

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

IN THE ORIGINAL JURISDICTION

Case No. 2025-000524

MIKAL D. MAHDI,
Petitioner,

v.

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

MOTION FOR LEAVE TO FILE AS AMICI CURIAE

Pursuant to South Carolina Appellate Court Rule 213, Time Served, Criminal Practice Clinic at the University of South Carolina Joseph F. Rice School of Law, and The Gault Center collectively move for leave to file the attached *amicus curiae* brief in support of Petitioner in *Mikal D. Mahdi v. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections*.

Amici curiae (“Amici”) are a group of leading advocates of criminal-justice reform in South Carolina. They promote policies that remedy the effects of solitary confinement and address juvenile-justice issues. Amici have a particular interest in this case because it raises significant questions about the effects of solitary confinement, particularly on youths. Because the Court’s decision in this matter will have immediate and long-term consequences for vulnerable populations who have experienced solitary confinement, Amici have a direct interest in this case.

Time Served is a nonprofit legal organization located in South Carolina. Founded in 2023, Time Served’s mission is to improve the lives of currently and formerly incarcerated people in the state through legal services and advocacy. Through its services and support, Time Served works to dismantle extreme sentencing in South Carolina, with a particular focus on vulnerable populations whose involvement in the criminal legal system is rooted in a history of injustice or trauma. Time Served represents both clients whose system-involvement began as children, as well as clients who have experienced periods of solitary confinement. As such, Time Served has an interest in the meaningful consideration of the harmful effects of such restrictive conditions of confinement.

The mission of the Criminal Practice Clinic at the University of South Carolina Joseph F. Rice School of Law (the “Clinic”) is to serve justice and advance the law through engaged learning, teaching, scholarship, and service. The Clinic is dedicated to representing and advocating for indigent clients’ criminal and post-disposition matters. That work involves gaining knowledge about a client’s background and history of prior system involvement and understanding it in the context of available research on brain development, and the impact of trauma, poverty, and race on an individual. Issues of conditions of confinement of clients, including instances of solitary confinement, are of utmost importance to clients’ representation. Thus, the Clinic has an interest in careful examination of detrimental impacts of restrictive conditions of confinement.

The Gault Center, formerly the National Juvenile Defender Center, was created to promote justice for all children by ensuring excellence in the defense of youth in delinquency proceedings. Through systemic reform efforts, training, and technical assistance, the Gault Center seeks to disrupt the harmful impacts of the legal system on young people, families, and communities; eliminate racial and ethnic disparities; and ensure the constitutional protections of counsel for all

young people. Recognizing that juvenile legal system involvement can have long-lasting traumatic consequences, the Gault Center’s support for increased protections for system-involved youth extends beyond the delinquency system. The Gault Center (as the National Juvenile Defender Center) has participated as *amicus curiae* before the United States Supreme Court and federal and state courts across the country.

HOW MOVANTS CAN ASSIST THE COURT

Justice Stephen Breyer wrote that amicus briefs “play an important role in educating judges on potentially relevant technical matters, helping make us not experts, but moderately educated lay persons, and that education helps to improve the quality of our decisions.” “The Interdependence of Science and Law,” 82 JUDICATURE 24, 26 (1998). While a member of the Third Circuit, Justice Samuel A. Alito, Jr. also emphasized that amici are a resource that may be of assistance to the courts. *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 132–33 (3d Cir. 2002). As a commentator observed, “[a]micus involvement may also enhance court transparency, judicial accountability, and the legitimacy and public acceptability of appellate substantive determinations regarding controversial questions.” Carl Tobias, “Resolving Amicus Curiae Motions in the Third Circuit and Beyond,” 1 DREXEL L. REV. 125, 142 (2009).

Amici offer the Court substantial expertise, policy-based arguments, and specific illustrations detailing recent scientific developments that provide evidence of the long-lasting, detrimental effects of solitary confinement on youths. Movants’ proposed amicus brief demonstrates the irreparable harms that solitary confinement causes to youth and, in particular, youths who are in a racial minority group or have a mental illness.

First, the brief supplements the Petitioner’s main arguments by explaining the range of scientific developments post-dating Petitioner’s 2011 PCR hearing that relate to the effects of solitary confinement on youths. This includes an analysis of published, scholarly research and

reviews in fields such as neuroscience, developmental biology, psychology, sociology, and public health. The new scientific developments detail the significant physical, psychological, and social impact of solitary confinement on youths, the effects of which may be long-lasting or permanent. The brief illustrates the various ways in which an individual who experienced solitary confinement as a youth, as Petitioner did, may have resulting physical and psychological damage that could influence traits such as impulsivity, decision-making, and aggression, which are all relevant to the presentation of Petitioner’s mitigation evidence.

Second, the brief details the growing legislative consensus to curtail solitary confinement of youths. This presentation will aid the Court in understanding how solitary confinement practices—and society’s normative judgment of those practices—have changed from when Petitioner was incarcerated as a youth to the present day. This evolving consensus in opposition to solitary confinement of youths is also relevant to the presentation of Petitioner’s mitigation evidence.

Finally, the brief serves to “apprise the court of broad-based legal, social, and economic implications of a decision or point out its unintended consequences.” Paul M. Sandler & Andrew D. Levy, *APPELLATE PRACTICE FOR THE MARYLAND LAWYER: STATE AND FEDERAL: AMICUS BRIEFS* 331 (1994). As Judge Alito observed, in significant cases, amici may “explain the impact a potential holding might have on an industry or other group.” *Neonatology Assocs.*, 293 F.3d at 132 (citing Luther T. Munford, “When Does the Curiae Need An Amicus?,” 1 J. APP. PRAC. & PROCESS 279). Here, the brief will serve that purpose by informing the Court of the significance of a death sentence being imposed on a defendant whose life trajectory was dramatically altered by conditions of confinement as a youth as demonstrated by recent scientific developments

Wherefore, Movants respectfully seek leave to file the attached *amicus curiae* brief in support of Petitioner.

March 21, 2025
Columbia, South Carolina

Respectfully submitted,

s/Stuart M. Andrews

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