THE STATE OF SOUTH CAROLINA
In The Supreme Court

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In the Original Jurisdiction

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Appellate Case No. 2025-00524

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MIKAL D. MAHDI
*Petitioner*
v.

BRYAN P. STIRLING, Commissioner,
South Carolina Department of Corrections,
*Respondent*.

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# *AMICUS CURIE* BRIEF OF THE SOUTH CAROLINA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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## STATEMENT OF INTEREST OF *AMICUS CURIAE*

> The South Carolina Association of Criminal Defense Lawyers ["SCACDL"] is devoted to protecting the liberty of the citizens of South Carolina by fighting to ensure justice and due process for all persons accused of any criminal act.
>
> We promote excellence and integrity in the practice of criminal law by providing the highest quality criminal law seminars to those who defend the accused.
>
> We speak with a united voice in challenging legislation directed to limiting or eliminating the rights of the individual and we labor for laws that preserve equal access to justice for all.[1]

SCACDL has over 700 members whose interests are in the field of criminal law. Membership includes both private criminal defense lawyers and public defenders. SCACDL strives, both in and out of the courtroom, to better South Carolina's criminal justice system through seminars, public education, and input on pending legislation that will affect the interests of members' present and future clients. Finally, SCACDL, through amicus briefs such as this, is interested in promoting consistency in the decisions of our appellate court and improving prior decisions.

## QUESTIONS PRESENTED

### *Question I*

Did Mikal Mahdi's trial attorneys deprive him of the effective assistance of counsel when they prematurely gave up on their investigation, resulting in a presentation of mitigating evidence that spanned only 15 transcript pages, was over in less than 30 minutes, and omitted critical witnesses and information about Mahdi's tumultuous childhood?

### *Question II*

Should Mikal Mahdi's death sentence be reevaluated in light of newly available scientific, medical, and psychological research that clarifies the scale of crippling trauma he endured as a child and teenager?

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[1] South Carolina Association of Criminal Defense Lawyers Mission Statement found at https://scacdl.org/mission-statement/ (last viewed March 15, 2025).

## STATEMENT OF CASE

Mikal Mahdi's petition for a writ of habeas corpus ("Petition") in this Court's original jurisdiction contains a detailed factual and procedural history.

## ARGUMENTS

*Introduction*

South Carolina, through the now abolished doctrine of *in favorem vitae*, did for almost 200 years recognize the importance of the right of appellate courts to correct any error at any time in the appellate process to prevent an unfair execution. "This Court first recognized the doctrine of *in favorem vitae* nearly two hundred years ago. *State v. Briggs*, 3 S.C.L. 8 (1 Brev.) (1794)." *State v. Torrence*, 305 S.C. 45, 60, 406 S.E.2d 315, 324 (1991) (Justice Toal concurring). The spirit of this long tradition has been established in *Butler v. State*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) when this Court said, "The great and central office of the writ of habeas corpus is to test the legality of a prisoner's current detention." In this case, it is to test the legality of Mikal Mahdi's execution. Relief under the *Butler* decision is appropriate for two reasons.

### *Question I*

**Did Mikal Mahdi's trial attorneys deprive him of the effective assistance of counsel when they prematurely gave up on their investigation, resulting in a presentation of mitigating evidence that spanned only 15 transcript pages, was over in less than 30 minutes, and omitted critical witnesses and information about Mahdi's tumultuous childhood?**

**A. Trial counsel representation of Mikal Mahdi during his capital sentencing hearing was clearly inadequate.**

As seen above, SCACDL's mission promotes high quality representation of the accused in criminal cases. Vigorous representation is just as important during sentencing hearings as it is in the determination of guilt or innocence. SCACDL takes an interest in

Mikal Mahdi's Petition because his trial counsel's representation was not only constitutionally inadequate[2] but clearly inadequate. When people facing the most serious criminal charges are not fairly treated and adequately represented by their court-appointed attorneys, public confidence in the justice system suffers. Executing Mikal Mahdi pursuant to a trial verdict marred by egregiously substandard legal representation will not only harm Mahdi, it undermine the integrity of our state's legal institutions.

In capital cases, trial counsel has an obligation "to adequately investigate and present mitigating evidence" during the penalty phase. *Council v. State*, 380 S.C. 159, 170, 670 S.E.2d 356, 361 (2008). *See also Sears v. Upton*, 561 U.S. 945 (2010); *Porter v. McCollum*, 558 U.S. 30 (2009); *Rompilla v. Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Williams v. Taylor*, 529 U.S. 362 (2000); *Rosemond v. Catoe*, 383 S.C. 320, 680 S.E.2d 5 (2009). Trial counsel failed to investigate and present any meaningful evidence of Mr. Mahdi's early childhood.

