IN THE
INDIANA SUPREME COURT

CASE No. 24S-SD-222

JOSEPH E. CORCORAN,	)	
	)	
Appellant,	)	
	)	
v.	)	
	)	**THIS IS A CAPITAL CASE**
STATE OF INDIANA,	)	Execution Date: December 18, 2024
	)	
Appellee.	)	

Memorandum in Support of
Successive Petition for Post-Conviction Relief

Petitioner Joseph Corcoran, by and through counsel, respectfully request this Court grant him permission to file a successive post-conviction petition regarding the constitutionality of executing a person with severe mental illness under the Eighth and Fourteenth Amendments to the United States Constitution and Article One, Section Sixteen of the Indiana Constitution.

I. Introduction

Corcoran is severely mentally ill. The Indiana Supreme Court and the Seventh Circuit have recognized this. The State of Indiana concedes it. However, no court has decided whether Corcoran's execution would violate the state or federal constitution due to his serious mental illness. Because constitutional law has evolved since Corcoran was sentenced to death and his sentence was affirmed, further proceedings and legal argument are necessary.

II. Jurisdictional Statement

This Court has jurisdiction in this matter because Corcoran is sentenced to death. Indiana Appellate Rule 4(A)(1)(a). This Court has jurisdiction to authorize Corcoran's successive post-conviction petition under Indiana Post-Conviction Rule 1(12).

III. Procedural History

Corcoran was convicted of four counts of murder and sentenced to death in 1999. Corcoran waived review of his convictions on direct appeal, but not his death sentence[1]. *Corcoran v. State,* 739 N.E.2d 649, 651 n.2 (Ind. 2000). The Indiana Supreme Court remanded the case to the trial judge because she improperly considered future dangerousness, a non-statutory aggravator. 739 N.E.2d at 657. On review after remand, this Court found Corcoran's mental illness made him "genetically predisposed to be a 'loner' or 'hermit'" and affirmed his death sentence. *Corcoran v. State,* 774 N.E.2d 495, 502 (Ind. 2002). Justice Rucker dissented, finding Corcoran's death sentence violated the Eighth Amendment and Article One, Section 16 of the Indiana Constitution because Corcoran is seriously mentally ill. *Id.*at 502-03.

Corcoran's post-conviction proceedings ("PCR") were "unusual" in a situation involving "the most irremediable and unfathomable of penalties." *Corcoran v. State,* 827 N.E.2d 542, 547 (Ind. 2005) (Rucker, J. dissenting). Corcoran initially did not sign his PCR petition. A competency hearing proceeded where all testifying experts found Corcoran to be incompetent and the Attorney General conceded Corcoran suffered from a mental illness. Contrary to the experts' unanimous opinions, the court found Corcoran competent and determined he waived PCR. Eventually Corcoran signed his petition, but the judge would not accept it. Corcoran requested he be allowed to proceed with PCR and dismiss the appeal. While embracing the extent of his mental illness, the Indiana Supreme Court denied the request and found him competent to waive post-conviction. *Corcoran v. State,* 820 N.E.2d 655, 663-64 (Ind. 2005). Corcoran then attempted to file his signed PCR petition. The PCR court rejected the filing as untimely. The Indiana Supreme Court agreed, holding "public policy reasons"

[1] An individual sentenced to death in Indiana cannot waive review of his sentence on direct appeal. *Judy v. State,* 416 N.E.2d 95, 102 (Ind. 1981).

of "achieving finality" outweighed allowing a mentally ill death row prisoner to litigate constitutional flaws in his conviction and death sentence. *Corcoran v. State,* 845 N.E.2d 1019, 1023 (Ind. 2006).

