

IN THE  
SUPREME COURT OF THE UNITED STATES

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JOHN FITZGERALD HANSON,

*Applicant,*

v.

STATE OF OKLAHOMA,

*Respondent.*

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On Petition for Writ of Certiorari  
to the Oklahoma Court of Criminal Appeals

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**REPLY TO RESPONSE IN OPPOSITION TO  
EMERGENCY APPLICATION FOR STAY OF EXECUTION**

**THIS IS A CAPITAL CASE WITH IMMINENT EXECUTION SCHEDULED  
FOR JUNE 12, 2025 AT 10:00 A.M. CDT**

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June 11, 2025

COUNSEL FOR JOHN FITZGERALD HANSON

For starters, the State chastises Mr. Hanson for filing constitutional claims in numerous filings in numerous jurisdictions, characterizing his counsel's attempts to vindicate his constitutional rights as "abusive." Resp. at 10. It is axiomatic that capital defense counsel will continue to investigate a client's case until the last hour and raise any cognizable claim. Rules 10.7 & 10.8 *American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, 31 Hofstra L. Rev. 913 (rev. Feb. 2003). And it is routine that capital petitioners seek redress before this Court in the days leading up to their execution. Mr. Hanson should not be vilified for attempting to vindicate his constitutional rights.

Respondent attempts to obfuscate the issues Mr. Hanson presented to this Court by filling pages of analysis as to why Oklahoma's bars to claims under Okla. Stat. tit. 22, § 1089 (D)(8) are adequate and independent state grounds. Resp. at 13-16; BIO at 12-15. But Mr. Hanson does not argue that the procedural bars applied to his materiality arguments are inadequate or dependent on federal law. *See* BIO at 15-16. Rather, Mr. Hanson argues that the OCCA's application of the statutory bars to *his particular claims* violate *Brady*, *Napue*, and the Due Process Clause because they fail to give effect to federal law. "If a state collateral proceeding is open to a claim controlled by federal law, the state court 'has a duty to grant the relief that federal law requires.'" *Montgomery v. Louisiana*, 577 U.S. 190, 204-05 (2016) (quoting *Yates v. Aiken*, 484 U.S. 211, 218 (1988)). Oklahoma's postconviction statute forecloses any opportunity for Mr. Hanson to raise a *Brady* or *Napue* claim under the federal standard, and it precludes postconviction relief where federal law may require it. *See id.*

Mr. Hanson raised *Brady* and *Napue* arguments based on facts uncovered within the last couple weeks—evidence which the State has concealed for decades. The State now reaps the benefit of its unethical concealment because the gateway standards for Oklahoma’s postconviction procedures are far more demanding than the materiality standards in *Brady* and *Napue*. Compare Okla. Stat. tit. 22, § 1089(C), (D)(8) (providing the heightened standards in state postconviction proceedings) with *Fuston v. Oklahoma*, 470 P.3d 306, 322 (Okla. Crim. App. 2020) (describing the *Brady* standard on direct appeal); *Reed v. Oklahoma*, 657 P.2d 662, 664 (Okla. Crim. App. 1983) (describing the *Napue* standard on direct appeal). In other words, because of the State’s unethical behavior, Mr. Hanson no longer has the benefit of the materiality standards in *Brady* or *Napue*, or their lack of a diligence requirement. Prosecutorial misconduct in Oklahoma, if uncovered after direct appeal, precludes federal law.

The State characterizes Mr. Hanson’s petition essentially as an abuse of the writ, which the gateway standards in the postconviction statute are designed to guard against. BIO at 18-19. That reasoning may be valid in many cases—but not where a petitioner, like Mr. Hanson, is raising a claim for the first time based on evidence that the State had an ethical and constitutional duty to disclose but instead chose to conceal it for more than two decades. Simply put, when “state courts provide a forum for postconviction relief, they need to play by the ‘old rules’ announced before the date on which a defendant’s conviction and sentence became final.” *Montgomery*, 577 U.S. at 219 (Scalia, J., dissenting). *Brady* and *Napue* are old rules, decided decades before Mr. Hanson’s trial, and the State’s interest in finality over law does not overrule constitutional law.

## CONCLUSION

Mr. Hanson's case is yet another example of the Oklahoma Court of Criminal Appeals' recalcitrance to follow this Court's clear and long-standing precedent. *See* Reply at 1-3 (more fully discussing the OCCA's history of ignoring constitutional commands). For the foregoing reasons, Mr. Hanson respectfully requests that this Court grant his Emergency Application for Stay of Execution.

Respectfully submitted:

/s Callie Heller

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