No. 2014-4002

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOSEPH REDDY,

Petitioner-Appellant,

v.

BENNIE KELLY, Warden,

Respondent-Appellee.

On Appeal from the United States District Court
for the Northern District of Ohio in Case No. 1:12-cv-00057,
Judge Patricia A. Gaughan

BRIEF OF *AMICUS CURIAE*

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

IN SUPPORT OF THE APPELLANT SEEKING REVERSAL

CANDACE CROUSE
PINALES STACHLER YOUNG
BURRELL & CROUSE CO., LPA
455 Delta Avenue, Suite 105
Cincinnati, OH 45226
(513) 252-2750
NACDL Amicus Committee Sixth Circuit Vice-Chair

Counsel for Amicus Curiae
National Association of Criminal Defense Lawyers

RACHEL B. FUNK
STEPHEN M. BYERS
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
(202) 624-2500

KATHARINE F. BARACH
CROWELL & MORING LLP
275 Battery Street, 23rd Floor
San Francisco, CA 94111
(415) 986-2800

August 14, 2015

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules and Regulations

Other Authorities

INTEREST OF AMICUS CURIAE[1]

The National Association of Criminal Defense Lawyers ("NACDL") is a non-profit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct. NACDL was founded in 1958. It has a nationwide membership of approximately 10,000 direct members in 28 countries, and 90 state, provincial and local affiliate organizations totaling up to 40,000 attorneys. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL files numerous amicus briefs each year in the Supreme Court, this Court, and other courts, seeking to provide amicus assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole.

[1] Pursuant to Rule 29(a), counsel for *amicus curiae* certifies that all parties have consented to the filing of this brief. Pursuant to Rule 29(c)(5), counsel for *amicus curiae* states that no counsel for a party authored this brief in whole or in part, and no person other than *amicus curiae*, their members, or their counsel made a monetary contribution to its preparation or submission.

STATEMENT REGARDING ORAL ARGUMENT

Amicus curiae submits that oral argument is appropriate in this case because the factual and legal questions presented are complex, and the ineffective assistance of counsel question presented on appeal is an issue of significant importance that has not yet been resolved in this Circuit.

INTRODUCTION

This case illustrates the fundamental importance of investigating and presenting expert mental-health testimony where defense counsel is aware that his client may suffer from a psychological disorder relevant to an element of the crime or an affirmative defense. Here, Mr. Reddy's trial counsel was on notice that his client suffered from post-traumatic stress disorder ("PTSD"), that it stemmed from abuse by the very person he was accused of murdering, and that there was a connection between Mr. Reddy's PTSD and the crime with which he had been charged. Yet Mr. Reddy's counsel neglected to investigate and present such evidence at trial, despite the fact that it was highly relevant to a key element of voluntary manslaughter under Ohio law, and likely would have resulted in a conviction on that lesser offense rather than murder. This falls short of any objective standard of reasonableness. Mr. Reddy was thus denied the effective assistance of counsel guaranteed to criminal defendants by the Sixth Amendment.

STATEMENT OF FACTS

It is clear from the record that Mr. Reddy's mother was mentally unstable and had physically and verbally abused Mr. Reddy throughout his childhood. *See, e.g.*, Judgment, RE. 5-24, Page ID # 1251-1280 at 1263. When he was 14 years old, Mr. Reddy was removed from his mother's care because she had physically

assaulted him, and was placed in a group home. *See id.* at Page ID # 1253. The abuse and trauma inflicted on Mr. Reddy by his mother took a heavy toll.

Prior to his trial in this case, Mr. Reddy was evaluated by a forensic psychologist who determined that, as a result of his mother's abuse, Mr. Reddy suffered from PTSD at the time of the charged offense. Specifically, Mr. Reddy's trial counsel referred him to Dr. John Fabian for a forensic psychological evaluation to determine his "current psychological/psychiatric state and his functioning around the time of the offense." Fabian Rep., RE. 7-3, Page ID # 1711-1718 at 1711. Dr. Fabian noted that Mr. Reddy experienced, among other things, "significant hyperarousal," "irritability or outbursts of anger," and "hypervigilance." *Id.* at Page ID ## 1714 & 1716. With regard to the incident in question, Dr. Fabian observed that "Mr. Reddy's homicidal acts are by his report associated with a need to defense [sic] himself from his mother's assaultive acts towards him." *Id.* at Page ID # 1718. Dr. Fabian diagnosed Mr. Reddy with PTSD and ultimately concluded that "there is a nexus between Mr. Reddy's mental illness, his abusive history with his mother, and his homicidal behavior." *Id.*

