was denied access to a transcript of his proceedings. “Without a transcript the petitioner. . . would have only his own lay memory of what transpired

⁶ Notwithstanding the clemency statute, Mr. Reaves has a right under the First Amendment to petition the government for a redress of grievances, which he was precluded from doing here.

⁷ Mr. Reaves maintains Florida’s dedication to secrecy in these proceedings is unconstitutional. Much like the “catch-22” recognized by Justice Sotomayor with respect to Mr. Melvin Trotter: “[T]he Florida Supreme Court appears to be placing prisoners in a Catch-22: It has affirmed the denial of requests for records on these issues, at least in part, because the prisoners do not yet have enough information to raise a “colorable” Eighth Amendment claim. Ibid. The very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable Eighth Amendment claim.” *Trotter v. Fla.*, 146 S. Ct. 755, 756 (2026) (Sotomayor, J., respecting the denial of application for stay of execution and denial of certiorari).

before the [decisionmaker].” *Gardner v. California*, 393 U.S. 367, 369 (1969). Even a lawyer accustomed to the proceedings “would be lost without such a transcript A layman hence needs the transcript even more.” Without the interview transcript of his interview and the clemency brief submitted on his behalf, Mr. Reaves was cut off from his ability to submit a written statement to address questions or comments posed to him. This is of concern where it is documented that Mr. Reaves suffers from significant hearing impairment. The withholding of his materials also restricted his ability to correct any erroneous or incomplete assertions presented to the clemency board. As a result, Mr. Reaves was denied an opportunity to meaningfully participate in violation of the Fourteenth Amendment.

b. Florida Cannot Permit Counsel to Abandon his Ethical and Professional Obligations Under the Guise of Separation of Powers.

In dismissing challenges to clemency actions, the state court has consistently held capital defendants are not entitled to competent or effective counsel. The court’s rationale is twofold: the relevant clemency statute does not create a statutory right to counsel as counsel “may” be appointed, and because there is no constitutional right to counsel, there is no constitutional right to effective counsel. *Reaves*, 2026 WL 3071534, *3. In practice, Florida’s refusal to engage with these claims creates a system whereby clemency counsel is at liberty to abandon clients and wholly ignore his ethical and professional obligations, undermining the very heart and purpose of

legal advocacy.⁸

In 1990, Florida held: “this state has established a right to counsel in clemency proceedings for death penalty cases, and this statutory right necessarily carries with it the right to have effective assistance of counsel.” *Remeta v. State*, 559 So. 2d 1132, 1135 (Fla. 1990).⁹ (emphasis added) Since *Remeta*, Florida modified its clemency statute, making the appointment of counsel discretionary. Fla. Stat. § 940.031 (2026). Despite this change, *Remeta* still controls for two reasons: First, the court’s reasoning applies regardless of the source authorizing the appointment of counsel: “**the appointment of counsel in any setting would be meaningless without some assurance that counsel give *effective* representation.** *Id.* (emphasis added). Second, the change in the language of the statute did not impact the process—the clemency board continues to appoint counsel in every capital clemency proceeding. Thus, this change cannot be utilized to minimize a capital defendant’s rights in the process. *Remeta* makes clear that where the provision of clemency counsel is made, effectiveness is required. 559 So. 2d at 1135.

It is immaterial the source that authorizes counsel in clemency cases. The distinction is particularly frivolous in practice. For example, at one point, the courts appointed public defenders to represent capital defendants in clemency proceedings. The public defenders had a mixed case load of clients constitutionally entitled to their

⁸ Mr. Reaves did not challenge the effectiveness of his counsel, but that his counsel’s failures here resulted in an outright denial of his access to the proceedings.

⁹ That the backdrop of the court’s opinion centers on attorney compensation in clemency proceedings is inconsequential to the rationale for its holding. The statutory right to clemency counsel demands the right to *effective* assistance of counsel.

representation and those to whom the attorneys were appointed by statute. This of course makes no difference in how the attorney is to perform their duties to the client.

Counsel's abandonment cannot be understated. While Mr. Reaves may not be constitutionally entitled to his assistance, his counsel is not permitted to abandon all ethical and professional obligations in the course of representation, and he cannot actively infringe on Mr. Reaves's access to the proceedings. But Hackworth did both and Florida took no issue. Insofar as the court interprets the lack of entitlement to counsel to excuse Hackworth's ethical and professional obligations to Mr. Reaves, such is not permissible.

