

**STATE OF MICHIGAN
IN THE SUPREME COURT**

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v.

DWIGHT T. SAMUELS,

Defendant-Appellant.

Supreme Court No. 164050

COA No. 353302

Wayne CC No. 19-005162-FC

**BRIEF AMICUS CURIAE OF THE AMERICAN
PSYCHOLOGICAL ASSOCIATION**

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INTERESTS OF AMICUS CURIAE¹

The American Psychological Association (APA) is the leading association of psychologists in the United States. A non-profit scientific and professional organization, it has approximately 151,000 members and affiliates. Among APA's major purposes are to increase and disseminate knowledge regarding human behavior, and to foster the application of psychological learning to important human concerns.

APA has filed nearly 250 amicus briefs in state and federal courts around the country. APA's briefs have been cited frequently by courts over the years, including the Supreme Court of the United States. *See, e.g., Graham v. Florida*, 560 U.S. 48, 68 (2010); *Panetti v. Quarterman*, 551 U.S. 930, 962 (2007); *Atkins v. Virginia*, 536 U.S. 304, 316 n.21 (2002); *Commonwealth v. Wright*, 609 Pa. 22, 51 n.16 (2011); *Florida Department of Children & Families v. In re Adoption of X.X.G. & N.R.G.*, 45 So.3d 79, 87 n.10 (Fla. Dist. Ct. App. 2010); *In re Marriage Cases*, 43 Cal.4th 757, 839 n.59 (2008).

APA has a rigorous approval process for amicus briefs, the touchstone of which is an assessment of whether there is sufficient scientific research, data, and literature on a question in a particular case that APA can usefully contribute to the Court's understanding and resolution of that question. APA regards this as one of those cases: The issues here include the factors that can cause a defendant to enter an involuntary guilty plea when the plea offer is tied to how a relative of the defendant will be treated. Substantial psychological research bears on that issue, including research on peoples' instincts to make sacrifices for their relatives and personal characteristics that make people more vulnerable to coercion.²

¹ No counsel for a party authored this brief in whole or in part, nor did any person other than amicus, its members, and its counsel make a monetary contribution intended to fund the preparation or submission of the brief.

² APA gratefully acknowledges the assistance of the following psychologists in the preparation of this brief: Melanie Fessinger, Ph.D.; Margaret Bull Kovera, Ph.D.; Raina Lamade, Ph.D.; Allison D. Redlich, Ph.D.; and Tina Zottoli, Ph.D.

QUESTIONS PRESENTED

- I. Is a trial court required to hold an evidentiary hearing on the voluntariness of a guilty plea that is induced in part by an offer of leniency to a relative?
 - Defendant Dwight Samuels answers: Yes, unless it is already apparent from the record that the defendant is entitled to plea withdrawal.
 - The People answer: No, unless the defendant presents substantiated evidence that the offer of leniency was made in bad faith.
 - The court of appeals answered: Yes, with the caveat that the alleged promise of leniency to a relative rendering the guilty plea involuntary must somehow be substantiated before the defendant is entitled to an evidentiary hearing, and the caveat that the trial court may summarily deny an evidentiary hearing if the defendant's testimony at the plea hearing contradicts the new allegation.
 - APA does not take a position on this question.
- II. How should a trial court determine whether an offer of leniency to a relative rendered the defendant's plea involuntary in fact?
 - Defendant Dwight Samuels answers: The trial court should evaluate the totality of the circumstances, including factors particularly relevant to the familial aspect of the offer.
 - The People answer: The trial court must determine if the People had probable cause to prosecute the relative at the time defendant pleaded guilty.
 - The court of appeals answered: The trial court should determine the voluntariness of a guilty plea induced by a promise of leniency to a relative, or any other third party, by assessing whether the prosecution had probable cause to prosecute the third party at the time the defendant pleaded guilty.
 - APA does not take a position on this question.