In January 2007, Mr. Reddy moved back home to live with his mother. Judgment, RE. 5-24, Page ID # 1251-1280 at 1254. Mr. Reddy lived there on and off for almost a year. Fabian Rep., RE. 7-3, Page ID # 1711-1718 at 1717. Late on the night of December 24, 2007, his mother demanded that Mr. Reddy leave

immediately. Judgment, RE. 5-24, Page ID # 1251-1280 at 1254. Mr. Reddy refused because it was Christmas Eve and he had nowhere else to go. *Id*. He then went into his room and barricaded the door, at which point his mother forced her way into his room, blocking the only exit. Fabian Rep., RE. 7-3, Page ID # 1711-1718 at 1717. She held a dagger and threatened to kill him. Judgment, RE. 5-24, Page ID # 1251-1280 at 1254. As she started towards him, Mr. Reddy hit her and tackled her to the ground. During the ensuing struggle, Mr. Reddy choked her, resulting in her death. Fabian Rep., RE. 7-3, Page ID # 1711-1718 at 1717.

During a bench trial, the defense presented no witnesses and none of the mental health evidence of PTSD was presented. *See* Appellant's Br. at 10-11. Defense counsel merely argued in closing that Mr. Reddy killed his mother "in a fit of rage . . . brought on by serious provocation" due to "years of abuse." Tr., RE. 5-8, Page ID # # 798-978, at 931-933. The judge convicted Mr. Reddy of aggravated murder, remarking, "You don't go from agg[ravated] murder to voluntary [manslaughter]." *Id.* at Page ID ## 904 & 948.

On appeal, the Ohio Court of Appeals vacated his sentence and remanded for resentencing, holding that there was no evidence of the "prior calculation and design" required for aggravated murder under Ohio law.[2] *See* Judgment, RE. 5-21,

[2] For the sake of brevity, this summary omits much of the procedural history. For a complete history, *see* Appellant's Br. at 3-7.

Page ID # 1204-1231 at 1206. But the court rejected Mr. Reddy's claim of ineffective assistance of counsel, misinterpreting his claim as one regarding evidence of his childhood abuse rather than of the resulting PTSD. *Id.* Page ID # 1227-1228. Mr. Reddy later filed a petition for a writ of *habeas corpus*, which eventually led to this appeal regarding whether Mr. Reddy's counsel was ineffective for failing to investigate and present evidence of Mr. Reddy's PTSD, as opposed to his childhood abuse at the hands of his mother.

ARGUMENT

Mr. Reddy's PTSD was critical to any finding regarding his mental state at the time of the offense. Attorneys have a duty to investigate and present evidence of such mental health issues for precisely that reason. Mr. Reddy's counsel thus failed to render effective assistance by failing to follow up on Dr. Fabian's psychological evaluation. Indeed, counsel only presented the evaluation itself to the court *after* the bench trial, for no discernible reason. Tr. of Proceedings, RE. 5-8, Page ID # 798-978 at 951. Because, as explained below, the nature of PTSD and its direct connection to the charged conduct would have supported the lesser offense of voluntary manslaughter, Mr. Reddy is entitled to a writ of habeas corpus.

I. The State Court Did Not Adjudicate Mr. Reddy's Ineffective Assistance Claim on the Merits.

As an initial matter, the NACDL as *amicus curiae* adds its voice to Appellant's argument regarding the state court's failure to adjudicate Mr. Reddy's ineffective assistance of counsel claim on the merits. *See* Appellant's Br. at 15-19. As explained below, expert testimony regarding Mr. Reddy's PTSD, as opposed to general evidence of abuse, likely would have supported a finding that at the time of the offense, Mr. Reddy had the mental state appropriate to voluntary manslaughter rather than murder. This demonstrates the state court's critical error in misconstruing Mr. Reddy's claim as being that "trial counsel was ineffective in failing to present evidence that Gloria abused him as a child," Judgment, RE. 5-24, Page ID # 1251-1280 at 1275, when in fact Mr. Reddy had argued that his counsel was ineffective for failing to present "relevant and available psychiatric testimony" regarding his PTSD. Appellant's Pro Se Suppl. Br. and Assignments of Error, RE. 5-18, Page ID # 1143-1178 at 1166-1168. The state court's ruling is thus not entitled to the deference normally required by the AEDPA. *See* Appellant's Br. at 15-19.

