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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:

I write in response to Petitioner's letter of September 22, 2021.

The limited set of documents—totaling 25 pages—that Respondents have proposed to lodge merit consideration by the Court given the posture of this petition. Respondents prevailed in the District Court on Petitioner's motion for a stay and have not had an occasion to respond on the merits to Petitioner's complaint with a motion to dismiss or an answer. As Respondents understand the Court's order of September 10, 2021, the Court has decided to review the merits of the claim Petitioner pled under the Religious Land Use and Institutionalized Persons Act (RLUIPA) even though neither the District Court nor the Court of Appeals undertook this review. In denying Petitioner's motion for a stay, those courts determined that Petitioner failed to satisfy his burden to show a likelihood of success on the merits of either of his claims. The standard the courts below applied materially differs from the standards the Court's questions imply: whether Respondents have carried a burden under RLUIPA and the affirmative defense of exhaustion. Respondents' proposal to lodge documents simply responds to the apparent change in posture reflected in these questions.

Respondents' proposal is further necessitated by Petitioner's delay in filing his complaint and his shifting allegations after commencing suit. Petitioner filed suit on August 10, 2021, nearly six months after Petitioner's execution was scheduled and just 29 days before the scheduled date. *See* D.E. 1. Petitioner then filed an amended complaint containing additional allegations six days later. *Id.*; D.E. 5. Two days later, on August 18, 2021, Petitioner filed the motion for a stay that precipitated this appeal. D.E. 11. The district court allowed Respondents five days to submit their response. D.E. 6; D.E. 13. On the day prior to Respondents' deadline for their response, Petitioner, apparently still unsatisfied with his allegations, amended his complaint again and inserted his audible prayer allegations. D.E. 12. Petitioner's streak of fouls continued; he next filed a reply to Respondents' response containing information protected by law from disclosure. D.E. 14. That necessitated Respondents' filing of a motion to seal Petitioner's reply. D.E. 16. Petitioner opposed, and the District Court granted the motion to seal. *Id.*; D.E. 17. Respondents filed a sur-reply and a supplement, D.E. 18; D.E. 21, before the District Court denied the motion for a stay just 15 days after Petitioner filed it, D.E. 11; D.E. 23.

The procedural history of this case reveals a lack of diligence by Petitioner and an extraordinarily compressed timeline of Petitioner's making. This highlights the "last-minute nature" of Petitioner's litigation, *Hill v. McDonough*, 547 U.S. 573, 584 (2006) (quoting *Gomez v. U.S. Dist. Court for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992) (per curiam)), and the unworthiness of Petitioner's claims, not a need for remand, as Petitioner suggests.

Respectfully submitted.

/s/ Judd E. Stone II

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cc: Seth Kretzer (via e-mail)