No. 15-31

IN THE

Supreme Court of the United States

ALFREDO PRIETO,

Petitioner,

v.

HAROLD W. CLARKE, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF OF CONSTITUTIONAL ACCOUNTABILITY CENTER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICUS CURIAE*[1]

Amicus Constitutional Accountability Center (CAC) is a think tank, public interest law firm, and action center dedicated to fulfilling the progressive promise of our Constitution's text and history. CAC works in our courts, through our government, and with legal scholars to improve understanding of the Constitution and preserve the rights and freedoms it guarantees. CAC has a strong interest in ensuring that the constitutional guarantees of due process of law and prohibition of cruel and unusual punishment are respected, in accordance with constitutional text, history, and values, and accordingly has an interest in this case.

SUMMARY OF ARGUMENT

The Petition for a Writ of Certiorari in this case presents important questions about the process that prisoners must be afforded before being placed in conditions that the court below described as "undeniably severe." Pet. App. 17a. As the Petition explains, Petitioner Alfredo Prieto is one of just eight inmates out of the 39,000 in the custody of the Virginia Department of Corrections who has been *permanently* assigned to solitary confinement. As a result of that assignment, Prieto has spent 23 hours or more alone

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[1] Counsel for all parties received notice at least 10 days prior to the due date of *amicus's* intention to file this brief; all parties have consented to the filing of this brief. Under Rule 37.6 of the Rules of this Court, *amicus* states that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

in a 71-square foot cell every day for the last seven years. Pet. 7.

Despite recognizing the "harsh[]" conditions in which Prieto has been forced to live for the past seven years, Pet. App. 17a, the court below, in a divided decision, held that Prieto has no right to any review of the conditions of his confinement because he could not "establish a protected liberty interest," *id.* at 4a. According to the court below, confinement conditions, no matter how atypical and harsh, can never give rise to a protected liberty interest in the absence of some state statute, regulation or policy that establishes that "liberty interest." The effect of the court's decision is to require Prieto and the other seven inmates in his situation (*i.e.*, those inmates currently on Virginia's death row) to remain in the severe and harsh conditions of solitary confinement without even the "minimalist [of] procedural safeguards," *id.* at 28a (Wynn, J., dissenting). As the dissenting judge observed, "the majority opinion reads [this Court's precedent] unnecessarily narrowly in signing off on Prieto's automatic, permanent, and unreviewable placement in the highly restrictive conditions of Virginia's death row." *Id.* at 20a.

As the Petition demonstrates, the question whether inmates must be able to point to an entitlement stemming from mandatory language in state law in order to establish a liberty interest protected by the Due Process Clause is an incredibly important one. Indeed, under the decision below, states essentially have "carte blanche to impose such 'undeniably severe' and 'perhaps . . . "dehumanizing"' hardships for years or even decades—regardless of inmates' behavior—without affording basic procedural safeguards to ensure that such conditions are necessary or appropriate." Pet. 34. It is also a question on

which, as the Petition shows, there is a serious and entrenched conflict in the lower courts. *See* Pet. 13-20.

This brief in support of the Petition explains that courts need not find determinative state statutory and regulatory language when considering whether there is a State-created liberty interest protected by the Due Process Clause. As one of the lower courts to have addressed this issue has explained, "the Supreme Court [has] abandoned the approach that the mandatory nature of statutory and regulatory language creates a liberty interest protected by the Due Process Clause, and held that the actual focus of the liberty interest inquiry is the nature of the deprivation that a prisoner suffers." *Thomas v. Ramos*, 130 F.3d 754, 760 (7th Cir. 1997). This brief further demonstrates that proper enforcement of the Due Process Clause is particularly important here in order to prevent solitary confinement from becoming so long-standing that it raises serious Eighth Amendment questions.