INTRODUCTION AND SUMMARY OF ARGUMENT

A package plea offer links the plea decision of the defendant with the plea decision of a co-defendant. Hence, the co-defendant receives the benefit of the plea offer only if the defendant also accepts the plea.

In deciding whether Dwight Samuels's decision to accept a package plea offer was involuntary, the court of appeals considered only whether there was probable cause to prosecute the co-defendant who benefits from the offer. *People v. Samuels*, 339 Mich. App. 664, 674-680

(2021). But a large body of psychological research makes clear that other factors, none of which are part of that probable-cause test, can make a defendant more vulnerable to coercion—and more likely to involuntarily plead guilty—when presented with a package plea offer. This Court should adopt a standard that directs trial courts assessing voluntariness to consider these factors. In particular, in evaluating whether such guilty pleas are involuntary, trial courts should consider not only the fact of the package plea offer but also both the closeness of the defendant’s relationship with the co-defendant and whether the defendant has certain personal characteristics that make her more vulnerable to coercion.

The psychological and social-science research described in this brief demonstrates that both factors can increase the risk of an involuntary plea. More specifically, the research shows that individuals are predisposed to make significant, high-stakes sacrifices for loved ones, especially when they and the loved one share close family bonds, such as in a twin relationship. The research also shows that individuals with intellectual deficits or other suggestible tendencies are predisposed to allowing external coercive factors—such as pressure by a relative—to drive their plea decisions.

STATEMENT OF FACTS AND PROCEEDINGS

APA adopts the facts statement in Mr. Samuels’s brief.

ARGUMENT

I. PACKAGE PLEA OFFERS RAISE UNIQUE CONCERNS ABOUT COERCION

A. Package Plea Offers Can Skew The Stakes Of A Plea Deal

Package plea offers (also known as “tie-barred” or “joint” plea offers) link the plea decisions of individual co-defendants together, such that “[i]f one defendant backs out, the deal’s off for everybody.” *United States v. Caro*, 997 F.2d 657, 658 (9th Cir. 1993). Such packages often offer defendants a “volume discount—a better deal than each could have gotten separately.” *Id.*

Courts and others have recognized that tying plea decisions together can “pressure ... each of the participants ... to go along with the deal despite misgivings they might have.” *Caro*, 997 F.2d at 659. One federal appellate court, for example, has observed that while “package deal plea agreements are not per se impermissible, they pose an additional risk of coercion not present when the defendant is dealing with the government alone.” *Id.* And a leading treatise explains that the “obvious problem with such ‘package deals’ is the pressure on each co-defendant to

accept the plea for the benefit of the majority.” Bailey & Fishman, 1 *Criminal Trial Techniques* §31:13 (Aug. 2023 update). As another court has explained, the “difficulty with ‘package deal’ plea offers is ... that the defendant will involuntarily waive his right to a jury trial because his codefendants will coerce him to accept the plea agreement.” *United States v. Gonzalez-Vazquez*, 219 F.3d 37, 43 (1st Cir. 2000). Indeed, the U.S. Supreme Court has long acknowledged that “a prosecutor’s offer during plea bargaining of adverse or lenient treatment for some person other than the accused ... might pose a greater danger of inducing a false guilty plea by skewing the assessment of the risks a defendant must consider.” *Bordenkircher v. Hayes*, 434 U.S. 357, 364 n.8 (1978). Following the recognition, other courts have exercised “[s]pecial care” to “determine the voluntariness of the plea in such circumstances,” *United States v. Morrow*, 914 F.2d 608, 613 (4th Cir. 1990) (citing *Bordenkircher*), and some even require prosecutors to advise the court every time a defendant’s plea is part of a package deal, *see United States v. Hodge*, 412 F.3d 479, 490-491 (3d Cir. 2005).

