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September 22, 2021

Via E-File

Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: No. 21-5592 (Capital Case), *John H. Ramirez v. Bryan Collier, Executive Director, Texas Department of Criminal Justice, et al.*

Dear Mr. Harris:

Respondents seek to lodge with the Court certain non-record materials in connection with the above-captioned matter pursuant to Supreme Court Rule 32.3.

After setting this case for argument, the Court directed the parties to submit briefs discussing four specific issues. Due to the shifting nature of Petitioner's claim (as well as the extraordinarily accelerated timeline), this case comes to the Court on an underdeveloped record that lacks the evidence necessary to completely address the Court's questions. Accordingly, Respondents seek to lodge with the Court the following documents:

First, to answer the Court's question regarding exhaustion, we propose to submit grievances filed by Mr. Ramirez and the declaration of the manager of the Texas Department of Criminal Justice's (TDCJ) Resolution Support/Offender Grievance Department, which discusses the inmate grievance process.

Second, to answer the Court's question respecting Petitioner's satisfaction of his burden under the Religious Land Use and Institutionalized Persons Act (RLUIPA), we propose to submit the declaration of a TDCJ employee that speaks to Petitioner's sincerity and the burden on his religious exercise. Because the names of persons involved in executions are kept confidential, we propose to submit a redacted version for the public record and the unredacted declaration under seal.

Finally, to answer the Court's question regarding Respondents' burden under RLUIPA, we propose to submit the declaration of the Director of TDCJ's Criminal Institutions Division. This declaration addresses the State's compelling interests in, *inter alia*, security during an execution and respecting the dignity of the condemned inmate, and explains that the existing policies are the least restrictive means of advancing the State's interests.

The Court has previously accepted non-record materials from parties in extraordinary circumstances. *See, e.g., Ross v. Blake*, 136 S. Ct. 1850, 1860-62 (2016); *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 271 (2015); *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 718 (2007). Moreover, there is precedent for the Court's acceptance of lodged affidavits and declarations. *See, e.g., Azar v. Garza*, 138 S. Ct. 2616 (2018) (order granting petitioner's motion to lodge non-record material); Brief in Opposition at 24, *Azar v. Garza*, 138 S. Ct. 1790 (2017) (No. 17-654), 2017 WL 6034215 (describing lodged non-record material to include a declaration and emails); Orders, *Kingdomware Techs., Inc. v. United States*, No. 14-916 (U.S. March 25, 2016) (approving petitioner's and respondent's proposals to lodge declarations); Order, *Ala. Democratic Conf. v. Alabama*, No. 13-1138 (U.S. Dec. 31, 2014) (approving appellants' proposal to lodge an affidavit); Order, *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, No. 05-908 (U.S. Nov. 27, 2006) (approving petitioner's proposal to lodge an affidavit). There also is precedent for the lodging of non-record material under seal. *See Azar*, 138 S. Ct. at 2616 (order granting a motion to lodge non-record materials under seal with redacted copies for the public record). This Rule 32.3 request is consistent with lodgings previously approved by the Court and is especially appropriate in the light of the limited record available for the parties to draw upon in answering the four questions identified by the Court.

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As required by Rule 32.3, Respondents will not submit these documents to the Court unless and until you request them. We have provided Petitioner's counsel with a copy of this letter and these documents with the exception of the declaration proposed for lodging under seal. Petitioner's counsel has received the redacted version of that document.

Respectfully submitted.

/s/ Judd E. Stone II

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cc: Seth Kretzer (via e-mail)