When the Reconstruction Framers drafted the Fourteenth Amendment, they were embracing an enduring American constitutional tradition that all persons, including those who are incarcerated, are entitled to "due process of law" before they are deprived of "life, liberty, or property." U.S. Const. amend. XIV, § 1; *see Wolff v. McDonnell*, 418 U.S. 539, 556 (1974) ("Prisoners may also claim the protections of the Due Process Clause. They may not be deprived of life, liberty, or property without due process of law."). This Court has long recognized that the States may create liberty interests protected by the Fourteenth Amendment, and the proper method for determining whether a State has interfered with such an interest is by looking to the "nature of the deprivation" im-

posed by the State. *Sandin v. Conner*, 515 U.S. 472, 481 (1995). As this Court explained in *Sandin*, state-created liberty interests protected by the Due Process Clause include an inmate's interest in avoiding "atypical and significant hardship. . . in relation to the ordinary incidents of prison life." *Id.* at 484. As the Petition explains, the restrictive conditions to which Prieto is subject clearly qualify as such a hardship. Pet. 34-35.

It is particularly important that the procedural protections guaranteed by the Due Process Clause be provided in this context because of the serious Eighth Amendment concerns raised by long-term solitary confinement. When the Framers added the Eighth Amendment's ban on "cruel and unusual punishment" to our national charter, they were adopting a long-standing English common law prohibition on punishment that was disproportionate to the offense committed. Reflecting that history, this Court has repeatedly recognized that "[t]he Eighth Amendment's prohibition of cruel and unusual punishment 'guarantees individuals the right not to be subjected to excessive sanctions.'" *Miller v. Alabama*, 132 S. Ct. 2455, 2463 (2012) (quoting *Roper v. Simmons*, 543 U.S. 551, 560 (2005)).

By concluding that Prieto is entitled to no protection under the Due Process Clause, the court below has allowed him to be placed and kept in solitary confinement on a permanent basis without any showing by the State that such restrictive conditions of confinement are justified by either his offense or the Department of Corrections' institutional needs. Such long-term placement in solitary confinement raises serious Eighth Amendment concerns because, as numerous studies have shown, the psychological damage caused by long-term solitary confinement is in-

credibly severe—so incredibly severe as to be excessive with respect to virtually all prisoners. These serious Eighth Amendment concerns simply underscore the importance of providing to Prieto and others in his situation at least some due process protections before they are consigned to live in such "harsh[]" and "undeniably severe" conditions, Pet. App. 17a.

Amicus urges the Court to grant certiorari and reverse the erosion of the protections provided by the Due Process Clause countenanced by the decision below.

ARGUMENT

THIS COURT SHOULD GRANT REVIEW TO CLARIFY THAT STATES MUST AFFORD DUE PROCESS BEFORE ASSIGNING INMATES TO ATYPICAL AND SEVERE CONDITIONS OF CONFINEMENT, INCLUDING LONG-TERM SOLITARY CONFINEMENT

A. The Due Process Clause Requires States To Provide Some Procedural Protections Before Assigning Inmates to Harsh and Atypical Conditions

The Fourteenth Amendment provides that "[n]o State shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. Initially included in the Fifth Amendment, the Due Process Clause was derived from Magna Carta, *Murray v. Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 276 (1855), one provision of which provided that "[n]o Freeman shall be taken, or any otherwise imprisoned, or be disseized of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or destroyed . . . but by lawful Judgment of his Peers, or by the Law of the

Land." Edward J. Eberle, *Procedural Due Process: The Original Understanding*, 4 Const. Comment. 339, 340 (1987) (translation quoting original Latin of Magna Carta, 1225, 9 Hen. 3, c. 29); *see Murray*, 59 U.S. at 276 ("The words, 'due process of law,' were undoubtedly intended to convey the same meaning as the words, 'by the law of the land,' in Magna Charta. Lord Coke, in his commentary on those words, says they mean due process of law." (citation omitted)).