B. The Michigan Court Of Appeals’ Probable-Cause Test Does Not Accurately Assess Whether A Package Plea Offer Induced An Involuntary Guilty Plea

The court of appeals held here that trial courts should apply a probable-cause test to determine whether an offer of leniency to a relative renders a defendant’s plea involuntary. 339 Mich. App. at 674-680. Under that test, a court need only consider whether the prosecution had probable cause to prosecute the relative at the time the defendant pleaded guilty. *Id.* at 678. The court of appeals reasoned that the presence of probable cause demonstrates by itself that the prosecution acted in good faith when extending the package plea offer. *Id.* at 679.

Limiting the analysis to the presence of probable cause does not provide an accurate picture of whether tying a defendant’s guilty plea to leniency for a relative rendered the plea involuntary. The large body of psychological research described in part II demonstrates that several other factors—all of which a trial court would not be allowed to consider under the probable-cause test—can make a defendant more vulnerable to coercion and increase the likelihood that a guilty plea was involuntary.

II. RESEARCH DEMONSTRATES THAT BOTH A DEFENDANT’S CLOSENESS TO A RELATIVE OFFERED LENIENCY AND THE DEFENDANT’S OWN PERSONAL CHARACTERISTICS CAN RENDER A DECISION TO ACCEPT A PACKAGE PLEA INVOLUNTARY

A. Plea Offers That Tie Close Relatives Together Trigger Familial Instincts That Can Cloud A Defendant’s Judgment

As this Court and others have recognized, linking a plea offer with leniency for a close relative may leave the defendant with no real choice but to plead guilty to save the relative from the possibility—i.e., the threat—of a higher, post-trial sentence. For instance, this Court in one case directed an evidentiary hearing to evaluate whether a guilty plea may be involuntary when tied to a relative’s, even if packaging the pleas together “does not in itself amount to coercion.” *People v. James*, 393 Mich. 807, 808 (1975) (citing cases from the highest courts of Wisconsin, Colorado, and Utah). Federal courts, too, have been suspicious of pleas tied to “third persons who had particularly close bonds to the accused,” such as the accused’s spouse or fiancée, with one court stating that such pleas may fail the “special care” standard it had adopted for evaluating the propriety of package plea deals. *United States v. Carr*, 80 F.3d 413, 416-417 (10th Cir. 1996).

A large body of psychological research supports this widespread judicial concern, demonstrating that the pressure from the threat to a relative (or the prospect of being able to help a relative) can trigger instincts to protect relatives (particularly close ones) that can cloud a defendant’s judgment and lead to an involuntary plea.

1. *Deeply Rooted Instincts Drive People To Make Sacrifices For Those With Whom They Share Close Personal Relationships*

Individuals often make significant personal sacrifices to protect or assist others, and the instinct to make such sacrifices is strongest between individuals who share close emotional relationships. One article reports, for example, that “[a]cross studies, participants consistently took the blame for a close friend more often than for a casual friend.” Schell-Leugers et al., *Will You Confess to What I Did? Close Relationships and In-Group Membership Facilitate Voluntary Blame-Taking*, 51 Journal of Applied Social Psychology, 987, 988 (2021). This instinct may be motivated by a desire to remain close to, help and protect, or obey a loved one; research shows that “emotional closeness, empathy, ... obligation ... and similarity” are among the “causes of altruistic behavior.” Vázquez et al., *Sharing Genes Fosters Identity Fusion and Altruism*, 16 Self

& Identity 684, 698 (2017) (citations omitted); *see also* Redlich et al., *The Psychology of Defendant Plea Decision Making*, 72 *American Psychologist* 339, 346 (2017) (similar). Twins in particular often act out of a desire for shared experiences (although the issues here are not limited to twins). Vázquez et al., *Sharing Genes*, 16 *Self & Identity* at 698.

