

**13-1433 BRUMFIELD V. CAIN**

DECISION BELOW: 744 F.3d 918

LOWER COURT CASE NUMBER: 12-30256

QUESTION PRESENTED:

I. Whether a state court that considers the evidence presented at a petitioner's penalty phase proceeding as determinative of the petitioner's claim of mental retardation under *Atkins v. Virginia*, 536 U.S. 304 (2002), has based its decision on an unreasonable determination of facts under 28 U.S.C. § 2254(d)(2).

II. Whether a state court that denies funding to an indigent petitioner who has no other means of obtaining evidence of his mental retardation has denied petitioner his "opportunity to be heard," contrary to *Atkins* and *Ford v. Wainwright*, 477 U.S. 399 (1986), and his constitutional right to be provided with the "basic tools" for an adequate defense, contrary to *Ake v. Oklahoma*, 470 U.S. 68 (1985).

CERT. GRANTED 12/5/2014