When discussing his character, the sentencing order begins when Mikal was fourteen years old and already committed to the Virginia Department of Juvenile Justice. 2025APP 528. The sentencing court was not provided anything beyond surface-level information about Mikal's early childhood. Trial counsel's sole mitigation witness only offered perfunctory descriptions of Mikal's abusive, mentally ill father: for example, that the father's unstable nature caused "a great deal of conflict" in the family. Trial counsel never relayed the true, harrowing facts of Mikal's boyhood, like the time when Mikal saw his father kidnap his mother at gunpoint and try to kill her. *See* Petition, pp. 27, 31, 46. Trial counsel also did not present the available compelling evidence of Mikal's depression

[2] *Strickland v. Washington*, 466 U.S. 668 (1984).

at the tender age of eight years old and his diagnosis of major depression at age nine. *Id.* For example, when he was in second grade, Mikal's school principal reached out to his family because of Mikal's troubling and unusual comment, "If I had a gun I would shoot myself." Instead, trial counsel only had their mitigation expert testify that Mikal had "poor self-esteem" and was "placed, voluntarily, in a mental health facility," with no real explanation as to why.

Trial counsel did not interview—and therefore did not present testimony from—Mikal's teachers Myra Harris and Carol Wilson. *Id.*, pp. 32, 40-43. As a result, trial counsel never learned about Mikal's ability to thrive away from his abusive and mentally ill father and how returning to the custody of his father stifled the progress made while living with his aunt and uncle. *Id.*

The sentencing order reviewed the nine-hour standoff when the Brunswick County Virginia Sheriff's Department attempted to execute an order to return Mikal to the juvenile detention facility. 2025APP 528. Then Brunswick County Sheriff James Woodley was a witness for the State during Mr. Mahdi's sentencing hearing. Petition, pp. 22-23, 44-47. Trial counsel never interviewed Sheriff Woodley and, therefore, never learned the information Sheriff Woodley knew about Mikal's father, Shareef Mahdi. *Id.*, pp. 44-47. Trial counsel also never learned from Sheriff Woodley that "Shareef was the architect of the standoff and that the incident ended peacefully, as there were no weapons in the house and no resistance to the officers when they eventually entered the house." Sheriff Woodley could have provided his firsthand experience with Mikal's father, and explained in vivid detail how Shareef Mahdi physically assaulted his own wife, sister, and mother, and failed to provide his young sons with any education or structure after pulling them out of school.

Instead of presenting this compelling testimony, trial counsel presented Mikal's social history though the testimony of Marjorie Hammock, a social worker expert. Ms. Hammock's substantive testimony is only fifteen pages of the record. The sentencing order mentions Ms. Hammock in passing, noting "there is no reference to physical or sexual abuse suffered by" Mikal. The sentencing order minimizes Mikal's upbringing as merely "less than ideal." 2025APP 531. This Court should not excuse trial counsel's failure to discover and present the evidence, established during the PCR hearing, that Mikal's earliest years of life were dominated by his abusive, mentally ill father. The sentencing court found a "sense of humanity does not exist in Mikal Deen Mahdi" (2025APP 533) because trial counsel did not present Mikal's humanity to the fact finder.

Even though the sentencing order reviewed Mikal's juvenile incarceration, trial counsel did not investigate—and therefore did not provide the sentencing court any information about—the conditions of Mikal's confinement. From the ages of 14 to 17, Mikal spent over 1800 hours in solitary confinement, which adversely impacted Mikal's mental health. *See* Petition, pp. 36. Trial counsel were grossly ineffective for not presenting this evidence.[3]

As discussed in Subsection B below, this Court's failure to review the denial of Mr. Mahdi's PCR application is contrary to the standards established by the United States Supreme Court and inconsistent with this Court's precedent.

### B. The Denial of the Petition for Writ of Certiorari from the Post Conviction Hearing is inconsistent with *Weik v. State,* 409 S.C. 214, 761 S.E.2d 757 (2014).