Whatever the motivation in a particular case, the instinct to make sacrifices for loved ones is compelling. That instinct, in fact, is sufficiently “hard-wired” to overcome many individuals’ moral and punitive tendencies, leading people to view their loved ones as less culpable (and therefore more worthy of protection). Weidman et al., *Punish or Protect? How Close Relationships Shape Responses to Moral Violations*, *Personality & Social Psychology Bulletin* at 7 (2019). Across political, gender, and moral lines, research confirms the common-sense expectation that individuals are more willing to “lie to a police officer to protect [a] perpetrator”—a high-stakes decision that could put them at significant risk—when the perpetrator is closely related. *Id.*

Psychological studies further indicate that the instinct to make personal sacrifices for others is strongest when, as in Mr. Samuels’s case, the individual that a sacrifice protects is a close friend, relative, or twin, especially “in life-and-death or high-cost” scenarios. Schneider et al., *Self-Reported Voluntary Blame-Taking: Kinship Before Friendship and No Effect of Incentives*, 12 *Frontiers in Psychology* at 1, 12 (2021). In one study, participants were placed in the classic prisoner’s dilemma, where they had to decide between protecting a co-defendant by denying both defendants’ responsibility for a crime or betraying the co-defendant by confessing to the crime. Participants who were instructed to imagine that their co-defendant was merely an acquaintance betrayed the co-defendant three times as often as participants who were instructed to imagine that their co-defendant was their best friend. *See* Norris & Redlich, *Seeking Justice, Compromising Truth? Criminal Admissions and the Prisoner’s Dilemma*, 77 *Albany Law Review*, 1005, 1027-1028 (2014). In another study, researchers offered a monetary award to a relative of each participant and told participants that the longer they held their bodies in a uniquely painful position, the more money their relatives would receive. *See* Madsen et al., *Kinship and Altruism: A Cross-Cultural Experimental Study*, 98 *British Journal of Psychology* 339, 343-344 (2007). The physical position elicited the type of “imminent tissue damage” that the human brain is strongly conditioned to avoid for evolutionary purposes. *Id.* at 354. Yet participants held the position for longer when they were more closely related to the beneficiary:

They endured the most pain for a sibling or parent; less pain for more distant relatives, such as aunts, uncles, and cousins; and the least pain for a charity. *Id.* at 354-355. The upshot—one that other studies corroborate (and one that again aligns with common intuition)—is that the evolutionary instinct to make sacrifices for loved ones often overrides even the most straightforward instincts to avoid immediate pain. *See id.* at 342; Burnstein et al., *Some Neo-Darwinian Decision Rules for Altruism: Weighing Cues for Inclusive Fitness as a Function of the Biological Importance of the Decision*, 67 *Journal of Personality & Social Psychology* 773, 786 (1994).³

Finally, multiple studies demonstrate that the instinct to make sacrifices for a relative may be strongest among identical twins, who share especially close genetic and (almost inevitably) emotional ties. *See* Vázquez et al., *Sharing Genes*, 16 *Self & Identity* at 699 (summarizing literature). One study found, for instance, that identical twins share a greater “disposition to sacrifice for the sibling” even compared to non-identical twins, confirming evolutionary theories that “genetic relatedness facilitates” more “altruistic behavior.” Tornero et al., *Altruistic Behavior among Twins: Willingness to Fight and Self-Sacrifice for Their Closest Relatives*, 29 *Human Nature* 1, 6 (2018). And another discovered that identical twins tend to cooperate in the classic prisoner’s dilemma more often than even twins who are not identical, risking self-sacrifice in the interest of twin solidarity. *See* Segal & Hersherberger, *Cooperation and Competition Between Twins: Findings from a Prisoner’s Dilemma Game*, 20 *Evolution & Human Behavior* 29, 41, 45 (1999).