II. The Nature of PTSD Supports the Lesser-Included Offense of Voluntary Manslaughter.

PTSD is a mental illness characterized by, among other things, "angry outbursts (with little or no provocation)" and "[h]ypervigilance." American

Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* 272-273 (5th ed. 2013) (1952) ("DSM-5"), App. at 4, 5. As Dr. Julian Ford, a Professor of Psychiatry at the University of Connecticut School of Medicine, put it, "PTSD is a radical shift from normal self-regulation to being trapped in a constant state of alarm." Julian Ford, Ph.D., *PTSD Becomes (More) Complex in the DSM-5: Part II*, Psychology Today (June 16, 2013), App. at 13. Dr. Ford further explained, "PTSD involves rocketing into extreme states of stress reactivity (mobilization in the form of terror, rage, and uncontrollable impulses) and plunging into equally extreme states of being shut-down (exhaustion, emotional numbing, despair, and dissociation)." *Id.* at 14. Thus, Mr. Reddy's PTSD has primed him to act aggressively and in ways disproportionate to the situation as a reactive "survival" mechanism resulting from years of abuse at the hands of the very person who violently confronted him on the night of the offense.

A. Because Mr. Reddy Suffered Child Abuse for Many Years, His PTSD Was More Entrenched and Severe, Adversely Affecting His Ability to Regulate His Emotions.

People who "suffer from the effects of chronic interpersonal violence" are likely to have a more complex symptom profile than others with PTSD. Ronald C. Kessler, Ph.D., *Posttraumatic Stress Disorder: The Burden to the Individual and to Society*, 61 J. Clinical Psychiatry 4, 8 (Supp. 5 2000), App. at 19, 23. Indeed, because there are markers common to people who have suffered such violence that

are not shared by other people with PTSD, it has been labeled as a subtype of PTSD known as "complex PTSD." While complex PTSD has yet to be officially recognized in the DSM, it has been acknowledged and discussed in numerous mainstream psychological journals. *See* Vedat Sar, *Developmental Trauma, Complex PTSD, and the Current Proposal of* DSM-5, 2 Eur. J. Psychotraumatology 5622 (2011), App. at 28 ("Although not represented in official psychiatric classifications . . . , Complex PTSD has been proposed by many clinicians and researchers as a diagnostic category for two decades.") (collecting articles) (internal citations omitted). Moreover, despite the fact that complex PTSD has not yet been designated as a separate disorder in the DSM, the DSM has nonetheless acknowledged that PTSD "may be especially severe or long-lasting when the stressor is interpersonal and intentional . . . ." DSM-5, App. at 7.

Relevant here is that complex PTSD includes severe difficulties with emotional regulation. As explained by Dr. Marylene Cloitre, the Director of the Institute for Trauma and Stress at the NYU Child Study Center, and her co-authors:

> [U]nderstanding of complex PTSD has been influenced by developmental research, which has demonstrated that childhood abuse as well as other childhood adversities (neglect, emotional abuse, absent or psychiatrically disturbed parents) result in *impairment in developmental processes related to the growth of emotion regulation* and associated skills in effective interpersonal behaviors.

Marylene Cloitre et al., *A Developmental Approach to Complex PTSD: Childhood and Adult Cumulative Trauma as Predictors of Symptom Complexity*, 22(5) J. Traumatic Stress 399, 400 (2009), App. at 38 (emphasis added). *See also* DSM-5, App. at 8 ("Following prolonged, repeated, and severe traumatic events (e.g., childhood abuse, . . .), the individual may additionally experience difficulties in regulating emotions . . . ."). Mr. Reddy's likely difficulty in regulating emotions supports the proposition that he killed his mother "under the influence of sudden passion or in a sudden fit of rage." Ohio Rev. Code Ann. § 2903.03(A) (West 2013).

B. The Hyperarousal and Hypervigilance Associated with PTSD Indicates That Mr. Reddy Acted in the Heat of the Moment When Attacked by the Very Person Who Inflicted the Trauma.