As the text of the Fourteenth Amendment makes clear, this broad due process guarantee was enacted to "disable a State from depriving not merely a citizen of the United States but any person, whoever he may be, of life, liberty, or property without due process of law." Cong. Globe, 39th Cong., 1st Sess. 2766 (1866) (Sen. Jacob Howard); *id.* at 1094 (Rep. John Bingham) ("no man, no matter what his color, no matter beneath what sky he may have been born, . . . no matter how poor, no matter how friendless, no matter how ignorant, shall be deprived of life or liberty or property without due process of law—law . . . which is impartial, equal, exact justice"). By ensuring some process before an individual is deprived of "life, liberty, or property," the Due Process Clause "expresses the requirement of 'fundamental fairness.'" *Lassiter v. Dep't of Social Servs. of Durham Cnty., N.C.*, 452 U.S. 18, 24 (1981).

As this Court has long recognized, that requirement of "fundamental fairness" extends to prisoners. *Wolff*, 418 U.S. at 555 ("a prisoner is not wholly stripped of constitutional protections when he is imprisoned for crime" because "[t]here is no iron curtain drawn between the Constitution and the prisons of this country"). And it can also apply to prison disciplinary proceedings and other conditions of the prisoners' confinement. *See id.* at 557; *see also, e.g.*, *Vitek*

v. Jones, 445 U.S. 480 (1980) (involuntary transfer to a state mental hospital); *Washington v. Harper*, 494 U.S. 210 (1990) (involuntary administration of psychotropic drugs).

This Court has also made clear that a liberty interest protected by the Due Process Clause may arise from the Constitution itself, *see, e.g.*, *Vitek*, 445 U.S. at 480, or be created by the State, *see, e.g.*, *Wolff*, 418 U.S. at 557; *see also Meachum v. Fano*, 427 U.S. 215, 226 (1976) ("[t]he liberty interest protected in Wolff had its roots in state law"); *see generally Wilkinson v. Austin*, 545 U.S. 209, 221 (2005) ("A liberty interest may arise from the Constitution itself, by reason of guarantees implicit in the word 'liberty,' or it may arise from an expectation or interest created by state laws or policies." (internal citations omitted)).

In *Wolff*, for example, this Court recognized that although Nebraska did not have to create a system of good-time credits that could result in a shortened sentence, its decision to do so could create liberty interests protected by the Due Process Clause. As the Court explained,

> having created the right to good time and itself recognizing that its deprivation is a sanction authorized for major misconduct, the prisoner's interest has real substance and is sufficiently embraced within Fourteenth Amendment 'liberty' to entitle him to those minimum procedures appropriate under the circumstances and required by the Due Process Clause to insure that the state-created right is not arbitrarily abrogated.

418 U.S. at 557; *see id.* (noting that "[t]his analysis as to liberty parallels the accepted due process analysis as to property"). The importance of the protections of

the Due Process Clause is no less significant when the liberty interest is created by the State, rather than the Due Process Clause itself, as this Court emphasized in *Wolff*: "We think a person's liberty is equally protected, even when the liberty itself is a statutory creation of the State" because "[t]he touchstone of due process is protection of the individual against arbitrary action of government." *Id.* at 558 (citing *Dent v. West Virginia*, 129 U.S. 114, 123 (1889)).

As this Court explained in *Sandin v. Conner*, 515 U.S. 472 (1995), the Court's approach to "defining state-created liberty interests" has changed somewhat over time. *Id.* at 479. For a period, the Court stopped "looking to whether the State created an interest of 'real substance' comparable to the good time credit scheme of *Wolff*," and instead "asked whether the State had gone beyond issuing mere procedural guidelines and had used 'language of an unmistakably mandatory character' such that incursion on liberty would not occur 'absent specified substantive predicates.'" *Id.* at 480 (quoting *Hewitt v. Helms*, 459 U.S. 460, 471-72 (1983)); *see id.* ("As this methodology took hold, no longer did inmates need to rely on a showing that they had suffered a '"grievous loss"' of liberty retained even after sentenced to terms of imprisonment." (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972))).

In *Sandin*, this Court signaled that it was time to return to the earlier approach in which it looked to "the 'nature' of the interest with respect to interests allegedly created by the State," *id.* (quoting *Morrissey*, 408 U.S. at 481), and it identified some of the problems that had been caused by "shifting the focus of the liberty interest inquiry to one based on the language of a particular regulation, and not the nature

of the deprivation," *id.* at 481. As this Court explained, "the search for a negative implication from mandatory language in prisoner regulations has strayed from the real concerns undergirding the liberty protected by the Due Process Clause. The time has come to return to the due process principles we believe were correctly established and applied in *Wolff* and *Meachum*." *Id.* at 483. This Court also made clear what those due process principles require:

> [State-created liberty interests] will be generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force, nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.

