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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
13 **IN AND FOR THE COUNTY OF PINAL**

14 STATE OF ARIZONA,

15 Plaintiff,

16 vs.

17 CLARENCE WAYNE DIXON,

18 Defendant.

Case No. CR2002-019595

**MOTION TO DETERMINE  
MENTAL COMPETENCY TO BE  
EXECUTED**

**(Oral Argument Requested)**

**(Capital Case)**

19 Clarence Dixon is a 66-year-old legally blind man of Native American ancestry,  
20 who has long suffered from a psychotic disorder—paranoid schizophrenia. Previously, an  
21 Arizona court determined that he was mentally incompetent and legally insane. Mr. Dixon  
22 has a documented history of delusions, auditory and visual hallucinations, and paranoid  
23 ideation.

24 On April 5, 2022, the Arizona Supreme Court issued a warrant of execution  
25 scheduling Mr. Dixon’s execution date for May 11, 2022. Warrant of Execution, *State v.*  
26 *Dixon*, No. CR-08-0025-AP (Ariz. Apr. 5, 2022); *see also* Ariz. R. Crim. P. 31.23(c). Mr.  
27 Dixon’s execution by the State of Arizona will violate A.R.S. § 13-4021, which prohibits  
28 the State from executing an individual who is mentally incompetent to be executed. Mr.

1 Dixon’s execution will also violate the Eighth Amendment to the United States  
2 Constitution and corresponding provisions of the Arizona Constitution which “prohibit[]  
3 a State from carrying out a sentence of death upon a prisoner who is insane.” *Ford v.*  
4 *Wainwright*, 477 U.S. 399, 409-10 (1986); *State v. Davis*, 206 Ariz. 377, 380–81 ¶¶ 12–  
5 13 (2003) (interpreting the prohibition against cruel and unusual punishment contained in  
6 Article 2, Section 15 of the Arizona Constitution consistently with the Eighth Amendment  
7 to the U.S. Constitution).

8 As set forth below, Mr. Dixon’s mental illness renders him incompetent to be  
9 executed by depriving him of the ability to rationally comprehend the meaning and  
10 purpose of the punishment the State of Arizona seeks to exact by his execution—that is,  
11 Mr. Dixon’s mental illness thwarts his ability to form a rational understanding of the  
12 State’s reasons for his execution. *See Madison v. Alabama*, 139 S. Ct. 718, 723 (2019).  
13 Because Mr. Dixon “presents reasonable grounds” in support of his request for a  
14 determination of his mental competency to be executed, he respectfully asks the Court to  
15 grant the instant motion. *See* A.R.S. § 13-4022(C). This request is supported by the  
16 accompanying memorandum.

## 17 Memorandum of Points and Authorities

### 18 I. Arizona’s definition of incompetency to be executed is unconstitutional

19 A person who is sentenced to death shall not be executed if he is mentally  
20 incompetent to be executed. A.R.S. § 13-4021(A). A prisoner’s attorney may file a motion  
21 in the superior court requesting the court to order that the prisoner be examined for mental  
22 competency to be executed. A.R.S. § 13-4022. If the superior court determines that the  
23 motion is timely and presents reasonable grounds for the requested examination, the court  
24 must appoint experts to determine whether the prisoner is incompetent to be executed.  
25 A.R.S. § 13-4022(C). After the examinations are completed, the court may conduct a  
26 hearing, during which all parties may present evidence regarding the prisoner’s  
27 competency to be executed. A.R.S. § 13-4022(E).

28 A.R.S. § 13-4021 sets forth the standard for mental incompetency to be executed,

1 providing that “[m]entally incompetent to be executed’ means that due to a mental  
2 disease or defect a person who is sentenced to death is presently unaware that he is to be  
3 punished for the crime of murder or that he is unaware that the impending punishment for  
4 that crime is death.” A.R.S. § 13-4021(B).

5 Arizona’s standard for adjudicating an individual’s competency to be executed  
6 conflicts with the federal constitutional standard. The controlling competency standard  
7 was defined by the Supreme Court in *Panetti v. Quarterman* where it held that mental  
8 competence requires a prisoner to be able to “reach a rational understanding of the reason  
9 for the execution.” 551 U.S. 930, 958 (2007). The Court repudiated the awareness standard  
10 (like the one in Arizona’s statute), holding that a competency standard that only examines  
11 “whether a prisoner is aware ‘that he [is] going to be executed and why he [is] going to  
12 be executed’” is “too restrictive to afford a prisoner the protections granted by the Eighth  
13 Amendment. *Id.* at 956-57 (alteration in original). The Court held that a prisoner’s simple  
14 awareness that he is going to be executed and his “awareness of the State’s rationale for  
15 an execution” is insufficient. *Id.* at 959. The prisoner must also have a rational  
16 understanding of the State’s reason for the execution. *Id.* The Court reasoned that “[t]he  
17 principles set forth in *Ford* are put at risk by a rule that deems delusions relevant only  
18 with respect to the State’s announced reason for a punishment or the fact of an imminent  
19 execution, as opposed to the real interests the State seeks to vindicate.” *Id.* (internal  
20 citation omitted).