The equal application and interpretation of law and court rulings is a basic tenet of

[3] Scientific advancements in understanding the adverse impact of solitary confinement and other juvenile trauma are addressed in Question II below.

a fair judicial system. Amicus examined Mikal Mahdi's Petition to this Court and carefully reviewed this Court's precedent in *Council*, *Rosemond*, and *Weik v. State*, 409 S.C. 214, 217, 761 S.E.2d 757, 758 (2014).[4] *Weik* and the appeal of Mr. Mahdi's PCR do not appear to have been decided equally. Both cases involve inadequate preparation for the sentencing phase of the trial in a death penalty case.

In *Weik*, this Court said, "The defense, however, failed to present readily available evidence concerning Weik's chaotic upbringing and dysfunctional family. It is the absence of the social history mitigation evidence that compels us, under controlling United States Supreme Court precedents, to grant Weik a new sentencing hearing." *Id.* at 217, 761 S.E.2d at 758. In reviewing the record in this case, the exact same thing can be said about the defense counsel in Mr. Mahdi's case. This case also involves defense counsel who inadequately prepared for a sentencing hearing. Although trial counsel claimed the family would not testify favorably, even if true—which is dubious, given what we know about the ability of skilled defense counsel to work with families facing extraordinarily difficult capital trials—there was nothing stopping trial counsel from having their social history expert provide a full and detailed account of Mahdi's extraordinarily difficult background.

In *Weik*, this Court held, "The testimony elicited during the PCR hearing revealed trial counsel's troubling inattention towards preparing for the mitigation phase of trial, despite Petitioner's admission of guilt from the outset of the case." *Id.* at 218, 761 S.E.2d at 759. Mr. Mahdi never contested his guilt. Contrary to *Weik*, Mr. Mahdi entered a guilty plea and was sentenced by a judge. That, however, is a distinction without a difference. In

[4] John Edward Weik is now serving a life sentence after the remand by this Court.

both cases the fact finder was deprived of important information as to the very similar upbringing of each defendant. In Mr. Weik's case, this Court gave him an opportunity to present the information, and he is now serving a life sentence after the remand by this Court. This Court denied Mr. Mahdi the opportunity to present the same type of information, and he is now facing execution.

In *Weik* this Court said, "At the PCR hearing, Weik presented the extensive mitigating evidence that was discovered before trial by defense investigators and available to counsel at the time of trial. Unlike the evidence presented during Weik's trial, which left the jury knowing no details about his social history, this extensive evidence shed light on his extremely dysfunctional, unstable, and abusive childhood." *Id.* at 223, 761 S.E.2d at 761–62. While much of the information presented at Mr. Mahdi's PCR hearing was learned after his trial, the difference between having the information available and not using it and not taking the time to find the same type of information is of no legal consequence. *See, e.g. Wiggins, Rosemond*, and *Council, supra*. The defendant suffers the same prejudice in both cases. Mr. Mahdi should be treated equally to Mr. Weik.

In *Weik,* this Court said, "'Any competent counsel knows the importance of thoroughly investigating and presenting mitigating evidence.' During the sentencing phase of a death penalty trial, counsel is required to investigate and present meaningful mitigating evidence absent a reasonable strategic choice not to do so." *Id*. at 234, 761 S.E.2d at 767 (internal citations omitted). The defense counsel for Mr. Mahdi is legally required to have performed to the same standard as set forth in *Weik*. Mr. Mahdi's counsel failed to perform to the same standard that this Court required in *Weik*. This fact should be recognized by this Court and grant Mr. Mahdi a new sentencing hearing.

In *Weik* this Court said, "The PCR judge erred in finding counsel presented all available mitigation evidence to the jury. Though counsel introduced psychological testimony regarding Petitioner's mental illness, counsel failed to present even a skeletal version of Petitioner's social history even though there was abundant social history evidence available to them." *Id.* at 235, 761 S.E.2d at 768. The PCR court in this case, at first found trial counsel was deficient. Only upon a petition for rehearing did the PCR judge change his mind. In Mr. Mahdi's case, only a mitigation expert and an expert who testified, and not truly in favor of Mr. Mahdi, as to his adaptability to prison life testified. No true social history was presented. This mitigation evidence did not even rise to the same level as Mr. Weik's trial which this Court found deficient. Mr. Weik, upon given a chance to present the full picture, is now serving life. Mr. Mahdi is now facing execution.

