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December 13, 2023

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

Re: *Jason Smith v. Arizona*, No. 22-899
Respondent's Request to Lodge Non-Record Material Pursuant to Rule 32.3

Dear Mr. Harris:

Pursuant to Supreme Court Rule 32.3, the Respondent, the State of Arizona, requests permission to lodge non-record material to assist the Court's review of this matter. Specifically, Respondent proposes to lodge nine photographs of three physical exhibits admitted into evidence at trial, along with an investigator's declaration that the photographs accurately depict the physical exhibits.

At trial, the State admitted into evidence three physical exhibits containing marijuana, methamphetamine, and cannabis wax, which were sealed in plastic bags. Among other things, the bags/exhibits contain handwritten notes relevant to the chain of custody for each item. After trial, these exhibits were stored at the Yuma County Superior Court.

To facilitate this Court's convenient review of the physical exhibits—which are cited in Respondent's Merits Brief (at 5, 27-28 n.6)—Respondent proposes to lodge nine photographs of the three physical exhibits. This Court may properly consider these photographs because the physical exhibits were introduced at trial and viewed by the jury.

An investigator with the Yuma County Attorney's Office took the photographs of the physical exhibits and has signed a declaration affirming that (1) the proposed photographs are the ones he took, and (2) the photographs accurately depict the physical exhibits. The investigator's declaration would be lodged with the nine photographs.

Petitioner's counsel has no objection to the proposed lodging.

Sincerely,

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/s/ Alexander W. Samuels
Principal Deputy Solicitor General

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