As noted above, individuals with PTSD are likely to suffer from hyperarousal, such as "irritability or outbursts of anger." John P. Wilson, *PTSD and Complex PTSD: Symptoms, Syndromes, and Diagnoses*, Assessing Psychological Trauma and PTSD 7, 27 (2d ed., Guilford Press 2004), App. at 68 (internal quotations omitted). Hyperarousal is "a state of increased psychological and physiological tension . . . ." *Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health* (7th ed. 2003), App. at 88. Dr. John P. Wilson, an internationally recognized expert on post-traumatic stress disorder,

observed that people with PTSD "have proverbial short fuses, quick tempers, and 'fast draw' dispositions." Wilson, *supra*, App. at 68.

Psychobiological studies have shown that for some individuals with PTSD, especially those for whom aggression or self-defense has been "necessary to survival", their "subcortical brain structures associated with aggression appear to be in a state of kindling, a neurological ready-alert mode of functioning." *Id.* This is evidenced by both the aforementioned hyperarousal and the hypervigilance associated with PTSD. Hypervigilance is defined as "abnormally increased arousal, responsiveness to stimuli, and screening of the environment for threats . . . ." *Miller-Keane*, *supra*, App. at 90. "Themes of threat run through the global negative beliefs" held by people with PTSD. Emma Dunmore et al., *Cognitive Factors Involved in the Onset and Maintenance of Posttraumatic Stress Disorder (PTSD) After Physical or Sexual Assault*, 37 Behavior Research and Therapy 809, 825 (1999), App. at 107. "Consequently, the lives of these individuals are dominated by apprehension and uncertainty." *Id*.

Moreover, "[p]ersons suffering from PTSD often have a decreased capacity to accurately self-monitor ('read') their internal states of arousal, emotions, and thought patterns." Wilson, *supra*, App. at 69. In extreme cases, this may lead to misinterpreting others' intentions, resulting in disproportionate "defensive action", including "overt aggression." *Id.* at 68. *See also id.* at 70 ("[E]xtreme

hyperarousal may result in misperception of cues and lead to maladaptive responses... .”). In other words, people with PTSD may react with extreme aggression that they view as a defensive or survival mechanism, regardless of whether the situation calls for it. Thus, “[o]n provocation, even minimal, they may be predisposed to act automatically in irritable, angry ways that, in turn, may trigger a sequence of increased aggressiveness.” Wilson, *supra*, App. at 68.

Here, the evidence indicates that Mr. Reddy’s mother – the very person who inflicted his childhood trauma – went into his room and threatened him with a knife. That certainly goes well beyond “minimal” provocation. And it is critical to bear in mind that Mr. Reddy’s mother was the one who had abused him for years, leading to his PTSD. The DSM observes that “PTSD is often characterized by a heightened sensitivity to potential threats, ***including those that are related to the traumatic experience*** . . . .” DSM-5, App. at 7 (emphasis added). Faced with such an overt threat, from the very person who had abused him for years, Mr. Reddy’s constant heightened state of arousal likely would have kicked into overdrive and caused him to strangle his mother “under the influence of sudden passion or in a sudden fit of rage.” Ohio Rev. Code Ann. § 2903.03(A).

And, in fact, the record indicates that an expert was available who would have provided such testimony. Dr. Fabian’s report determined that Mr. Reddy had PTSD, and that “[h]is parental relationships representing neglect and abuse are

related to his psychiatric conditions." RE. 7-3, Page ID # 1711-1718 at 1718. Dr. Fabian ultimately concluded that "there is a nexus between Mr. Reddy's mental illness, his abusive history with his mother, and his homicidal behavior." *Id*. Mr. Reddy's counsel merely had to investigate, further develop and present that evidence at trial. Failure to do so falls below an objective standard of reasonableness given the obvious probative force of such evidence.

C. Ohio Case Law Acknowledges That PTSD Is Highly Relevant to the Lesser-Included Offense of Voluntary Manslaughter.

As this Court noted in granting Mr. Reddy's certificate of appealability in part, "[e]vidence that a defendant suffered from PTSD may be admitted to show provocation." Order Granting In Part Defendant's Certificate of Appealability (Jan. 29, 2015) (citing *State v. Warner*, No. 2006-P-0048, 2007 WL 1731628, at *5, 8 (Ohio Ct. App. June 15, 2007)). In *Warner*, the Court of Appeals determined that "the trial court erred by excluding the expert evidence on post traumatic stress disorder," because such "evidence would have further supported Warner's position that he acted under the influence of sudden passion or in a sudden fit of rage. As a person suffering from post traumatic stress disorder, Warner was more likely to emotionally react to stressful provocation." 2007 WL 1731628, at *8 (footnote omitted). Thus, under Ohio law, expert evidence regarding Mr. Reddy's PTSD would have supported an instruction for the lesser-included offense of voluntary manslaughter.