In *Weik,* this Court said, "Indeed, counsel did not undertake a strategic decision to omit the mitigation evidence identified above; counsel simply did not read the investigators' reports and therefore did not know such evidence was available. Decisions made in ignorance of relevant, available information cannot be characterized as strategic." *Id.* at 236, 761 S.E.2d at 768. In Mr. Mahdi's case, defense counsel did not have the report to read because they did not do even the investigation needed obtain the reports. Failing to obtain a reasonably thorough report is arguably worse than failing to read a report. Mr. Weik's defense counsel was found to be ineffective. Mr. Mahdi's defense counsel was not. Finding one team ineffective and the other effective does not appear to be consistent.

In *Weik*, this Court said, "Accordingly, confidence in the outcome is substantially undermined, and we find Weik was prejudiced by the omission of this significant and readily available mitigating evidence. We reverse the denial of PCR on this issue and

remand the case for a new sentencing hearing." *Id.* at 239, 761 S.E.2d at 770. In Mr. Mahdi's case, the PCR court found confidence in the outcome and death sentence. The PCR court found Mr. Mahdi was not "prejudiced by the omission of this significant and readily available mitigating evidence." To grant Mr. Weik a new sentencing hearing and not grant Mr. Mahdi a new sentencing hearing seems inconsistent. As in both cases the exact same type of mitigating evidence was not presented, the two cases were improperly treated differently.

For the foregoing reasons, in this case the court appears to have ignored the important principle as to the duties of defense counsel established in *Weik*. Treating two very equally situated defendants differently undermines the confidence in our judicial system. It undermines the confidence that our state will only execute the worst of the worst.

### C. Reform to South Carolina's indigent defense system reduced the risk of grossly deficient performance in future capital cases.

Mr. Mahdi's Petition points out:

> Studies now demonstrate that the quality of representation makes an enormous difference in a trial's results. Sophisticated capital defense results in far fewer death sentences than a defense that is minimally adequate.

Petition, p. 12. The Petition then summarizes the reform of state-funded capital defense offices in North Carolina and Virginia, resulting in the imposition of fewer death sentences in those states. *Id.,* pp. 12-13. Like North Carolina and Virginia, our General Assembly recognized the need to reform to South Carolina's indigent defense system.

Prior to 2005, South Carolina's indigent defense system consisted of a Commission on Indigent Defense, a Commission on Appellate Defense, and thirty-nine defender corporations. Each county had its own defender corporation, although some of the smaller counties formed joint defender corporations. The Commission on Indigent Defense

distributed state funding to the thirty-nine defender corporations but had very limited oversight and regulatory authority. In 2005, the General Assembly merged the Commission on Indigent Defense and the Commission on Appellant Defense. 2005 S.C. Act 103, § 2. The Office of Appellate Defense became a Division of the Office of Indigent Defense. S.C. Code Ann. § 17-3-360.

The Indigent Defense Act of 2007 significantly restructured our state's indigent defense system to create parity between the prosecution and defense functions. The Act's preamble contains the legislative findings:

> Whereas, the General Assembly finds that it is necessary to establish a statewide unified indigent defense system to provide effective assistance of counsel to indigent criminal defendants; and
>
> Whereas, the General Assembly believes it is necessary to establish parity in benefits and salaries between prosecution and defense systems; and
>
> Whereas, the General Assembly desires to ensure that the system is free from undue political interference and conflict of interest; and
>
> Whereas, the General Assembly wishes to provide for the delivery of public defender services by qualified and competent counsel in a manner that is fair and consistent throughout the State; and
>
> Whereas, the General Assembly's ultimate goal is to ensure that adequate public funding of a statewide public defender system is provided and managed in a fiscally responsible manner.

2007 S.C. Act No. 108.

The drafters of the Act envisioned better representation in capital cases. Circuit Public defenders must "be competent to counsel and defend a person charged with a capital felony and be certified at all times to defend capital cases in the State." S.C. Code Ann. § 17-3-520(A)(4). The Act continued to recognize the Division of Appellate Defense and authorized the restructured Commission on Indigent Defense to "establish divisions within

the office to administer the services and programs as it considers necessary." S.C. Code Ann. § 17-3-310(G)(1). The Commission created the Capital Trial Division in 2008, two years after Mr. Mahdi's capital trial.[5] The Act required the Commission on Indigent Defense to "approve and implement programs, services, rules, policies, procedures, regulations, and standards as may be necessary or advisable to fulfill the purposes and provisions of this article in the delivery of indigent services," including the training, qualifications, and performance standard of public defenders and other court appointed counsel."[6] S.C. Code Ann. § 17-3-340(I). The Commission on Indigent Defense obtained a grant from the Bureau of Justice Assistance to provide training for lawyers defending capital cases. From 2010 through 2013, the Commission presented the Capital Litigation Initiative, which were multi-day intensive training programs designed to improve the quality of representation in capital cases.

