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September 21, 2023

**BY FEDEX AND ELECTRONIC FILING**

Mr. Scott S. Harris  
Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

Re: *Broadnax v. Texas*, No. 23-248

Dear Mr. Harris:

I am counsel of record for Petitioner in the above-captioned matter. I write to clarify a factual statement in the procedural history of this case, as set forth in the Petition for a Writ Certiorari filed on September 5, 2023.

On pages I, 3, and 15 of the Petition for a Writ Certiorari, the Petition states that the hand-annotated Riser Questionnaire was first disclosed to Petitioner's counsel in 2021 by the Dallas District Attorney's Office. While this document (and other jury selection related documents) was provided to Petitioner's counsel in 2021, upon further investigation, counsel has confirmed that a copy of this questionnaire

was also included among an earlier group of documents produced by the District Attorney's Office, in September 2016.

This clarification does not affect the legal analysis of the issues presented in the Petition. Initial state post-conviction proceedings in Petitioner's case were concluded on May 20, 2015, when the Texas Court of Criminal Appeals denied Petitioner's state post-conviction application. *See Ex parte Broadnax*, 2015 WL 2452758 (Tex. Crim. App. May 20, 2015). This Court denied certiorari on October 5, 2015. Thus, the annotated Riser questionnaire, which was disclosed more than a year after Petitioner's state post-conviction proceedings had been concluded, "was unavailable on the date the applicant filed the previous application," Tex. Code Crim. Proc. Art. 11.071 §5(a)(1), and was appropriately presented for consideration in Mr. Broadnax's subsequent state habeas application.

A copy of this letter is being distributed via FedEx and e-mail to counsel for Respondent in this action. Please do not hesitate to let me know if you need any additional information.

Sincerely yours,

Steven C. Herzog  
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