2. *Those Deeply Rooted Instincts May Render A Decision To Accept A Package Plea Offer Involuntary*

Social-science research establishes that the instincts for sacrifice described above can be at play even when the individual making the sacrifice faces criminal stakes. For example, data and psychological evidence show that threats to family members can pressure individuals into

³ Research further shows that these same instincts also apply to certain close friendships. In the study where participants were asked to hold their bodies in a painful position to earn a monetary award for a beneficiary, participants endured the same amount of pain for “an unrelated best friend of the same sex” as for non-immediate relatives like aunts, uncles, and cousins. Madsen et al., *Kinship and Altruism*, 98 *British Journal of Psychology* at 343-344, 347-349.

making a false confession. Indeed, at least twenty-five cases in the National Registry of Exonerations contain “evidence that an exoneree falsely confessed after an officer threatened to arrest someone in the exoneree’s family, to take away the exoneree’s children or the children of other family members, or otherwise put the family in harm’s way.” Stephens, *Misconduct and Bad Practices in False Confessions: Interrogations in the Context of Exonerations*, 11 *Northeastern University Law Review*, 593, 612-613 (2019). As of 2019, such cases made up 9% of all exonerations in the registry that involved a false confession. *Id.* at 613.

Psychological research and judicial opinions alike have also recognized that leveraging a family member may similarly produce involuntary guilty pleas. Psychological researchers acknowledge that while the causes of confessions and guilty pleas are not identical, they are comparable enough that guilty pleas “can be considered a type of confession.” Redlich et al., *Defendant Plea Decision Making*, 72 *American Psychologist* at 340; *see also* Luna, *Defining Coercion: An Application in Interrogation and Plea Negotiation Contexts*, 28 *Psychology, Public Policy, & Law* 240, 241 (2022) (connecting “coercion in interrogation and plea negotiation contexts” to “understanding of confession and plea voluntariness”). Like interrogations, plea deals present “[s]ubtle forms of coercion or compulsion.” Dezhnev et al., *Plea Validity in Circuit Court: Judicial Colloquies in Misdemeanor vs. Felony Charges*, 28 *Psychology, Crime & Law* 268, 270 (2021). In fact, studies demonstrate that “external pressures, such as high bail amounts or pressure from prosecutors, are predominant reasons for plea decisions.” *Id.* Courts that have considered the voluntariness of a guilty plea have also referred to the “[a]nalogous ... situation where police employ threats likely to produce a false, involuntary confession.” *Commonwealth v. Dupree*, 442 Pa. 219, 222 (1971). As one appellate court put it, the “compulsory forces that may be present in a confession are sufficiently similar to those in a guilty plea to warrant the application of similar principles in each.” *In re Ibarra*, 34 Cal.3d 277, 288 n.4 (1983). Similarly, the American Bar Association’s Plea Bargaining Task Force characterizes a plea offer that ties “pleas in such a way that one defendant’s fate rest[s] in the hands of a co-defendant” as an “extreme” example of “coercive plea bargaining.” Johnson, *2023 Plea Bargain Task Force Report* 15 (2023).

This evidence shows that individuals in Mr. Samuels’s position, facing a threat to an identical twin with whom he may share particularly instinctive emotional bonds, may be especially susceptible to the psychological pressure to plead guilty to follow, protect, or obey

that twin. *See Vázquez et al., Sharing Genes*, 16 *Self & Identity* at 698. Courts evaluating whether a defendant's acceptance of such a package plea offer is voluntary should consider, as part of the voluntariness analysis required for any guilty plea, the closeness of the defendant's relationship with the individual to whom prosecutors have tied her plea.

B. Personal Characteristics May Further Exacerbate The Risk Of Coercion

Individuals with certain personal characteristics and behaviors, such as intellectual deficits, compliant tendencies, or high susceptibility to anxiety and fear, may be especially susceptible to coercion when presented with a plea offer tied to leniency for a loved one. Specifically, such individuals may be more susceptible to influence from third parties, including relatives and authority figures. They may also be less likely to understand, and therefore less likely to voluntarily consent to, a plea deal and its consequences.⁴