Like North Carolina and Virginia, the frequency of death sentences declined in South Carolina after the creation of the Capital Trial Division and the advanced training

[5] https://sccid.sc.gov/about-us/capital-defenders (last viewed March 15, 2025).

[6] In 2013, the Commission adopted *Indigent Defense Performance Standards for Public Defenders and Assigned Counsel*. https://sccid.sc.gov/resources/policies (last viewed March 20, 2025). The Commission modeled these standards on the National Legal Aid and Defender Association Performance Guidelines for Criminal Defense Representation, which the Supreme Court recognizes as guides for the prevailing professional standards. *E.g. Padilla v. Kentucky*, 559 U.S. 356, 367 (2010). The Commission did not adopt capital case specific performance standards because this Court recognizes the *American Bar Association Guidelines for the Appointment and Performance of Counsel In Death Penalty Cases* as evidence of the prevailing professional norms. E.g. *Stone v. State*, 419 S.C. 370, 397, 798 S.E.2d 561, 576 (2017); *Council*, 380 S.C. at 173, 670 S.E.2d at 363 (2008); *Ard v. Catoe*, 372 S.C. 318, 332, 642 S.E.2d 590, 597 (2007).

programs. The Department of Corrections lists twenty-eight men on death row.[7] Nineteen of those death sentences occurred prior to the creation of the Capital Trial Division.[8] The three death sentences imposed in 2008 and the two death sentences imposed in 2009 involved trials with court appointed counsel other than the Capital Trial Division. Since 2010, there have been only four new death sentences in our state.[9]

Available evidence demonstrates the reduction in the frequency of death sentences in South Carolina results, not from the lack of death eligible cases, but rather from the improved quality of representation. Alex Murdaugh is a prominent example, *State v. Murdaugh,* Case No. 2022-GS-15-00592, 00593, but he is not the only example. Todd Kohlhepp was sentenced to life imprisonment for the murders of seven people committed over thirteen years.[10] William Looper received a life sentence after sexually assaulting and murdering a two-year-old child.[11] Fredrick Hopkins was sentenced to life imprisonment

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[7] https://www.doc.sc.gov/sites/doc/files/Documents/news/death-row-report.pdf (last viewed March 15, 2025).

[8] The four men executed in 2024 and 2025—Freddie Owens, Richard Moore, Marion Bowman, and Brad Sigmon—were sentenced to death prior to the creation of the Capital Trial Division.

[9] The men sentenced in these cases are Ricky Lee Blackwell, Sr., Luzenski Allen Cottrell, Jerome Jenkins, Jr. and Timothy Ray Jones. Mr. Jenkins was not represented by the Capital Trial Division. The Capital Trial Division represented one of Jenkin's co-defendants, who was sentenced to forty-five years imprisonment for murder. *State v. McKinley Daniels*, Case No. 2015-GS-26-01754. The Capital Trial Division provided representation an additional client receiving a death sentence, but this Court reversed the conviction, *State v. Rivera*, 402 S.C. 225, 741 S.E.2d 694 (2013), and Mr. Rivera was resentenced to life imprisonment without the possibility of parole. *State v. Rivera*, Case No. 2007-GS-04-00650.

[10] "South Carolina admits to killing 7; gets life sentence, *Associated Press*, May 26, 2017, https://apnews.com/general-domestic-news-general-news-9244b6bb455e4d9ead01ed7f7557f2c9 (lase viewed March 16, 2025).

for the murders of two police officers and the attempted murder of five more police officers.[12] Beaufort County jurors recommended a life sentence for Earnest Daise for the murder of his ex-girlfriend, murder of her four year old child, and the assault and battery with intent to kill her two year old child. *State v. Daise*, 421 S.C. 442, 807 S.E.2d 710, 712 (Ct. App. 2017).[13]

Although Alex Murdaugh retained counsel, the Capital Trial Division represented Todd Kohlhepp, William Looper, Frederick Hopkins, and Ernest Daise. If the Capital Trial Division existed at the time or Mr. Mahdi's sentence in 2006, there is every reason to believe Mr. Mahdi would have benefited from a comprehensive mitigation investigation, resulting in a robust presentation of mitigating evidence. Because the representation of Mikal Mahdi fell below the standard this Court established in *Council, Rosemond*, and *Weik*, this Court should grant the Petition and allow Mr. Mahdi the opportunity to present his mitigation evidence with the assistance of well trained, competent counsel.