Subsequently, Corcoran petitioned for a writ of habeas corpus. The district court granted relief finding the State's offer to withdraw the death penalty request if Corcoran waived his right to a jury trial violated Corcoran's Sixth Amendment rights. *Corcoran v. Buss,* 483 F.Supp.2d 709 (N.D. Ind. 2007). The Seventh Circuit reversed. *Corcoran v. Buss,* 551 F.3d 703 (7th Cir. 2008). Judge Williams dissented from the decision that Corcoran was competent to waive PCR noting "No one contests that Corcoran suffers from a mental illness". *Id.* at 714-15.

The Supreme Court held the Seventh Circuit erred in failing to remand the case to the district court to decide the various addressed and unaddressed claims. *Corcoran v. Levenhagen,* 558 U.S. 1 (2009). On remand, the Seventh Circuit held the Indiana Supreme Court made an unreasonable determination of fact when it held the trial court did not rely on non-statutory aggravators in its new sentencing order. *Corcoran v. Levenhagen,* 593 F.3d 547, 551-52 (7th Cir. 2010). The Supreme Court reversed this decision, not because it was legally wrong, but because a federal court cannot grant relief based on the violation of a state rule. *Wilson v. Corcoran,* 562 U.S. 1 (2010). The case was remanded to the district court, who denied relief. The Seventh Circuit affirmed. *Corcoran v. Neal,* 783 F. 3d 676 (7th Cir. 2015).

IV. Corcoran's death sentence violates the Eighth Amendment.

Because Corcoran is severely mentally ill, his execution violates the Eighth Amendment. The Eighth Amendment restricts the ultimate sanction of capital punishment "to those offenders who commit 'a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.'" *Kennedy v. Louisiana*, 554 U.S. 407, 420 (2008) (quoting *Roper v. Simmons*, 543 U.S. 551, 568 (2005)). The Court has forbidden death sentences for people who are intellectually disabled, *Atkins v. Virginia*, 536 U.S. 304, 321 (2002); juveniles, *Roper*, 543 U.S. at 578-

79; offenders who raped but did not kill, *Kennedy*, 554 U.S. at 420; *Coker v. Georgia*, 433 U.S. 584, 592 (1977); and offenders who did not himself kill or intend to kill a victim, *Enmund v. Florida*, 458 U.S. 782, 788 (1982).

One of the primary factors underpinning the Court's decisions restricting capital punishment for certain offenders is "retribution and deterrence of capital crimes by prospective offenders." *Gregg v. Georgia*, 428 U.S. 153, 183 (1976); *see also Kennedy*, 554 U.S. at 420; *Roper*, 543 U.S. at 553; *Atkins*, 536 U.S. at 319. In *Atkins* and *Roper*, the Court held that intellectual disability or being a juvenile reduced the moral culpability of offenders and made them less likely to be deterred by the prospect of a death sentence. *Atkins,* at 318-20; *Roper,* at 571.

Additionally, the Eighth Amendment mandates consideration of "the evolving standards of decency that mark the progress of a maturing society." *Atkins*, 536 U.S. at 311-12 (citing *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958)); *see also Graham v. Florida*, 560 U.S. 48, 58 (2010); *Roper*, 543 U.S. at 561. In examining evolving standards, the Court looks to various factors, including whether there is a national consensus, an international consensus, and a broader social and professional consensus against executing individuals in that group. *Atkins*, 536 U.S. at 312; *Roper*, 543 U.S. at 564, 575-78. While considering whether there is a consensus regarding punishment of a particular category of offenders, the Court also assesses whether "there is reason to disagree with the judgment reached by the citizenry and its legislators." *Atkins*, 536 U.S. at 313.