Individuals with intellectual deficits, compliant tendencies, or susceptibility to anxiety and fear are generally more likely to succumb to external pressure, act out of fear or desires to please others, and/or misunderstand the stakes they are facing. As one study put it, those “with IQs well below average ... tend to be markedly more suggestible.” Gudjonsson, *The Psychology of Interrogations and Confessions: A Handbook* 382 (2003). Compliant individuals in turn tend to avoid conflict, more easily acquiesce, and are eager to please authority figures. *See generally* Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* 125-127 (2018). Individuals who are highly suggestible tend to come from adversity, repeat back information that is suggested to them, and to have poor memories and less assertiveness. *See id.* at 59-61, 79, 114-115. Susceptibility to anxiety and fear similarly impairs a person's decision-making ability in the interrogation context, *see id.* at 90, 115, because anxiety can lead people to make “emotional reactions to a risky situation [that] often diverge from” rational assessments, *see* Loewenstein et al., *Risk as Feelings*, 127 *Psychological Bulletin* 267, 269 (2001).

Individuals with intellectual deficits further struggle to comprehend legal rights and consequences in part because they have trouble with communication, cognition, and making independent, voluntary choices. *See* Appelbaum & Appelbaum, *Criminal Justice-Related*

⁴ These factors, along with other personal characteristics not discussed here, can also be probative of whether a guilty plea is involuntary outside of the specific context of a package plea offer.

Competencies in Defendants with Mental Retardation, 22 *Journal of Psychiatry and Law*, 483, 486-489 (1994). For instance, after watching a fictional interrogation video in which a suspect confessed to killing a man, only 52% of low-IQ participants thought the suspect should obtain legal advice if innocent, compared to 90% in the average intelligence group. Clare & Gudjonsson, *The Vulnerability of Suspects with Intellectual Disabilities During Police Interviews*, 8 *Mental Handicap Research* 110, 118, 120-122 (1995). In addition, individuals with low IQs have distorted “concepts of blameworthiness and causation” and “have a tendency to assign guilt to themselves.” Appelbaum & Applebaum, *Criminal-Justice Related Competencies*, 22 *Journal of Psychiatry & Law* at 493.

Studies demonstrate that these various predispositions can motivate defendants to make false confessions. When suggestible or low-IQ individuals are subject to interrogations, for example, they are disproportionately vulnerable to misinformation or coercion. See Gudjonsson, *The Psychology of Interrogations and Confessions* at 382; Kassin & Gudjonsson, *The Psychology of Confessions: A Review of the Literature and Issues*, 5 *Psychological Science in the Public Interest* 33, 51 (2004).

These same characteristics may make a defendant facing a package plea offer especially vulnerable to coercion, either from the relative offered leniency or from an authority figure pressuring the defendant to take the deal. Plea bargains, after all, often present high-stakes, high-fear settings similar to interrogations. One survey, for example, reported “misunderstanding and fear” as “the most commonly articulated factors” driving defendants’ decisions to plead guilty. Hussemann & Siegel, *Pleading Guilty*, 13 *Tennessee Journal of Law & Policy* 459, 511 (2019) (italicization omitted). And studies show that “the more fear” individuals experience, “the more likely they [are] to choose the sure thing” over an uncertain outcome. Lerner & Keltner, *Fear, Anger, and Risk*, 81 *Journal of Personality & Social Psychology* 146, 149 (2001). Facing a stark choice between a certain sentencing range and an unpredictable trial outcome, “[d]efendants may focus on the short-term gains that a guilty plea provides, such as getting out of jail, and discount the long-term consequences of such a decision.” Redlich et al., *Defendant Plea Decision Making*, 72 *American Psychologist* at 344; see also Hussemann & Siegel, *Pleading Guilty*, 13 *Tennessee Journal of Law & Policy* at 486-487 (quoting an interviewee who said he would “just go with whatever they give me so I can hurry up and ... get out of jail or to get out of the court room”).