Especially relevant here is the Court of Appeals' finding that "[p]ost traumatic stress disorder is a condition beyond the general understanding of lay persons." *Id.* at *5. The contours of mental illnesses are often inaccessible to people outside the fields of psychology and psychiatry, including judges. It is thus incumbent on counsel for persons with mental illnesses to ensure that such evidence is presented where relevant, as discussed below.

III. Any Objective Standard of Reasonableness Requires Trial Counsel to Investigate and Present Evidence of Known Mental Health Disorders That Are Relevant to Key Issues in the Case.

In general, to prevail on an ineffective assistance of counsel claim, a petitioner must show (1) that his trial counsel's performance "fell below an objective standard of reasonableness" and (2) that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

Investigating and presenting evidence of the impact of a defendant's history of trauma on his mental health can be critical to a constitutionally effective defense. Psychological diagnoses and their connection to the offense affect several facets of the defense beyond competency, including: state-of-mind defenses such as lack of *mens rea* or diminished capacity; affirmative defenses; and mitigation during the sentencing phase. Trends in both the psychological and legal communities toward greater understanding of complex PTSD have placed more

persuasive weight on expert testimony regarding that condition on a defendant's mental state at the time of the crime. Defendants like Mr. Reddy who suffer from traumatic stress syndromes are particularly vulnerable to miscarriage of justice where psychological evidence that is highly relevant to an element of the offense or an affirmative defense is not investigated and presented at trial.

A. Evidence of and Expert Testimony Regarding PTSD Can Have a Powerful Impact on the Factfinder.

Legal trends and academic scholarship both demonstrate the importance of investigating and presenting a defendant's PTSD diagnosis where it sheds light on an essential element of the defense. Appellate courts have found expert witness testimony on PTSD to be particularly compelling where, as in Mr. Reddy's case, there is a clear and direct connection between the PTSD symptoms and the criminal incident. *See, e.g.*, Omri Berger, MD, et al., *PTSD as a Criminal Defense: A Review of Case Law*, 40 J. Am. Acad. Psych. Law 509 (2012), App. at 112. Courts and factfinders appear especially persuaded by evidence that certain types of PTSD phenomena – including hyperarousal symptoms, hypervigiliance symptoms, and overestimation of danger – may refute *mens rea* in homicide cases. *See id.* at 120-121; *see also Warner*, 2007 WL 1731628, at *5 (expert testimony regarding emotional state of individuals suffering from PTSD was "critical to [the] analysis" of whether the defendant met all the elements of a voluntary manslaughter defense); *State v. Bottrell*, 14 P.3d 164, 169 (Wash. Ct. App. 2000)

(reversing exclusion of psychological expert testimony that would have supported defendant's diminished capacity defense as an abuse of discretion because "PTSD is recognized within the scientific and psychiatric communities and can affect the intent of the actor resulting in diminished capacity").

B. Effective Assistance of Counsel Requires Investigating and Presenting Evidence Regarding Known Mental Health Issues That May Negate an Element of the Offense or Support an Affirmative Defense.

Investigation and presentation of PTSD evidence should be treated similarly to counsel's failure to investigate mental health and drug abuse issues that raise reasonable doubts about defendant's ability to form the intent required for a first degree murder conviction.

For example, in *Jennings v. Woodford*, 290 F.3d 1006 (9th Cir. 2002), the Ninth Circuit determined that trial counsel was constitutionally ineffective for failing to investigate the defendant's mental state when counsel was on notice that the defendant had mental health and substance abuse issues and yet failed to present psychiatric expert testimony that had been prepared for prior trial counsel prior to the sentencing phase. *Id.* at 1015.

Similarly, in *Seidel v. Merkle*, trial counsel "conducted no investigation whatsoever" of defendant's mental state even though he had both actual and constructive notice that defendant was suffering from a traumatic stress disorder. *Seidel*, 146 F.3d 750, 752-53 (9th Cir. 1998). In preparation for an evidentiary

hearing in his federal habeas case, Seidel was examined by a psychologist who concluded that he "manifest[ed] several clear symptoms" of PTSD and showed "some residual brain damage and long-term memory impairment." *Id.* at 752. From his first interview with police following the killing, Seidel had maintained that he was "'scared for [his] life' at the time of the incident and only attacked the victim after receiving a punch to the head." The court noted that this statement could have been corroborated by evidence of PTSD, which "tends to leave victims excessively fearful and psychologically primed to over-react to perceived threats." *Id.* at 756. As a result, the Ninth Circuit concluded that a "defense of imperfect self-defense based on the facts of the case, coupled with petitioner's mental state at the time of the fight, the PTSD symptoms, and the organic brain damage would have eliminated the element of malice." *Id.* at 757.