Id. at 484 (internal citations omitted).

In *Wilkinson*, this Court underscored how *Sandin* had changed the Court's approach to determining whether the State has created a liberty interest in avoiding certain prison conditions, noting that *Sandin* "criticized [the pre-existing] methodology" of looking to particular state regulations and therefore "abrogated" that methodology. 545 U.S. at 222. Thus, "[a]fter *Sandin*, it is clear that the touchstone of the inquiry into the existence of a protected, state-created liberty interest in avoiding restrictive conditions of confinement is not the language of regulations regarding those conditions but the nature of those conditions themselves 'in relation to the ordinary incidents of prison life.'" *Id.* at 223 (quoting *Sandin*, 515 U.S. at 484). More specifically, "[t]he *Sandin* standard requires [this Court] to determine if [the particular restrictive condition at issue] 'imposes atypical and significant hardship on the inmate in

relation to the ordinary incidents of prison life.'" *Id.* (quoting *Sandin*, 515 U.S. at 484).

By holding that the imposition of "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life" does not implicate a protected State-created liberty interest, *see* Pet. App. 8a, the court below misapplied this Court's clear precedent on when the Due Process Clause must be applied to restrictive prison conditions. Enforcement of the Due Process Clause's protections is particularly important in this context because of the serious Eighth Amendment concerns raised by the long-term solitary confinement permitted by the decision below, as the next Section demonstrates.

B. Enforcement of the Due Process Clause's Protections Is Particularly Important Here Because of the Serious Eighth Amendment Concerns Raised by Long-Term Solitary Confinement

The Eighth Amendment provides that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII. As this Court has long recognized, the Eighth Amendment prohibits punishments that are not only barbaric, but also excessive. *See, e.g.*, John F. Stinneford, *Rethinking Proportionality Under the Cruel and Unusual Punishment Clause*, 97 Va. L. Rev. 899, 910 (2011) ("The Supreme Court has held for the past century that the Cruel and Unusual Punishments Clause prohibits excessive punishments as well as barbaric ones."); *see also Solem v. Helm*, 463 U.S. 277, 284 (1983) ("The final clause [of the Eighth Amendment] prohibits not only barbaric punishments, but also sentences that are disproportionate to the crime committed.").

This prohibition on excessive punishment has ancient roots. As one scholar has noted, "[t]he idea that the punishment should fit the crime is as old as Western civilization," and it is "a longstanding theme in the English common law tradition." Stinneford, *supra*, at 927; *see id.* at 931 ("William Bracton, whose work *On the Laws and Customs of England* was the most comprehensive treatment of English law before Blackstone, wrote: 'It is the duty of the judge to impose a sentence no more and no less severe than the case demands.'" (quoting 2 William Bracton, *On the Laws and Customs of England* 299 (Samuel E. Thorne trans., Harvard Univ. Press 1968) (1300))); 4 William Blackstone, *Commentaries on the Laws of England* ch. 1 (1765-1769) ("It is . . . absurd and impolitic to apply the same punishment to crimes of different malignity."). Indeed, "[w]hat differentiates the English (and later the American) legal tradition from that of other societies is that the principle of proportionality in sentencing . . . was embodied in documents meant to impose such limits: Magna Carta, the English Bill of Rights, and the United States Constitution." Stinneford, *supra*, at 928.