1. Corcoran's schizophrenia, which causes him to experience persistent delusions, renders him "severely mentally ill."

"Severe mental illness" generally refers to "mental disorders that carry certain diagnoses, such as schizophrenia, bipolar disorder, and major depression; that are relatively persistent (e.g. lasting at least a year); and that result in comparatively severe impairment in major areas of functioning." American Bar Association, *Severe Mental Illness and the Death Penalty*, 1 (Dec. 2016)

[Attached as Ex A]; *see also* American Bar Association, *Special Feature: Recommendations and Report on the Death Penalty and Persons with Mental Disabilities*, 30 Mental & Physical Disability L. Rep. 5, 668, 670-71 (2006) (severe mental illness generally refers to "a disorder that is roughly equivalent to disorders that mental health professionals would consider the most serious 'Axis I diagnoses.'"). The disorders included in the definition of "severe mental illness" are "typically associated with delusions (fixed, clearly false beliefs), hallucinations (clearly erroneous perceptions of reality), extremely disorganized thinking, or very significant disruption of consciousness, memory, and perception of the environment." *Id.*

Corcoran's diagnoses of paranoid schizophrenia and major depression are severe mental illnesses. *Severe Mental Illness and the Death Penalty* at 1. Corcoran experiences daily life through an elaborate delusional system. He believes there is an ultrasonic machine at the prison that can control his movements as well as insert thoughts into his mind. He believes he is a targeted victim of this machine because of his sleep disorder, which causes him to say things out loud in his sleep. These symptoms affected Corcoran's decision-making at every stage of his case, from rejecting plea offers unless he could have his vocal cords severed to waiving PCR. These symptoms fit squarely into the features of severe mental illness that most concern mental health professionals, legal observers, and legislators with regard to executing individuals with severe mental illness. *See Severe Mental Illness and the Death Penalty* at 2-3.

2. The scientific and legal rationale for exempting the intellectually disabled and juveniles from execution applies to the severely mentally ill.

In *Atkins*, the Court explained that, in addition to not serving the penological purposes of capital punishment, the impairments inherent in intellectual disability render the death penalty disproportionate for those offenders. 536 U.S. at 306-07, 318. Individuals with intellectual disability have "diminished capacities to understand and process information, to communicate, to abstract

from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others." *Id.* at 318. In *Roper*, the Court similarly pointed to the "lack of maturity and an underdeveloped sense of responsibility" of youth, which "often result in impetuous and ill-considered actions and decisions." 543 U.S. at 569. Regarding deterrence, the Court noted, "[t]he likelihood that the teenage offender has made the kind of cost-benefit analysis that attaches any weight to the possibility of execution is so remote as to be virtually nonexistent." *Roper*, 543 U.S. at 572 (citing *Thompson v. Oklahoma*, 487 U.S. 815, 837 (1988)). Likewise, for intellectually disabled offenders, "it is the same cognitive and behavioral impairments that make these defendants less morally culpable—for example, the diminished ability to understand and process information, to learn from experience, to engage in logical reasoning, or to control impulses—that also make it less likely that they can process the information of the possibility of execution as a penalty and, as a result, control their conduct based upon that information." *Atkins*, 536 U.S. at 320. The Court concluded that juveniles and people with intellectual disabilities are not "among the worst offenders," because of their diminished culpability and they are less likely to be deterred from committing capital crimes. *Roper*, 543 U.S. at 570-71; *Atkins*, 536 U.S. at 318-19 ("[i]f the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of retribution.").

Individuals with severe mental illness—particularly those whose mental illness results in psychosis, like Corcoran—have many of the same characteristics the Court found rendered the death penalty a disproportionate punishment for juveniles and those with intellectual disabilities. *See* Christopher Slobogin, *What Atkins Could Mean for People with Mental Illness*, 33 N.M. L. Rev. 293, 304 (2003).

> [P]eople with schizophrenia have difficulty focusing on essential information, are easily distracted by irrelevant stimuli, often experience 'thought blocking' (involving a complete halt to thinking), attribute elaborate meaning to what they see and hear, engage in

> combinative thinking (involving the reduction of impressions into unrealistic beliefs), and have difficulty forming abstract concepts clearly." *Id.* Furthermore, "people who suffer from psychosis also have great difficulty in communicating with and understanding others, engaging in logical cost-benefit analysis, and evaluating the consequences of and controlling their behavior." *Id.* Indeed, "[i]f anything, the delusions, command hallucinations, and disoriented thought process of those who are mentally ill represent greater dysfunction than that experienced by most 'mildly' retarded individuals . . . and by virtually any non-mentally ill teenager.