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[11] Laurens man gets life sentence in slaying of 2-year-old boy, *Index Journal*, Nov. 11, 2021, https://www.indexjournal.com/news/crime/laurens-man-gets-life-sentence-in-slaying-of-2-year-old-boy/article_e16448fc-b638-54dd-a67d-aae1d81b9a2d.html (last viewed March 16, 2025).

[12] "Man gets life sentence for killing 2 officers and wounding 5 in South Carolina ambush," Associated Press, October 19, 2023, https://apnews.com/article/police-ambush-florence-south-carolina-hopkins-e64b654e59e77f3343db990ab5eddac5 (last viewed March 16, 2025).

[13] "Beaufort man gets life in double murder," WACH Fox 57, Oct. 24, 2013, https://wach.com/news/local/beaufort-man-gets-life-in-double-murder (last viewed March 16, 2025).

## *Question II*

**Should Mikal Mahdi's death sentence be reevaluated in light of newly available scientific, medical, and psychological research that clarifies the scale of crippling trauma he endured as a child and teenager?**

As seen above, trial counsel left the sentencing court with the impression that Mikal Mahdi did not suffer any childhood trauma, despite the extensive evidence of childhood trauma known to Mikal's family and his teachers. During the federal habeas case, Mr. Mahdi sought and was denied funding to investigate the trauma he experienced in his life. In 2023, Dr. Malcolm Woodland, Ph.D., a psychologist, evaluated Mr. Mahdi for the presence and impact of trauma during his life. Petition, pp. 53-56. In addition to providing evidence of intergenerational trauma, Dr. Woodland discovered Mikal experienced Adverse Childhood Experiences (ACEs) that were more traumatic than 99.99% of the population. *Id.* Dr. Woodland relies on scientific literature that was not available to Mr. Mahdi's trial counsel or PCR counsel because it did not become widely available until 2015. *Id*., pp. 48-56. These scientific advances include a better understanding of the effects of solitary confinement on teenagers and adolescent brain development. *Id.*, pp. 49-52, 57-58.

This Court should grant Mr. Mahdi's Petition based upon new advances in psychology, neuroscience, and other medical fields. In other contexts, South Carolina recognizes the importance advances in science can have on the validity of a conviction. *See*, S.C. Code § 17-28-10, et seq. (Access to Justice Post–Conviction DNA Testing Act). If an individual were set to be executed and the mere possibility of a DNA test may prove the innocence of the defendant, this Court would not hesitate to stay the execution and

order the DNA testing so that any execution is done with the certainty the evidence shows the guilt of the defendant.

With the inherent power of this Court to administer justice, this Court should grant the writ filed by Mr. Mahdi to permit a fact finder to evaluate new advances in the science of mental health. This Court, as an appellate court, should only find there is sufficient evidence to show there have been scientific advances to determine if such advances could have affected the sentencing in this case. If such a procedure exists for guilt or innocence in a non-capital case, such a procedure should exist for whether a person is given life or executed. The writ filed in this matter does not ask this Court to take upon itself to commute the sentence of Mr. Mahdi. The writ simply asks that this Court give a fact finder the opportunity to evaluate this new evidence. Only then can the State of South Carolina be assured that Mr. Mahdi is truly deserving of being executed. "[C]apital punishment must be reserved for "the worst of the worst." *Allen v. Stephan*, 42 F.4th 223, 248 (4th Cir. 2022). The determination of whether one is deserving of the death penalty for being the "worst of the worst" is not determined solely by looking at the nature of the crime. Mr. Mahdi has never denied the brutality of his crimes. His Petition, based upon advances in psychology and other fields, simply asks for the fair opportunity to establish the fact that his dysfunctional childhood and upbringing does not make him the "worst of the worst."

## CONCLUSION

For the foregoing reasons, this Court should grant Mikal Mahdi the relief he seeks in his Habeas Petition. This Court appears to have applied a different standard in denying the petition for writ of certiorari of Mr. Mahdi than was applied in *Weik v. State*, 409 S.C. 214, 217, 761 S.E.2d 757, 758 (2014). This Court should grant the Petition and correct this

error so that similarly situated defendants have the law applied to them in a consistent manner. Additionally, advances in fields of science relating to mental health show that the impact of childhood trauma on Mikal Mahdi's development and the course of his life. Amicus recommends Mr. Mahdi be granted a new sentencing hearing.

Respectfully Submitted,

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