21 Arizona’s standard for competency unconstitutionally narrows review to a  
22 prisoner’s awareness of the crime for which he is to be punished and of the impending  
23 punishment of death. Arizona’s “awareness standard” for incompetency to be executed  
24 was held unconstitutional in *Panetti*. After *Panetti*, “[t]he critical question is whether a  
25 ‘prisoner’s mental state is so distorted by a mental illness’ that he lacks a ‘rational  
26 understanding’ of ‘the Sate’s rationale for [his] execution.’ Or similarly put, the issue is  
27 whether a ‘prisoner’s concept of reality’ is ‘so impair[ed]’ that he cannot grasp the  
28 execution’s ‘meaning and purpose’ or the ‘link between [his] crime and its punishment.’”

1 *Madison*, 139 S. Ct. at 723 (alteration in original) (internal citation omitted).

2 **II. Clarence Dixon is incompetent to be executed.**

3 Mr. Dixon is presently unable to form a rational understanding of the State’s reason  
4 for his execution rendering him incompetent to be executed. *Madison*, 139 S. Ct. at 723.  
5 His “‘concept of reality’ is ‘so impair[ed]’ that he cannot grasp the execution’s ‘meaning  
6 and purpose’ or the ‘link between [his] crime and its punishment.’” *Id.*

7 **A. There is substantial evidence demonstrating that Mr. Dixon is mentally**  
8 **incompetent to be executed**

9 As explained below, there is substantial evidence demonstrating that Mr. Dixon is  
10 not competent to be executed. Accordingly, in accordance with the procedures required  
11 by A.R.S. § 13-4022(A), Mr. Dixon’s counsel requests that this Court order forthwith that  
12 Mr. Dixon be examined for mental competency under the governing constitutional  
13 standard.

14 **B. This motion is timely**

15 A motion for an examination under A.R.S. § 13-4022 is untimely if it is “filed  
16 fewer than twenty days before a scheduled execution[.]” A.R.S. § 13-4024(A). This  
17 motion is timely because it is being filed more than twenty days before Mr. Dixon’s May  
18 11, 2022 scheduled execution date.

19 **C. This motion presents reasonable grounds for the requested**  
20 **examination**

21 The evidence demonstrates that Mr. Dixon is incompetent to be executed. He  
22 suffers from a psychotic mental disorder, paranoid schizophrenia, which is a severe mental  
23 illness expressed in delusional thinking and auditory and visual hallucinations. His mental  
24 illness has previously resulted in findings of incompetency and insanity. More recently,  
25 Lauro Amezcua-Patino, M.D., a clinical and forensic psychiatrist, has determined that Mr.  
26 Dixon lacks a rational understanding of the State’s reasons for his execution. Mr. Dixon  
27 has thus presented a *prima facie* case demonstrating his incompetency to be executed  
28 under *Panetti*, and therefore there are “reasonable grounds for the requested examination.”

1 A.R.S. § 13-4022(C).

2 **i. Clarence Dixon’s history of incompetency and mental illness**

3 Mr. Dixon has a long and well-documented history of severe mental illness,  
4 including prior findings of incompetency, a legal finding of not guilty by reason of  
5 insanity (NGRI), and multiple diagnoses of paranoid schizophrenia.

6 In 1977, Mr. Dixon was arrested for an assault; his bizarre behavior both during  
7 and after the offense immediately led to questions as to his mental competency. The  
8 superior court trial judge referred him for Rule 11 competency proceedings. As a result,  
9 in September 1977, Mr. Dixon was found incompetent by two different court-appointed  
10 psychiatrists. One of the psychiatrists determined that Mr. Dixon lacked the mental  
11 capacity to “make competent decisions regarding the waiver of [his legal] rights” and that  
12 his understanding of the consequences of entering a plea of guilty “is not rational.” (Ex. 1  
13 at 1.) The other court-appointed psychiatrist found that Mr. Dixon was unable to “assist  
14 counsel in the preparation of his defense. At this time he presents symptoms of  
15 undifferentiated schizophrenia, in partial remission.” (Ex. 2 at 3.) Both psychiatrists found  
16 that Mr. Dixon legally incompetent and he was committed to the Arizona State Hospital  
17 (ASH). *See Pate v. Robinson*, 383 U.S. 375, 378 (1966) (conviction of an accused while  
18 he is legally incompetent violates due process). He was released from ASH approximately  
19 two months later, after a third psychiatrist found he regained competency to stand trial.