Id. As the ABA explained in their publication, *Severe Mental Illness and the Death Penalty*, at 3, drawing a parallel to the impairments described by the Supreme Court in *Atkins*, "hallucinations, delusions, grossly disorganized thinking—among other symptoms of mental illness—also significantly interfere with an individual's thinking, behavior, and emotion regulation."

Additionally, severe mental illness can "strongly affect defendants' decision-making about their defense, leading them to refuse to cooperate with their attorneys." *Id.* And "research has shown that mental illness can be erroneously interpreted by jurors," especially "when a defendant has a bizarre or flat affect in the courtroom." *Id.* As described in the DSM, "[d]elusions involve 'misinterpretations of perceptions and experiences,'" hallucinations are "usually auditory and consist of 'pejorative or threatening voices,'" people experiencing schizophrenia tend to have "a high degree of disorganized thought," and often have "'difficulties in performing activities of daily living.'" Slobogin at 310 (quoting DSM-IV at 275-76, 282).[2]

[2] The DSM details the key features and diagnostic criteria of schizophrenia. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Text Revision*, 101, 113-14 (5th ed) ("DSM-V-TR"). It explains that delusions are "fixed beliefs that are not amendable to change in light of conflicting evidence." *Id.* at 101. Hallucinations are "perception-like experiences that occur without an external stimulus." *Id.* at 102. Auditory are the most common, and are "usually experienced as voices, whether familiar or unfamiliar, that are perceived as distinct from the individual's own thoughts." *Id.* Those suffering from schizophrenia experience disorganized thinking, expressed by switching from one topic to another, giving unrelated answers to questions, or through communication that is "nearly incomprehensible." *Id.* Further, the person maybe be "grossly disorganized," which may manifest as "childlike silliness," unpredictable agitation, problems performing daily tasks, and even catatonia, a decreased reactivity to one's environment. *Id.*

Those are precisely the types of characteristics the Supreme Court identified in *Atkins* and *Roper* that rendered the death penalty inappropriate for the intellectually disabled and juveniles. Notably, the Supreme Court specified that the ultimate question was not whether those groups of offenders knew right from wrong or were legally competent. *Atkins*, 536 U.S. at 318; *see also Roper*, 543 U.S. at 563. Rather, the impairments those offenders possess "make it less defensible to impose the death penalty as retribution for past crimes and less likely that the death penalty will have a real deterrent effect." *Roper*, 543 U.S. at 563 (citing *Atkins*, 536 U.S. at 318-19).

Corcoran's symptoms and experiences are closely aligned with those noted above. Corcoran displayed flat affect, a symptom of his schizophrenia, throughout the guilt and penalty phase of his trial in front of the jury that decided whether he would live or die. In his closing argument, the prosecutor emphasized Corcoran's lack of emotion while his sister was testifying about finding the victims [T 2448]. Corcoran also experiences delusions and hallucinations. His psychosis includes believing his thoughts are being broadcast and an ultrasound or ultrasonic machine causes him to move and jerk involuntarily. Despite being treated with antipsychotic medication, Corcoran's symptoms prevail.

Numerous judges have recognized the parallels between severe mental illness, intellectual disability, and youth. Ohio Supreme Court Justice Paul Pfeifer explained in 2001, "Mental illness is a medical disease. Every year we learn more about it and the way it manifests itself in the mind of the sufferer. At this time, we do not and cannot know what is going on in the mind of a person with mental illness. As a society, we have always treated those with mental illness differently from those without. In the interest of human dignity, we must continue to do so." *State v. Scott*, 748 N.E.2d 11, 20 (Ohio 2001) (Pfeifer, J., dissenting).