"A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice." R. Regulating Fla. Bar, Ch. 4. This obligates the attorney, "as an adviser" to "provide a client with an informed understanding of the client's legal rights and obligations and explains their practical implications." *Id.* The rule further provides, "[a]s an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system." *Id.* To perform duties in compliance with the Rules:

In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation.

Id. Hackworth failed to comport with any of these obligations. He violated Chapter 4-1 when he attended the interview having conducted no preparation. When the Board asked questions of Hackworth, deferred to Mr. Reaves. He violated Chapter 4-1.2 when he failed to even discuss the objectives of the representation or Mr. Reaves's

position. It is indisputable Hackworth failed to comport with Chapter 4-1.3 and “act with reasonable diligence and promptness” as well as the entirety of Chapter 4-1.4 concerning communication as he wholly failed to respond at all to Mr. Reaves. Mr. Reaves was deprived of counsel’s obligation to inform him of any circumstances of the representation, consult with him, and keep him reasonably informed as to the status of the clemency proceedings or his written submission. Hackworth outright ignored Mr. Reaves, repeatedly, refusing to have any contact with him other than that which was mandated by the FCOR contract—initial contact and clemency interview. Eventually he deleted himself from Mr. Reaves’s contacts to preclude any future contact. Mr. Reaves is not provided sufficient pages to address each of Hackworth’s ethical and professional violations in this case.

The ABA Guidelines also require specific duties of clemency counsel, obligating counsel to conduct his own investigation and tailor the presentation of the clemency proceedings “to the characteristics of the particular client, case and jurisdiction.” ABA Guideline 10.15.2 (2003). Hackworth wholly failed to familiarize himself with Mr. Reaves’s case as to inform a tailored presentation, and conduct an adequate investigation. Indeed, Hackworth’s role was limited to his notice of appointment, bare-boned meeting prior to the interview, and potential submission of a brief Mr. Reaves’s had no say in, despite being the subject of the proceeding. Meanwhile, the State of Florida compensated Hackworth \$10,000 despite his failures to even communicate with his client.

Florida’s interpretation of the distinction between counsel appointed via

statute or as mandated by the constitution has essentially rendered the effect of statutorily appointed counsel futile. Florida's clemency procedure permits attorneys to outright abandon their ethical obligations to clients. Consequently, defendants like Mr. Reaves, are resigned to accept counsel who extend no assistance in their proceedings without an avenue of relief. Such a framework cannot be said to comport with due process.

II. Florida Consistently “Discount(s) to Irrelevance”¹⁰ Powerful Mitigation in Violation of this Court’s Eighth Amendment Precedent.

The Florida Supreme Court did not engage with Mr. Reaves’s claim below, other than to deny relief finding that there is no manifest injustice where the court previously failed to apply *Porter* to Mr. Reaves. The court’s determination is part of a pattern of rulings wherein the court hides behind procedural rules to deny federal substantive rights, because the court has essentially determined, no mitigation would have made a difference in any case. The very concept of mitigation is that some people who commit appalling crimes (as all capital crimes are) will not be sentenced to death if a jury is persuaded by effective counsel that they are less culpable than other people who have committed equally appalling crimes. *See Woodson*, 428 U.S. at 304-05 (overturning death sentences imposed under a mandatory death sentence statute because “[a] process that accords no significance to relevant facets of the character and record of the individual offender or the circumstances of the particular offense excludes from consideration in fixing the ultimate punishment of death the possibility

¹⁰ *Porter v. McCollum*, 558 U.S. 30, 43 (2009).

of compassionate or mitigating factors stemming from the diverse frailties of humankind”).

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

This Court has long held that “accurate sentencing information is an indispensable prerequisite to a reasoned determination of whether a defendant shall live or die [made] by a jury of people who may have never made a sentencing decision,” which requires that each juror must be presented with meaningful evidence about the defendant’s social and family history in order to fully grasp “the particularized

characteristics of the individual defendant.” *Gregg v. Georgia*, 428 U.S. 153, 190, 206 (1976); *see also Roberts v. Louisiana*, 428 U.S. 325 (1976); *Woodson*, 428 U.S. 280. “[E]vidence about the defendant's background and character is relevant because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background ... may be less culpable than defendants who have no such excuse.” *Penry v. Lynaugh*, 492 U.S. 302 (1989).