20 At trial for the 1977 assault, Mr. Dixon was found NGRI and released. However,  
21 recognizing Mr. Dixon’s serious mental illness and his corresponding need for in-patient  
22 treatment, the trial judge also ordered the State to commence civil commitment  
23 proceedings. (Ex. 3.) The murder, for which Mr. Dixon is sentenced to death in these  
24 current proceedings, occurred on January 7, 1978, less than 48 hours after the trial judge  
25 had ordered the State to institute civil commitment proceedings. (Ex. 4.)

26 Subsequently, in 1981, a psychological evaluation of Mr. Dixon administered by  
27 the Arizona Department of Corrections described symptoms consistent with his paranoid  
28 schizophrenic psychotic disorder, reporting that he “operates on an intuitive, feeling level,

1 with much less regard for rationality and hard facts,” and that he experiences “grossly  
2 disturbed perceptual and thought patterns, clear paranoid ideation, feelings of frustration,  
3 and moderate agitation.” (Ex. 5 at 1, 2.) The evaluation recorded that Mr. Dixon’s mental  
4 illness was “producing inefficiency of intellectual functioning[.]” (Ex. 5 at 1) and  
5 concluded that he was a “severely confused and disturbed prisoner” (Ex. 5 at 2).

6 In November 2002, Mr. Dixon was indicted for the 1978 murder based on the  
7 discovery of inculpatory DNA evidence. (Ex. 4.) At the time of the 2002 indictment, Mr.  
8 Dixon was already serving seven life sentences for 1985 convictions arising out of a sexual  
9 assault of a Northern Arizona University (“NAU”) student. It was in 1995, during Mr.  
10 Dixon’s incarceration on the 1985 convictions, that the Department of Corrections  
11 collected a DNA sample from Mr. Dixon which ultimately linked him to 1978 murder.

12 But long before his 2002 indictment for the 1978 murder, Mr. Dixon had embraced  
13 what amounts to a psychotically driven delusional belief that the incident leading to his  
14 1985 conviction for the assault on the NAU student resulted from a wrongful arrest by the  
15 NAU Police—an agency he believed not to be a legal entity. (*See* Ex. 6 at 3.) This  
16 delusional thinking had no basis in fact for twofold reasons: first, the NAU Police  
17 Department was a legal entity, but second, even if it was not a legal entity it would have  
18 made no difference—Mr. Dixon was not arrested by the NAU Police; rather he was  
19 *lawfully* arrested by the Flagstaff City Police. (*See* Ex. 6 at 3.) Relevant here, however,  
20 his delusional beliefs, and the inability to distinguish what is real from what is pure  
21 fantasy, eventually spilled over into the capital murder proceedings.

22 During his capital trial, Mr. Dixon fired his court-appointed attorneys and decided  
23 to represent himself, after his counsel concluded they could not ethically raise a *false*  
24 claim. The *false* claim Mr. Dixon wanted his counsel to raise resulted from his delusional  
25 belief that his DNA sample had been wrongfully obtained. He imagined (without basis in  
26 fact) that had he not been wrongfully arrested by the NAU Police, he would not have been  
27 incarcerated in the Department of Corrections for the assault on the NAU student and his  
28 DNA sample would never have been obtained and linked to the 1978 murder. (*See* Ex. 6

1 at 3.)

2 In other words, Mr. Dixon's delusional rationale for firing his counsel was based  
3 on his irrational belief that the DNA sample taken from him in 1995, while incarcerated  
4 for sexually assaulting a NAU student ten years earlier, was inadmissible in his capital  
5 case because the NAU Police were not a legal entity when they arrested him in 1985. (Ex.  
6 6 at 1.) This claim, however, was based on a complete fantasy, it lacked *any* basis in fact:  
7 Mr. Dixon had not been arrested by the NAU Police; what's more, records prove he had  
8 been lawfully arrested by the Flagstaff City Police and the collection of the DNA sample  
9 by Department of Corrections staff in 1995 had no connection to Mr. Dixon's *lawful* arrest  
10 for the 1985 offenses.

11 After Mr. Dixon senselessly fired his capital trial counsel so that he could raise the  
12 meritless NAU issue, he immediately filed a Motion to Suppress the DNA evidence based  
13 on the NAU issue and, when the trial court denied his motion he filed a special action in  
14 the Arizona Supreme Court, which was also denied. While ineffectively representing  
15 himself, Mr. Dixon was convicted and sentenced to death.