In later Ohio cases, Justice Lundberg Stratton called for a reexamination of whether society should execute a person with serious mental illness. *State v. Lang*, 954 N.E.2d 596, 649 (Ohio 2011)

(Lundberg Stratton, J., concurring); *see also State v. Ketterer*, 855 N.E.2d 48, 82 (Ohio 2006) (Lundberg Stratton, J., concurring). "If executing persons with mental retardation/developmental disabilities or executing juveniles offends 'evolving standards of decency,' then I simply cannot comprehend why these same standards of decency have not yet evolved to also prohibit execution of persons with severe mental illness at the time of their crimes." *Lang*, 954 N.E.2d at 649 (internal citation omitted).

Justice Robert D. Rucker advocated a similar position in Corcoran's case when he wrote "the underlying rationale for prohibiting executions of the mentally retarded is just as compelling for prohibiting executions of the seriously mentally ill, namely evolving standards of decency." *Corcoran*, 774 N.E.2d at 502-03. Justice Rucker reiterated that position in later cases, explaining further that "if a person who is mentally ill suffers from the same 'diminished capacities' as a person who is mentally retarded, then logic dictates it would be equally offensive to the prohibition against cruel and unusual punishment to execute that mentally ill person." *Overstreet v. State*, 877 N.E.2d 144, 175 (Ind. 2007); *see also Matheney v. State*, 833 N.E.2d 454, 458 (Ind. 2005) (Rucker, J., concurring) ("I continue to believe that a sentence of death is inappropriate for a person suffering a severe mental illness").

Evoking the *Atkins* Court, Justice James Zazzali of the New Jersey Supreme Court wrote in *State v. Nelson*, "if the culpability of the average murderer is insufficient to evoke the death penalty as our most extreme sanction, then the lesser culpability of Nelson, given her history of mental illness and its connection to her crimes, 'surely does not merit that form of retribution.'" 803 A.2d 1, 47 (N.J. 2002) (Zazzali, J., concurring) (quoting *Godfrey*, 446 U.S. at 433).

3. There is a national consensus against subjecting severely mentally ill defendants to the death penalty.

Numerous states, including Indiana, have introduced bills to ban the death penalty or execution for people with severe mental illness, including schizophrenia and schizoaffective disorder.

Before it later abolished the death penalty altogether, Connecticut passed a law precluding a seriously mentally ill defendant from execution. Conn. Gen. Stat. § 53a-46a (h)(3). The Ohio legislature passed a similar statute prohibiting the imposition or implementation of the death penalty for defendants who have been diagnosed with a severe mental illness, such as schizophrenia or schizoaffective disorder, and whose mental illness "significantly impaired the person's capacity to exercise rational judgment" in conforming his or her conduct to the law or appreciating the nature, consequences, or wrongfulness of his or her conduct. Ohio H.B. 136 (2019). Importantly, the legislature specified that the offender's condition need not meet the competency or insanity standards. *Id.* Kentucky followed suit in early 2022, exempting from the death penalty offenders with "active symptoms and a documented history, including a diagnosis," schizophrenia or schizoaffective disorder. Ky. H.B. 269 (2022). An offender who is found to fit those criteria "shall not be subject to execution." *Id.*

Before they abolished the death penalty, Virginia and Colorado legislatures also considered laws prohibiting the death penalty for the severely mentally ill. Virginia Senate Bill 1137; *Kentucky and South Dakota Advance Bills to Bar Death Penalty for People with Severe Mental Illness*, Death Penalty Information Center (Feb. 23, 2022), https://deathpenaltyinfo.org/news/kentucky-and-south-dakota-advance-bills-to-bar-death-penalty-for-people-with-severe-mental-illness. In addition, laws that would prohibit the death penalty or execution for severely mentally ill defendants have been proposed in Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, North Carolina, South Carolina,

South Dakota, Tennessee, Texas, and Missouri. *Id.*; *see also At Least Seven States Introduce Legislation Banning Death Penalty for People with Severe Mental Illness*; Death Penalty Information Center (Feb. 3, 2017), https://deathpenaltyinfo.org/news/at-least-seven-states-introduce-legislation-banning-death-penalty-for-people-with-severe-mental-illness. Although the laws in those states have not yet passed, many have received broad bipartisan support and proposed bills in at least three states, Indiana, Florida and South Dakota, were introduced by Republican legislators. The Indiana Bill was sponsored by Republican Jim Merritt and barred execution for people suffering from schizophrenia specifically.