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

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

when considering the evidence under warrant in truncated proceedings.¹¹ And, to the Florida Supreme Court, it appears that all death cases are highly aggravated.

The Florida Supreme Court is wrong. Empirical evidence establishes that mitigation works and death sentences are the outliers. Russell Stetler, et al., *Mitigation Works: Empirical Evidence of Highly Aggravated Cases Where the Death Penalty Was Rejected at Sentencing*, 51 Hofstra L.Rev. 89, 90 (2022). Researchers have documented more than 600 highly aggravated capital cases around the United States in which the juries voted for life. *Id.* These cases include incredibly heinous and cruel crimes, which arguably, Mr. Reaves's case is not.

This Court's last intervention in *Porter* is of significance to Mr. Reaves. Here, the trial court determined death was appropriate "in view of the two other strong

¹¹ See *Jones v. State*, 419 So. 3d 619 (Fla. 2025) (finding Florida's recent admission that it had been covering up the torturous abuse of children which included Mr. Jones, at a State funded school, insufficient to warrant a new penalty phase hearing when the defendant had been aware of the abuse he suffered, even where the State had argued at trial that Mr. Jones was irredeemable because he failed to take advantage of programs he had attended, including the school where he was tortured); *Bates v. State*, 416 So. 3d 312 (Fla. 2025) (finding that "[n]o additional evidence of brain damage would have overcome the significant aggravators presented against Bates"); *Wainwright v. State*, 411 So. 3d 392, 402 (Fla. 2025) (finding it "unlikely" that additional information regarding the cause of a defendant's cognitive and neurobehavioral impairments would result in a life sentence "where the trial court indicated the mitigating circumstances were outweighed by any single aggravating circumstance"); *Hutchinson v. State*, 408 So. 3d 752, 755 (Fla. 2025) (finding that "additional mitigation concerning brain injury and cognitive issues would only have a marginal effect at a new penalty phase" given "the nature of the aggravating evidence in [the] case" in a case where the jury voted 7-5 for two counts of murder and 6-6 on a third); *Dillbeck v. State*, 357 So. 3d 94, 102 (Fla. 2023) (finding that the alleged new evidence regarding the defendant's mental state at the time of the crime was "not of such a nature that it would probably yield a lesser sentence on retrial" because it "barely alters the profile of the aggravating and mitigating circumstances").

aggravating factors found and **relatively weak mitigation.**” *Reaves*, 639 So. 2d at 6. Yet, the jury (and court) never heard the extent of Mr. Reaves’s selfless service that stole his youth, his mental health, his sobriety, and instilled terror so deep he could not shake it without the assistance of narcotics. A young man, Mr. Reaves both watched his friends die in battle, and held one of them in his arms as he passed. He poignantly recalls, “you never hear the bullet that kills you.” He and his troops were subjected to daily sniper fire and constant battle. When Mr. Reaves returned from war, he sought help, but the VA dismissed him as “too far gone.” (2004-PCR. 540-52) The drug addiction and PTSD followed him every moment until he pulled the trigger on September 23, 1986. It is readily apparent Mr. Reaves would not be facing his imminent execution had anyone answered his prayers for help when he returned.

“Our Nation has a long tradition of according leniency to veterans in recognition of their service, especially for those who fought on the front lines.” *Porter*, 558 U.S. at 43. Mr. Reaves, whom the Department of Veterans Affairs has since rated 100% disabled by PTSD, which the VA has also determined is solely the result of his service, was denied every opportunity to present this very evidence of his combat history to a sentencer.

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

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Brittney N. Lacy
BRITTNEY N. LACY
Assistant CCRC-South
Fla. Bar No. 116001
LacyB@ccsr.state.fl.us
**Counsel of Record*
Member of the Supreme Court Bar

YIITSODIRAH FINAL
Staff Attorney
Fla. Bar No. 1058816
FinalY@ccsr.state.fl.us

CAPITAL COLLATERAL REGIONAL
COUNSEL – SOUTH
110 S.E. 6th Street, Suite 701
Fort Lauderdale, FL 33301
Tel. (954) 713-1284

COUNSEL FOR PETITIONER