16 For almost thirty years, Mr. Dixon has been unable to overcome his psychotically  
17 driven belief that the NAU Police lacked authority to investigate and arrest him in 1985,  
18 that therefore his 1985 conviction was illegal, and his DNA was illegally obtained, thereby  
19 voiding his murder conviction. He has obsessed over this issue ("the NAU issue"),  
20 preparing and submitting an unending stream of pro se filings in state and federal courts.  
21 Mr. Dixon first raised the NAU issue in a pro se petition for postconviction relief in July  
22 1991, well before he was indicted for the 1978 murder. That petition was denied<sup>1</sup> and  
23 affirmed on appeal<sup>2</sup>

24 In December 1992, Mr. Dixon wrote five letters in 18 days to his appellate counsel  
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27 <sup>1</sup> Minute Entry, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Dec. 16, 1991).

28 <sup>2</sup> Memorandum Decision, *State v. Dixon*, No. 1 CA-CR 92-0171-PR (Ariz. Ct. App. Dec. 3, 1992).

1 about the NAU issue.<sup>3</sup> Then, in a letter to the superior court judge, Mr. Dixon claimed that  
2 he was “greatly harmed” because his appellate lawyer “did not include the most important  
3 and possibly most valid claim” in the reconsideration motion that appellate counsel filed  
4 in the court of appeals.<sup>4</sup> At the same time, Mr. Dixon wrote to the court of appeals judges  
5 regarding appellate counsel’s “anemic motion” and filed a pro se supplement where he  
6 claimed IAC of trial counsel “in several areas but none so significant as to whether the  
7 [NAU] police had lawful authority to exist and execute police powers.”<sup>5</sup> In February 1993,  
8 Mr. Dixon again wrote to the superior court judge stating that he filed a Bar complaint  
9 against appellate counsel and was seeking possible legal action.<sup>6</sup>

10 Also in February 1993, he filed his first pro se filing, a petition for writ of habeas  
11 corpus, in the Arizona Supreme Court alleging the NAU Police had no authority to gather  
12 evidence. The court denied his petition and subsequent petition for review. Five months  
13 later, in February 1994, he filed a petition for writ of habeas corpus in Pinal County  
14 Superior Court claiming he was illegally confined because the NAU officers lacked  
15 authority to enforce Arizona laws. The court transferred his case to Coconino County. He  
16 then filed a petition for special action in Pinal County, which was dismissed in July 1994.  
17 Six weeks later, in August 1994, he filed a notice of postconviction relief in Coconino  
18 County and then filed his petition about two months later. On April 14, 1995, his petition  
19 was denied. His subsequent petitions for review were denied. In October 2001, he filed a  
20 petition for postconviction relief in Coconino County, which was denied four months later  
21 in February 2002. He filed two petitions for review in 2002 and 2003 that were denied.

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23 <sup>3</sup> See Letter to Judge Richard Mangum from Clarence Dixon at 1, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Jan. 12, 1993)

24 <sup>4</sup> Letter to Judge Richard Mangum from Clarence Dixon at 2, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Jan. 12, 1993)

25 <sup>5</sup> Letter to Judges of the Court of Appeals from Clarence Dixon, *State v. Dixon*, No. 1 CA-CR 92-0171-PR (Ariz. Ct. App. Jan. 13, 1993); Supplement to Motion for Reconsideration at 5, *State v. Dixon*, No. 1 CA-CR 92-0171-PR (Ariz. Ct. App. Jan. 13, 1993)

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28 <sup>6</sup> Letter to Judge Richard Mangum from Clarence Dixon, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Feb. 1, 1993)



1 During the pendency of his capital trial and appeals, he has repeatedly raised this issue  
2 with counsel and continues to raise this issue. In 2021, he filed pro se petitions for habeas  
3 corpus in the Arizona Supreme Court and a petition for a writ of certiorari in the United  
4 States Supreme Court. His certiorari petition was denied on March 21, 2022.

5 In all, Mr. Dixon has initiated proceedings related to his NAU issue 27 times in  
6 eight different courts: three county superior courts, the state court of appeals and supreme  
7 court, the federal district and ninth circuit courts, and most recently, the U.S. Supreme  
8 Court. Mr. Dixon believes, without basis in reality, that his NAU issue is “rooted in  
9 constitutional principles of law[.]”<sup>7</sup> and “Black Letter Law . . . which plainly states that  
10 issues of jurisdiction may be brought at any time[.]”<sup>8</sup> This is despite prior counsel, and  
11 several courts, explaining to him why his NAU claim is factually baseless and fails on the  
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13 <sup>7</sup> See, e.g., Petition for Writ of Habeas Corpus at 3, *Dixon v. McFadden*, No. HC-93-0006  
14 (Ariz. Feb. 16, 1993); Petition for Review at 7, 9, *State v. Dixon*, No. 1 CA-CR 96-0427-  
15 PR (Ariz. Ct. App. June 4, 1996); Petition for Review at 7, 9, *State v. Dixon*, No. 1 CA-  
16 CR 95-831-PR (Ariz. Ct. App. June 20, 1996); Petition for Review at 5, 8, *State v. Dixon*,  
17 No. CR-96-0447-PR (Ariz. August 6, 1996); Memorandum to Petition for Writ of Habeas  
18 Corpus at 9, *Dixon v. Stewart*, No. 97-cv-00250 (D. Ariz. Feb. 6, 1997); Reply to  
19 Supplement to Motion to Suppress DNA Evidence at 4, *State v. Dixon*, No. CR 2002-  
20 019595 (Maricopa Cnty. Super. Ct. June 21, 2006); Petition for Special Action at 3, 5,  
21 *Dixon v. Klein*, No. 1 CA-SA-07-0034 (Ariz. Ct. App. Feb. 16, 2007)