The duty to investigate PTSD can also be analogized to the duty to investigate mental-state evidence, where failure to develop and present such evidence through psychiatric expert testimony may be probative of deficient performance. For example, in *Lang v. Cullen*, 725 F. Supp. 2d 925 (C.D. Cal. 2010), the court held trial counsel ineffective for failing to present mental-state evidence that could have negated the specific-intent element of the murder. Mr. Lang's trial counsel failed to make use of the psychiatric expert to corroborate

defendant's assertion that he shot the victim because he had an honest but unreasonable belief that his life was in imminent danger. *Id.* at 963-65.

Decisions about whether to investigate PTSD and subsequent follow-up with mental health expert witnesses should be assessed for ineffective assistance because such evidence directly affects the factfinder's interpretation of the defendant's mental state. In this case, Dr. Fabian's psychological evaluation directly bolsters the nexus between Mr. Reddy's PTSD symptoms and the elements of voluntary manslaughter. *See* Fabian Rep., RE. 7-3, Page ID # 1711-1718 at 1718. It is exactly the type of persuasive evidence that courts find "critical" to the analysis, and failure to follow up on Dr. Fabian's findings cannot be excused as a strategy decision. *See Warner*, 2007 WL 1731628, at *5; *Smith v. Mahoney*, 611 F.3d 978, 983-84 (9th Cir.2010).

"[S]trategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation. In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland*, 466 U.S. at 690-91 (1984); *see also Jennings*, 290 F.3d at 1014 ("[A]ttorneys have considerable latitude to make strategic decisions about what investigations to conduct *once they have gathered sufficient evidence upon which to base their tactical choices*"). An objective

standard of reasonableness requires following up on expert testimony and other evidence about mental health issues like PTSD that might affect or negate elements of the charges or support affirmative defenses. Here, the failure of Mr. Reddy's trial counsel to follow up on Dr. Fabian's report was clearly unsupported by "reasonable professional judgments."

IV. Conclusion.

Mr. Reddy's trial counsel's failure to investigate and present expert psychiatric testimony regarding his PTSD at trial fell well below any objective standard of reasonableness and was prejudicial to a finding of voluntary manslaughter. This court can simultaneously correct the deprivation of constitutionally effective counsel in Mr. Reddy's case and provide clarification on defense counsel's duty to investigate and present evidence of known psychiatric conditions that are plainly relevant to key issues in the case. This Court should reverse the erroneous judgment of the district court denying Mr. Reddy's petition for a writ of habeas corpus.

Respectfully submitted,

/s/ Candace Crouse

CANDACE CROUSE
PINALES STACHLER YOUNG
BURRELL & CROUSE CO., LPA
455 Delta Avenue, Suite 105
Cincinnati, OH 45226
(513) 252-2750

RACHEL B. FUNK
STEPHEN M. BYERS
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
(202) 624-2500

KATHARINE F. BARACH
CROWELL & MORING LLP
275 Battery Street, 23rd Floor
San Francisco, CA 94111
(415) 986-2800

Counsel for Amicus Curiae National Association of Criminal Defense Lawyers

August 14, 2015

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(C), the undersigned hereby certifies that this brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B).

1. Exclusive of the exempted portions of the brief, as provided in Fed. R. App. P. 32(a)(7)(B)(iii), the brief contains 3,915 words.

2. The brief has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14 point Times New Roman font. As permitted by Fed. R. App. P. 32(a)(7)(C)(i), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Candace Crouse
CANDACE CROUSE
PINALES STACHLER YOUNG
BURRELL & CROUSE CO., LPA
455 Delta Avenue, Suite 105
Cincinnati, OH 45226
(513) 252-2750

August 14, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Candace Crouse
CANDACE CROUSE
PINALES STACHLER YOUNG
BURRELL & CROUSE CO., LPA
455 Delta Avenue, Suite 105
Cincinnati, OH 45226
(513) 252-2750

August 14, 2015