The Magna Carta, for example, included three chapters that "addressed the problem of excessive amercements," the demands that the King would impose on individuals who committed a criminal offense. *Id.* at 929, 928. Chapter 20 provided that "[f]or a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood," Magna Carta of 1215, *available at English Translation of Magna Carta*, The British Library, http://www.bl.uk/magna-carta/articles/magna-carta-english-translation (last visited July 24, 2015), while chapters 21 and 22 pro-

vided that earls, barons, and clergy "shall be fined only . . . in proportion to the gravity of their offence." *Id.*; *see* Stinneford, *supra*, at 930 (explaining that the Magna Carta prohibitions were "not mere words" because "[s]ome evidence suggests that in the thirteenth and fourteenth centuries, the proscription against excessive amercements was enforced through the writ *de moderata misericordia*"). This "principle of proportionality also appears to have been considered applicable to cases involving sentences of imprisonment, although this form of punishment was rare prior to the eighteenth century." *Id.* at 931.

This same principle of proportionality was reflected in the English Bill of Rights, which imposed a limitation on the English sovereign in language strikingly similar to that eventually included in the Eighth Amendment: "That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." English Bill of Rights 1689: An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown, *available at English Bill of Rights 1689*, Yale L. Sch. Library, http://avalon.law.yale.edu/17th_century/england.asp (last visited July 24, 2015); *see* Stinneford, *supra*, at 932-37 (discussing cases in which the British Parliament assessed the legality of sentences by considering whether they were excessive to the crime committed).

Thus, when the Framers of the Eighth Amendment incorporated the "cruel and unusual punishments" prohibition in our national charter, they were acting against the backdrop of the long-established meaning of those terms. *See* Stinneford, *supra*, at 939 (noting that "[t]he phrase 'cruel and unusual' was consistently used as a synonym for 'excessive' in two major areas of law outside criminal punishment"); *see*

also id. at 939-42. Further, they incorporated this prohibition on "cruel and unusual punishments," including those that are excessive in relation to the crime committed, because they viewed that prohibition as a fundamental part of their common law heritage and the Bill of Rights as their means of ensuring that the federal government would respect that common law heritage. *Id.* at 943-44.

Reflecting this history, this Court has repeatedly recognized that "[t]he Eighth Amendment's prohibition of cruel and unusual punishment 'guarantees individuals the right not to be subjected to excessive sanctions.'" *Miller*, 132 S. Ct. at 2463 (quoting *Roper*, 543 U.S. at 560). As this Court has explained, this right "flows from the basic '"precept of justice that punishment for crime should be graduated and proportioned to [the] offense,"'" *Roper*, 543 U.S. at 560 (quoting *Atkins v. Virginia*, 536 U.S. 304, 311 (2002)), and by extending this protection even to "those convicted of heinous crimes, the Eighth Amendment reaffirms the duty of the government to respect the dignity of all persons," *id.*

By concluding that Prieto is entitled to no protection under the Due Process Clause, the court below permitted him to be placed and kept in solitary confinement on a permanent basis. Such long-term placement in solitary confinement raises serious Eighth Amendment concerns because such restrictive and dehumanizing conditions are likely excessive with respect to virtually all inmates, even those who committed capital offenses.[2] Moreover, by eschewing

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[2] Although this brief argues that permanent solitary confinement raises Eighth Amendment concerns because it is likely excessive with respect to virtually all inmates, *amicus* notes that such long-term solitary confinement might also constitute

any kind of assessment into whether a particular inmate's placement in solitary confinement is appropriate in light of his individual security needs, a state's failure to extend due process at minimum increases the risk that at least some inmates' placement in long-term solitary confinement will be sharply excessive to their individual circumstances. As Justice Kennedy noted just last Term, "[t]he human toll wrought by extended terms of isolation long has been understood, and questioned, by writers and commentators." *Davis v. Ayala*, 135 S. Ct. 2187, 2209 (2015) (Kennedy, J., concurring); *see id.* at 2210 ("research still confirms what this Court suggested over a century ago: Years on end of near-total isolation exact a terrible price"); *see also In re Medley*, 134 U.S. 160, 170 (1980) (solitary confinement carries "'a further terror and peculiar mark of infamy'").