22 <sup>8</sup> See, e.g., Petition for Writ of Habeas Corpus at 11, *Dixon v. Murphy*, No. CV94041734  
23 (Pinal Cnty. Super. Ct. Feb. 3, 1994); Response to State’s Motion to Dismiss Petition for  
24 Writ of Habeas Corpus at 4, *Dixon v. Murphy*, No. CV94041734 (Pinal Cnty. Super. Ct.  
25 Apr. 5, 1994); Petition for Post-conviction Relief at A6, *State v. Dixon*, No. 11654  
26 (Coconino Cnty. Super. Ct. Oct. 31, 1994); Reply to Motion to Dismiss Post-conviction  
27 Petition at 4, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. July 17, 1995); Motion  
28 for Rehearing at 2, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Aug. 28, 1995);  
Amended Petition for Writ of Habeas Corpus at M6, *Dixon v. Lewis*, No. 95-cv-01852 (D.  
Ariz. Oct. 19, 1995); Memorandum to Petition for Writ of Habeas Corpus at 13, *Dixon v.*  
*Stewart*, No. 97-cv-00250 (D. Ariz. Feb. 6, 1997); Reply to Report and Recommendation  
at 6–7, *Dixon v. Stewart*, No. 97-cv-00250 (D. Ariz. July 18, 1997); Petition for Writ of  
Habeas Corpus at 6, *Dixon v. Shinn*, No. HC-21-0007 (Ariz. Apr. 15, 2021); Motion for  
Reconsideration at 2, *Dixon v. Shinn*, No. HC-21-0007 (Ariz. June 4, 2021); Petition for  
Writ of Certiorari at 7, *Dixon v. Arizona*, No. 21-6820 (U.S. Nov. 12, 2021); Reply to  
State’s Response at 6, *Dixon v. Arizona*, No. 21-6820 (U.S. Feb. 18, 2022).

1 merits.<sup>9</sup>

2 Mr. Dixon nonetheless embraces the imaginary: that the courts have all abused  
3 their discretion when considering his NAU issue and have intentionally ignored his issue  
4 because of its viability.<sup>10</sup> As the record here shows, Mr. Dixon has pursued this claim  
5 obsessively to his detriment, including by firing capital trial counsel so that he could

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7 <sup>9</sup> See, e.g., Ex. 6; Ex. 7 at 3; Minute Entry at 2, *State v. Dixon*, No. 11654 (Coconino Cnty.  
8 Super. Ct. Dec. 16, 1991); Memorandum Decision at 4, *State v. Dixon*, No. 1 CA-CR 92-  
9 0171-PR (Ariz. Ct. App. Dec. 3, 1992); Report and Recommendation at 9–13, *Dixon v.*  
10 *Stewart*, No. 97-cv-00250 (D. Ariz. July 2, 1997); Transcript Re Motion for  
11 Reconsideration of Suppression of DNA Evidence at 3–9, 11–12, *State v. Dixon*, No. CR  
12 2002-019595 (Maricopa Cnty. Super. Ct. July 12, 2006); Order denying habeas petition,  
13 *Dixon v. Shinn*, No. HC-21-0007 (Ariz. May 21, 2021).