States that have abolished the death penalty altogether must also be counted among those that prohibit capital punishment for the severely mentally ill. *Roper,* 543 U.S. at 574; *see also Hall v. Florida*, 572 U.S. 701, 716 (2014) (including states with effective moratoria on executions in the count of states on the "side of the ledger" with laws prohibiting the death penalty altogether and for particular classes of offenders). Twenty-six states and the District of Columbia have abolished the death penalty. *See* Death Penalty Information Center, State by State, https://deathpenaltyinfo.org/state-and-federal-info/state-by-state . Four additional states have declared a moratorium on executions, bringing the number of jurisdictions within the United States that effectively bar the execution of severely mentally ill defendants to 31, not including the 11 additional states that have been considering such bars in recent years.

There is widespread bipartisan support for prohibiting the execution of severely mentally ill individuals. In the 2003 Gallup poll cited by Ohio Supreme Court Justice Lundberg Stratton, 75% of Americans opposed the death penalty for the mentally ill. Thus, the growing legislative consensus against imposing or implementing the death penalty against severely mentally ill individuals is closely related to and has followed the broader societal consensus that emerged in the last two decades.

4. A strong professional and scientific consensus exists against executing individuals who are severely mentally ill.

In addition to the national consensus against executing the severely mentally ill that has developed legislatively and among individual voters, the scientific, psychological, and legal communities have developed a clear consensus against such executions. Leading mental health associations in the United States recommend exempting defendants with severe mental illness from the death penalty, including the American Psychiatric Association, the American Psychological Association, the National Alliance for the Mentally Ill, and Mental Health America. These organizations share a common belief that the penological purposes of capital punishment are not met in the case of defendants with severe mental illness, and the diminished personal moral culpability of these individuals should preclude their eligibility for a death sentence. The American Psychological Association has "urge[d] jurisdictions that impose capital punishment not to execute certain persons with mental disabilities." American Psychological Association, *Mental Disability and the Death Penalty* (2006), https://www.apa.org/about/policy/chapter-4b .

V. Corcoran's death sentence violates Article One, Section Sixteen of the Indiana Constitution because he is seriously mentally ill.

"Because Indiana's constitution affords even greater protections than its federal counterpart, I would hold that a seriously mentally ill person is not among those most deserving to be put to death. To do so in my view violates the Cruel and Unusual Punishment provision of the Indiana Constitution. Because Corcoran is obviously severely mentally ill, he should be sentenced to life without possibility of parole, not death." *Corcoran,* 774 N.E.2d at 503 (Rucker, J., dissenting).

Ind. Const. art. I, § 16 states, in relevant part, "Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offense." A punishment is "cruel and unusual" if it makes no measurable contribution to the acceptable goals of punishment, but rather constitutes only the purposeless and needless imposition of pain and suffering. *Dunlop v. State*,

724 N.E.2d 592 (Ind. 2000); *Lindsey v. State*, 877 N.E.2d 190 (Ind. Ct. App. 2007). It applies to "atrocious or obsolete punishments" and is "aimed at the kind and form of punishment, rather than the duration and amount." *Ratliff v. Cohn*, 693 N.E.2d 530 (Ind. 1998). The execution of a seriously mentally ill person makes no measurable contribution to the acceptable goals of punishment– deterrence and retribution.

