

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-557

DAVID ASA VILLARREAL, PETITIONER

v.

STATE OF TEXAS

ON WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS OF TEXAS

MOTION OF THE UNITED STATES
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and for divided argument, and respectfully requests that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting respondent. Respondent has consented to this motion and agreed to cede ten minutes of its argument time to the United States.

This case concerns whether a trial court violates the Sixth Amendment by instructing defense counsel to avoid the topic of the defendant's in-progress testimony in any discussions with the defendant during an overnight recess. The United States has filed

a brief in support of respondent, arguing that qualified conferral orders like the one at issue do not violate the Sixth Amendment.

The United States has a strong interest in the resolution of the question presented. The constitutionality of limiting defendant-witnesses' conferral with counsel during trial recesses has arisen in numerous criminal prosecutions brought by the United States. See, e.g., Geders v. United States, 425 U.S. 80 (1976); see also, e.g., Perry v. Leeke, 488 U.S. 272, 277 & n.2 (1989) (collecting additional examples); United States v. Cavallo, 790 F.3d 1202, 1213-1218 (11th Cir. 2015); United States v. Triumph Capital Grp., Inc., 487 F.3d 124, 129-139 (2d Cir. 2007).

The United States has frequently participated in oral argument as amicus curiae in cases involving the scope of a criminal defendant's Sixth Amendment rights. See, e.g., Smith v. Arizona, 602 U.S. 779 (2024); Garza v. Idaho, 586 U.S. 232 (2019); Weaver v. Massachusetts, 582 U.S. 286 (2017). In light of the substantial federal interest in the question presented, the United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

JULY 2025