14 <sup>10</sup> See, e.g., Ex. 8 at 5–6; Petition for Writ of Habeas Corpus at 7, 10–11, *Dixon v. Murphy*,  
15 No. CV94041734 (Pinal Cnty. Super. Ct. Feb. 3, 1994); Response to State’s Motion to  
16 Transfer Petition for Writ of Habeas Corpus at 2, 5, *Dixon v. Murphy*, No. CV94041734  
17 (Pinal Cnty. Super. Ct. Apr. 13, 1994); Petition for Review at 4, 8–9, *State v. Dixon*, No.  
18 1 CA-CR 96-0427-PR (Ariz. Ct. App. June 4, 1996); Petition for Review at 4, 8–9, *State*  
19 *v. Dixon*, No. 1 CA-CR 95-831-PR (Ariz. Ct. App. June 20, 1996); Petition for Review at  
20 4, 7, *State v. Dixon*, No. CR-96-0447-PR (Ariz. August 6, 1996); Memorandum to Petition  
21 for Writ of Habeas Corpus at 11, *Dixon v. Stewart*, No. 97-cv-00250 (D. Ariz. Feb. 6,  
22 1997); Motion to Reconsider Ruling of May 12 at 2, *State v. Dixon*, No. CR 2002-019595  
23 (Maricopa Cnty. Super. Ct. June 12, 2006); Petition for Special Action at 11, *Dixon v.*  
24 *Klein*, No. 1 CA-SA-07-0034 (Ariz. Ct. App. Feb. 16, 2007); Petition for Special Action  
25 at 13, *Dixon v. Klein*, No. 1 CA-SA 07-250 (Ariz. Ct. App. Nov. 21, 2007); Motion to  
26 Supplement Opening Brief at 2–3, *State v. Dixon*, No. CR-08-0025-AP (Ariz. Feb. 12,  
27 2010); see also, e.g., Petition for Writ of Habeas Corpus at 4, *Dixon v. McFadden*, No.  
28 HC-93-0006 (Ariz. Feb. 16, 1993); Petition for Special Action at 5–6, *Dixon v. Coxon*,  
No. M-94-0044 (Ariz. June 22, 1994); Notice of Post-conviction Relief at Attach. A, *State*  
*v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Aug. 22, 1994); Petition for Post-  
conviction Relief at A5–A6, *State v. Dixon*, No. 11654 (Coconino Cnty. Super. Ct. Oct.  
31, 1994); Motion for Rehearing at 2–3, *State v. Dixon*, No. 11654 (Coconino Cnty. Super.  
Ct. Aug. 28, 1995); Response to State’s Answer to Amended Petition for Writ of Habeas  
Corpus at 4, *Dixon v. Lewis*, No. 95-cv-01852 (D. Ariz. Dec. 27, 1995); Reply to Report  
and Recommendation at 3–4, *Dixon v. Lewis*, No. 95-cv-01852 (D. Ariz. Apr. 16, 1996);  
Reply to Report and Recommendation at 5, *Dixon v. Stewart*, No. 97-cv-00250 (D. Ariz.  
July 18, 1997); Petition for Review, *State v. Dixon*, No. CR-03-0076-PR (Ariz. Mar. 7,  
2003); Motion to Suppress the DNA Evidence at 6, 8–9, *State v. Dixon*, No. CR 2002-  
019595 (Maricopa Cnty. Super. Ct. May 1, 2006); Petition for Writ of Certiorari at  
Questions Presented, *Dixon v. Arizona*, No. 21-6820 (U.S. Nov. 12, 2021).

1 litigate it, and filing Bar complaints, motions for change of counsel, or motions to proceed  
2 pro se when confronted by counsel who could not ethically raise it given its lack of factual  
3 support.<sup>11</sup>

4 As Dr. Amezcua-Patino explains in his report, Mr. Dixon’s pro se pleadings over  
5 the NAU issue “reveal his delusional, paranoid, and conspiratorial thought content.” (Ex.  
6 8 at 12.) For instance, they demonstrate that he believes: prior counsel “purposefully  
7 exclude[ed] the [NAU] issue”<sup>12</sup> courts have “refused and ignored applying relevant law”  
8 because of the nature of his crime and possibility of his release<sup>13</sup>; relief has been denied  
9 on this claim because “[t]he State is embarrassed that for many years [the NAU police]  
10 has operated without statutory authority[.]”<sup>14</sup>; the courts’ action on the NAU issue reflects  
11 their deliberate and “continued evasion” of his right to relief<sup>15</sup>; the courts have engaged in  
12 “obvious subterfuge”<sup>16</sup> and are purposefully in “collusion” to deny him his rights (Ex. 10);  
13 that the “cumulative, continuous and concerted effort by state and federal judges on its  
14 face smacks of collusion and conspiracy or, at the least, complicity and the reader is left  
15 considering the circumstantial weight to tell if judicial collusion is found[.]” (Ex. 10 at  
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17 <sup>11</sup> See, e.g., Petition for Writ of Habeas Corpus at 2, *Dixon v. McFadden*, No. HC-93-0006  
18 (Ariz. Feb. 16, 1993); Motion to Change Counsel, *State v. Dixon*, No. CR 2002-019595  
19 (Maricopa Cnty. Super. Ct. Oct. 11, 2005); Minute Entry, *State v. Dixon*, No. CR 2002-  
20 019595 (Maricopa Cnty. Super. Ct. Mar. 16, 2006); Petition for Writ of Certiorari at 11,  
21 *Dixon v. Arizona*, No. 21-6820 (U.S. Nov. 12, 2021); Reply to State’s Response at 1,  
22 *Dixon v. Arizona*, No. 21-6820 (U.S. Feb. 18, 2022); see also Ex. 9.