Indeed, numerous studies have documented the severe psychological strain that solitary confinement imposes. As one expert in the field has explained, "[t]he restriction of environmental stimulation and social isolation associated with confinement in solitary are strikingly toxic to mental functioning," producing "florid delirium—a confusional psychosis" in some inmates. Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 Wash. U. J.L. & Pol'y 325,

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barbarous treatment and be prohibited by the Eighth Amendment for that reason, as well. *See, e.g.*, John F. Cockrell, *Solitary Confinement: The Law Today and the Way Forward*, 37 Law & Psychol. Rev. 211, 213 (2013) ("Given the symptoms associated with solitary confinement, the word 'torture' may not be an inappropriate description of the conditions imposed."); Jules Lobel, *Prolonged Solitary Confinement and the Constitution*, 11 U. Pa. J. Const. L. 115, 122 (2008) ("International law also supports the proposition that very lengthy, virtually permanent conditions of harsh solitary confinement constitute either torture or cruel, inhuman, and degrading treatment.").

354 (2006); *see* Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 Am. J. Psychiatry 1450, 1452 (1983) (describing how inmates often hallucinated, heard voices, and experienced "shortness of breath, panic, tremulousness, and dread of impending death"). Indeed, one study found that the conditions of solitary confinement were so severe and difficult that almost every prisoner living under such conditions attempted to commit suicide. S*ee* Amicus Brief of Professors and Practitioners of Psychology and Psychiatry in Support of Respondent, *Wilkinson*, 545 U.S. 209 (2005), (No. 04-495), 2005 WL 539137, at *16 (2005) [hereinafter Psychology Amicus Brief] (citing Thomas B. Benjamin & Kenneth Lux, *Constitutional and Psychological Implications of the Use of Solitary Confinement: Experience at the Maine Prison*, 9 Clearinghouse Rev. 83-90 (1975)); *see generally In re Medley*, 134 U.S. at 168 (noting that after a short confinement in solitary confinement, "[a] considerable number of the prisoners fell . . . into a semifatuous condition . . . and others became violently insane; others still, committed suicide"). These accounts are not anomalous; as three psychiatrists put it, "the overall consistency of these findings—the same or similar conclusions reached by different researchers examining different facilities, in different parts of the world, in different decades, using different research methods—is striking." Psychology Amicus Brief, *supra*, at *22; *see* Lobel, *supra* note 2, at 118 ("'[n]o study of the effects of solitary . . . that lasted longer than 60 days failed to find evidence of negative psychological effects'" (quoting Psychology Amicus Brief*, supra*, at *4).

The results of these studies are unsurprising, as solitary confinement denies prisoners the basic human need of social interaction. Without such interac-

tion, humans lose the ability to "establish and sustain a sense of identity and to maintain a grasp on reality." Elizabeth Bennion, *Banning the Bing: Why Extreme Solitary Confinement Is Cruel and Far Too Usual Punishment*, 90 Ind. L.J. 741, 776 (2015). One individual who had been in isolation for almost twenty-five years described his confinement as a "slow constant peeling of the skin, stripping of the flesh." Lobel, *supra*, at 116. Senator John McCain, who spent more than two years in isolation as a POW in North Vietnam, described how solitary confinement "crushes your spirit and weakens your resistance more effectively than any other form of mistreatment." Atul Gawande, *Hellhole*, The New Yorker, Mar. 30, 2009, at 38, http://www.newyorker.com/magazine/2009/03/30/hellhole.

In sum, the accounts of individuals who have spent extended periods of time in solitary confinement confirm what countless studies make clear: solitary confinement, especially long-term solitary confinement, is so inhumane and dehumanizing as to be excessive in relation to virtually any individual. By denying any Due Process protections to Prieto and the other inmates on Virginia's death row before they were placed in solitary confinement, the court below condemned those individuals to permanent isolation, an isolation that is so psychologically damaging and harsh that it may well violate the Eighth Amendment's prohibition on "cruel and unusual" punishment.

This Court should grant certiorari and hold that Petitioner is entitled to due process protections before being placed in the "undeniably severe" conditions (Pet. App. 17a) of long-term solitary confinement.

CONCLUSION

For the foregoing reasons, *amicus* urges the Court to grant the Petition for a Writ of Certiorari.

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