The Indiana Constitution also prohibits disproportionate sentences, and its provision sweeps more broadly than its federal counterpart. *Knapp v. State,* 9 N.E.3d 1274, 1289 (Ind. 2014). No defendant found guilty but mentally ill currently resides on Indiana's death row nor has been executed since the death penalty was reinstated in 1977. *Prowell v. State,* 741 N.E.2d 704, 717, n.8 (Ind. 2001). Indiana has executed twenty people since the death penalty was reinstated. None of them were diagnosed with schizophrenia. The Indiana Supreme Court has described a person with paranoid schizophrenia as being "gravely mentally ill." *Gambill v. State,* 675 N.E.2d 668, 678 (Ind. 1996). It has also noted that using evidence of a defendant's demeanor before or after a crime to disprove insanity is ordinarily acceptable but "when a defendant has a serious and well-documented mental disorder, such as schizophrenia, one that causes him to see, hear, and believe realities that do not exist, such logic collapses." *Galloway v. State,* 938 N.E.2d 699 (Ind. 2010) (citing *Moler v. State,* 782 N.E.2d 454 (Ind. Ct. App. 2003)). Schizophrenia is and should be viewed differently than other mental illness. The severity of this mental illness makes a death sentence for someone who suffers from it unconstitutionally disproportionate.

VI. Because Corcoran is severely mentally ill, his execution also violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

This Court should also find that because Corcoran is severely mentally ill, his execution violates the Equal Protection Clause of the Fourteenth Amendment which "commands that no State shall deny to any person within its jurisdiction the equal protection of the laws, which is essentially a

direction that all persons similarly situated should be treated alike." *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (internal quotation marks omitted). Under this Clause, "[t]he State may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational." *Id.* at 446.

In *Atkins* and *Roper*, the Supreme Court categorically prohibited the executions of people who are intellectually disabled and those who were juveniles at the time of their offense. Those decisions were based on the Court's conclusions that the qualities inherent in intellectual disability and youth—"diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others" in addition to susceptibility to outside influences and lack of control over their environments—rendered the penological purposes of capital punishment less applicable to those groups than to other defendants. *Atkins*, 536 U.S. at 318; *Roper*, 543 U.S. at 569-70.

Individuals who suffer from severe mental illness likewise have substantial impairments. Indeed, people with severe mental illness can experience "greater dysfunction" than that experienced by many individuals with relatively mild intellectual disability and by juveniles. Slobogin at 304; *see also People v. Danks*, 82 P.3d 1249, 1285 (Cal. 2004) (Kennard, J., concurring and dissenting in part) (comparing the diminished capacities of people with intellectual disabilities to those with schizophrenia and noting "the impairment may be equally grave," including the capacity to "understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others.") (quoting *Atkins*, 536 U.S. at 318); *Bryan v. Mullin*, 335 F.3d 1207 (10th Cir. 2003) (Henry, J., concurring and dissenting in part) (the logic of the holding in *Atkins* that the deficiencies of people

with intellectual disabilities diminish their culpability, "applies no less to those in Mr. Bryan's shoes who suffer from severe mental deficiencies.").

In light of the similarities between intellectually disabled, juvenile, and severely mentally ill offenders, there is no rational basis for excluding the first two categories of offenders from the death penalty but allowing the punishment for the severely mentally ill. Severely mentally ill defendants are "no more culpable or deterrable, nor any more dangerous" than juveniles or intellectually disabled individuals. *See* Slobogin at 313. Continuing to execute the severely mentally ill despite the parallels with juveniles and the intellectually disabled demonstrates the type of "irrational prejudice" the *Cleburne* Court held unconstitutional and violates the Equal Protection Clause of the Fourteenth Amendment. *See Cleburne*, 473 U.S. at 450.

CONCLUSION

WHEREFORE, this Court should find there is a reasonable probability that he is entitled to relief because, based on his severe mental illness, Corcoran's death sentence and execution violate current standards of decency in violation of the Eighth Amendment or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article One, Section 16 of the Indiana Constitution.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been delivered through IEFS to the following, this 15th day of November 2024.

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