23 <sup>12</sup> Motion to Supplement and Consolidate Petition for Writ of Habeas Corpus at 2, *Dixon*  
24 *v. McFadden*, No. HC-93-0006 (Ariz. Mar. 11, 1993).

25 <sup>13</sup> Petition for Writ of Habeas Corpus at 10, *Dixon v. Murphy*, No. CV94041734 (Pinal  
26 Cnty. Super. Ct. Feb. 3, 1994).

27 <sup>14</sup> Petition for Writ of Habeas Corpus at 11, *Dixon v. Murphy*, No. CV94041734 (Pinal  
28 Cnty. Super. Ct. Feb. 3, 1994).

<sup>15</sup> Reply to Report and Recommendation at 4, *Dixon v. Lewis*, No. 95-cv-01852 (D. Ariz.  
Apr. 16, 1996).

<sup>16</sup> Petition for Review at 8, *State v. Dixon*, No. 1 CA-CR 96-0427-PR (Ariz. Ct. App. June  
4, 1996); Reply to Report and Recommendation at 6, *Dixon v. Stewart*, No. 97-cv-00250  
(D. Ariz. July 18, 1997).

1 8)<sup>17</sup>; and that judges have engaged in deliberate “obstruction” in denying his NAU claim  
2 (Ex. 11) evidencing their “spirit of ill-will towards [him]”<sup>18</sup>. (*See also* Ex. 9 at 12.)

3 In a 1997 letter to the Ninth Circuit Court of Appeals, Mr. Dixon expressed his  
4 belief that the courts denied him relief on the NAU issue “because to follow and apply the  
5 law would have been politically disastrous, a dark embarrassment to the state  
6 universities.”<sup>19</sup> (Ex. 9 at 12.)

7 In the decades since, Mr. Dixon has written many letters to judges, justices,  
8 attorneys, and organizations seeking assistance litigating the NAU issue only to be told  
9 that they cannot ethically file the claim or his issue “does not meet the[ir] standards.” (Ex.  
10 12; Ex. 7.)

11 During state postconviction proceedings, in 2012, Mr. Dixon was evaluated by  
12 John Toma, Ph.D., and Lauro Amezcua-Patino, M.D. Dr. Toma found that he suffered  
13 from “mood, thought and perceptual disturbances” and that there were “significant  
14 cognitive [brain] impairments noted from his neuropsychological test scores.” (Ex. 13 at  
15 21, 22.) Further, the neuropsychological tests indicated possible brain damage meeting  
16 the diagnostic criteria for Cognitive Disorder, Not Otherwise Specified (NOS). (Ex. 13 at  
17 18, 22-23, 24.) Mr. Dixon also underwent neuroimaging that evidenced brain  
18 abnormalities. (Ex. 14 at 4.)

19 In addition to the findings of brain impairment, Dr. Toma also found evidence of  
20 Mr. Dixon’s mental illness, including severe depression, paranoia, perceptual  
21 disturbances, and diagnosed him with a psychotic disorder, schizophrenia. (Ex. 13 at 21-  
22 22, 24.) Dr. Toma also administered the Minnesota Multiphasic Personality Inventory-2  
23 (MMPI-2) and corroborated a finding that Mr. Dixon suffers from “[a] psychotic disorder  
24 (such as Schizophrenia)[.]” (Ex. 13 at 20.) Dr. Toma found that Mr. Dixon met the DSM-

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25 <sup>17</sup> *See also* Petition for Post-conviction Relief at A5–A6, *State v. Dixon*, No. 11654  
26 (Coconino Cnty. Super. Ct. Oct. 1, 2001).

27 <sup>18</sup> Petition for Review at 5, 7–8, *Dixon v. Klein*, No. CV-07-0415-PR (Ariz. Dec. 5, 2007).

28 <sup>19</sup> Letters to Judge Nelson and Judge Thompson from Clarence Dixon, *Dixon v. Stewart*,  
No. 97-16849 (9th Cir. Nov. 6, 1997).

1 IV-TR diagnostic criteria for Paranoid Schizophrenia. (Ex. 13 at 24.)

2 Similarly in 2012, Dr. Amezcua-Patino observed that Mr. Dixon “exhibits evidence  
3 of positive, negative and cognitive deficits associated with schizophrenia, with a  
4 predominance of paranoid ideation and cognitive difficulties[.]” (Ex. 15 at 5.) Dr.  
5 Amezcua-Patino noted that “[s]chizophrenia is a chronic, severe, and disabling brain  
6 disorder that affects about 1 percent of the world population. People with [schizophrenia]  
7 may hear voices other people don’t hear. They may believe other people are reading their  
8 minds, controlling their thoughts, or plotting to harm them.” (Ex. 15 at 4.) Dr. Amezcua-  
9 Patino also explained that hallucinations and delusions are common symptoms in patients  
10 with schizophrenia.