Defendants deciding whether to plead guilty must also navigate a level of legal complexity that may exacerbate their predispositions to give into external pressure. One survey of convicted adults, for instance, found that even though over 90% of them claimed to have entered their pleas knowingly and voluntarily, more than two-thirds answered most questions about the plea process incorrectly. *See* Redlich & Summers, *Voluntary, Knowing, and Intelligent Pleas: Understanding the Plea Inquiry*, 18 *Psychology, Public Policy & Law* 626, 634, 639 (2011). Nearly a third believed that the plea decision was not “theirs to make” because they did not know that pleas had to be entered voluntarily. Redlich, *The Validity of Pleading Guilty*, in *Advances in Psychology & Law* 1, 17 (Bornstein & Miller eds., 2016). In addition, although defendants must state during a plea colloquy that their plea is being made voluntarily, judicial colloquies can fail to reveal whether a defendant has been coerced into the plea because the colloquies themselves typically require a college or near-college education to understand. *See id.* at 10-11. In another study, participants who pleaded guilty to a hypothetical crime were asked a set of standard plea-colloquy questions to determine whether their pleas would be accepted in court (i.e., whether the plea was knowing, intelligent, and voluntary). *See* Fessinger & Kovera, *An Offer You Cannot Refuse: Plea Offer Size Affects Innocent but Not Guilty Defendants’ Perceptions of Voluntariness*, *Law & Human Behavior* at 5, 7 (2023) (forthcoming and on file with the authors). Nearly all participants provided answers that would satisfy a judge that their pleas were voluntary. *Id.* at 7. But when asked a separate set of informal questions about how they “actually felt”—such as whether they had “control over [their] plea decision” or “pled guilty even though [they] did not want to”—many of the same participants indicated that their pleas had been involuntary. *Id.* at 7, 12. These studies indicate that an individual with an intellectual deficit who is struggling with a legal comprehension gap may be vulnerable to entering a guilty plea out of coercion or in reliance on inaccurate information. Such individuals may be more susceptible to the directives of others—including relatives they are already predisposed to obeying—and turn to these authority figures, friends, and family to evaluate, validate, or even to direct decisions that the defendant does not feel comfortable making on her own. *See* Redlich et

al., *Defendant Plea Decision Making*, 72 *American Psychologist* at 345. These are predictors of an involuntary decision of the kind a standard plea colloquy might not capture.⁵

The foregoing research shows that individuals with intellectual deficits or other suggestible tendencies are vulnerable to acting out of obedience or external pressure, especially when a plea is tied to leniency for a relative or close friend. Such individuals not only are up against the deeply rooted internal familial instincts discussed in part II.A, but also may be more likely to succumb to external pressure to accept a guilty plea out of fear, misunderstanding, or even a threat from the relative offered leniency. Here, for example, Mr. Samuels represents that there are indications that he may “have intellectual and/or emotional deficits” that could have driven his decision to plead guilty and obtain a sure outcome for him and, perhaps more importantly, his brother. See Samuels Supplemental Brief at 48. Research suggests that these concerns may have driven Mr. Samuels’s decision to plead guilty. In evaluating pleas like his, courts should consider the extent to which these and other personal characteristics may have driven a decision to plead guilty.

CONCLUSION AND PRAYER

This Court should take account of the authorities discussed herein in deciding how a trial court should determine whether an offer of leniency to a defendant’s relative rendered the defendant’s guilty plea involuntary. At a minimum, this Court should direct courts assessing voluntariness to consider both the strength of a defendant’s relationship with the individual offered leniency and the defendant’s own personal characteristics.

⁵ As the U.S. Supreme Court has said, “because a guilty plea is an admission of all the elements of a formal criminal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts.” *McCarthy v. United States*, 394 U.S. 459, 466 (1969). In other words, a defendant’s ability to understand a plea and its consequences drives whether she has made a voluntary decision. In a case concerning a defendant with a below-72 IQ, for example, the U.S. Supreme Court explained that a plea “could not be voluntary in the sense that it constituted an intelligent admission” where a defendant was not provided with “adequate notice of the offense of which he pleaded guilty.” *Henderson v. Morgan*, 426 U.S. 637, 642 n.9, 645, 647 (1976).

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CERTIFICATE OF COMPLIANCE

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On December 12, 2023, the foregoing was served via electronic filing on the counsel of record for all parties in this case.

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