11 Dr. Amezcua-Patino concluded Mr. Dixon “suffers from chronic and severe  
12 psychiatrically determinable thought, cognition and mood impairments that are expected  
13 to continue for an indefinite period of time of a Schizophrenic nature[.]” (Ex. 15 at 4.)

14 **D. Clarence Dixon is incompetent to be executed**

15 Apart from the 2012 evaluation, Dr. Amezcua-Patino reevaluated Mr. Dixon over  
16 three separate visits during 2021 and 2022, and he concluded that Mr. Dixon is unable to  
17 form a rational understanding of the State’s reasons for his execution. (Ex. 9 at 12–13.)  
18 Dr. Amezcua-Patino indicated that Mr. Dixon suffers from persistent delusions related to  
19 his legal case as well as visual, auditory, and tactile hallucinations. (Ex. 9 at 12.) Despite  
20 being legally blind, Mr. Dixon reports seeing dead children watching him. Mr. Dixon’s  
21 “capacity to understand the rationality of his execution is contaminated by the  
22 schizophrenic process which results in his deluded thinking about the law, the judicial  
23 system, his own lawyers, and his ultimate execution[.]” (Ex. 9 at 13.) Mr. Dixon is  
24 disconnected from reality and experiences concrete thinking, which is common to those  
25 diagnosed with schizophrenia. (Ex. 9 at 12.) Concrete thinking causes Mr. Dixon to fixate  
26 on an issue that is unrelated to his execution, limiting his ability to abstractly consider  
27 why he is to be executed. This contributes to his inability to form a rational understanding  
28 of the State’s reasons for his execution. (Ex. 9 at 12–13.)

1 Dr. Amezcua-Patino’s findings demonstrate that Mr. Dixon is incompetent to be  
2 executed. In *Panetti*, the Supreme Court recognized that “[g]ross delusions stemming  
3 from a severe mental disorder may put an awareness of a link between a crime and its  
4 punishment in a context so far removed from reality that the punishment can serve no  
5 proper purpose.” *Panetti*, 551 U.S. at 960. Mr. Dixon has long suffered from persistent  
6 delusions related to his criminal case. His delusions impair his concept of reality such that  
7 he cannot reach a rational understanding of the reason for the execution. *See id.* at 958.  
8 “[A] delusional disorder can be of such severity—can so impair the prisoner’s concept of  
9 reality—that someone in its thrall will be unable to come to grips with the punishment’s  
10 meaning.” *Madison*, 139 S. Ct. at 729 (internal quotation omitted). Mr. Dixon’s delusions  
11 cause him to believe that the Arizona Supreme Court Justices are conspiring to murder  
12 him. (*See Ex. 9 at 13.*) These delusions prevent him from understanding the meaning of  
13 the punishment the State seeks to exact.

14 Over the past thirty years, Mr. Dixon has experienced regular hallucinations, seeing  
15 people who do not exist and hearing voices that are not there. He “ultimately believes that  
16 he will be executed because the NAU police wrongfully arrested him in 1985 and the  
17 judicial system—and actors in it, including his own lawyers—have conspired to cover up  
18 that fact.” (*Ex. 9 at 13.*) His concept of reality is so impaired that he cannot form a rational  
19 understanding of “the retributive message society intends to convey with a death  
20 sentence.” *Id.* at 727. It would offend humanity to execute Mr. Dixon, a person who is so  
21 wracked by mental illness that he cannot comprehend the “meaning and purpose of the  
22 punishment.” *Panetti*, 551 U.S. at 686.

### 23 **III. Conclusion**

24 Mr. Dixon has filed a timely motion which presents reasonable grounds justifying  
25 an examination for incompetency to be executed. A.R.S. §§ 13-4024(A); 13-4022(C). Mr.  
26 Dixon requests that this Court appoint experts to determine whether he can form a rational  
27 understanding of the State’s rationale for his execution. *See Panetti*, 551 U.S. at 959. Mr.  
28 Dixon also requests an evidentiary hearing where he may present evidence to demonstrate

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that he is incompetent to be executed. *See* A.R.S. § 13-4022(C).

Respectfully submitted this 8th day of April, 2022.

Jon M. Sands  
Federal Public Defender  
District of Arizona

Cary Sandman

s/ Cary Sandman  
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**Certificate of Service**

I hereby certify that on April 8, 2022, an original and copies of the foregoing document were filed in person at the Pinal County Superior Court and emailed to:

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