

CAPITAL CASE
Nos. 24-5807 & 24A391

In the Supreme Court of the United States

CHRISTOPHER COLLINGS, Petitioner,

v.

DAVID VANDERGRIFF, Respondent.

*ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF THE STATE OF MISSOURI*

**BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI AND TO MOTION FOR
STAY OF EXECUTION**

EXECUTION SCHEDULED FOR DECEMBER 3, 2024

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CAPITAL CASE

QUESTIONS PRESENTED

Christopher Collings kidnapped, raped, and murdered a nine-year-old girl, and then dumped her body in a sinkhole in 2007. Collings confessed that he had committed the crime to local police chief, C.C. Roughly one year before the 2012 trial, the prosecution disclosed that C.C. had been arrested in 1968 for desertion, which was later reduced to AWOL, and also that C.C. had been the subject of an investigative arrest for forgery in 1968. The disclosure indicated that the disposition of the arrests was unknown, but the defense could, upon request, view the State's printouts on the matter. The record does not indicate that either side pursued further information about the arrests during trial, on direct appeal, or in the ordinary course of state post-conviction review.

In 2019, Collings filed a federal habeas petition alleging, *inter alia*, that the prosecutor committed a due process violation under *Brady v. Maryland*, 373 U.S. 83 (1963), by not discovering and disclosing the resolution of the arrests. The warden obtained the court martial records from the National Archives and provided these records to Collings and the district court. Following the receipt of those records, the district court denied the claim and refused to issue a certificate of appealability. In 2024, after the Missouri Supreme Court had scheduled his execution date, Collings filed a petition for a writ of habeas corpus asserting the *Brady* claim for the first time in state court. The Missouri Supreme Court summarily denied the petition.

The questions presented are:

1. May this Court reconsider the Missouri Supreme Court's application of Missouri's procedural default rule, which presents an adequate and independent state law ground for the denial of Collings's claim below?

2. Is certiorari review of this late-arriving petition and the issuance of a stay consistent with *Bucklew v. Precythe*, 587 U.S. 119 (2019), given that every federal court to consider Collings's *Brady* claim during federal habeas proceedings either denied the claim and refused to issue a certificate of appealability or refused to issue a certificate of appealability, and given that Collings only sought review after Missouri scheduled his execution date?

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JURISDICTIONAL STATEMENT

This Court lacks jurisdiction to review Collings’s petition for a writ of certiorari because the Missouri Supreme Court summarily denied his state habeas petition containing a *Brady* claim identical to that raised here, indicating that his state habeas petition violated a Missouri procedural rule—an independent and adequate state-law ground for denial. *Michigan v. Long*, 463 U.S. 1032, 1041–1042 (1983); *Byrd v. Delo*, 942 F.2d 1226, 1231 (1991). As “a well-established principle of federalism[,]” this adequate and independent state-law ground renders the decision challenged by Collings, “immune from review in the federal courts.” *Wainwright v. Sykes*, 433 U.S. 72, 81 (1977).

STATEMENT OF THE CASE

Christopher Collings's nine-year-old murder victim lived with her mother and step-father in rural Missouri. *State v. Collings*, 450 S.W.3d 741, 747 (Mo. 2014) ("*Collings I*"). Collings was friends with the victim's step-father, David Spears, and lived in the family's basement for several months during the summer and fall of 2007. *Id.* The victim referred to Collings as her uncle. *Id.* In late October 2007, Collings moved to a trailer on his own family's farm. *Id.*

On the evening of Friday, November 2, 2007, Collings, Spears, and a third man, N.M., met at a farm where they had been working. *Id.* The three went to a liquor store, bought two six packs of beer, then went to Spears's home, where the victim lived, to drink and play pool. *Id.* The victim's mother left for work around 8:30 p.m., leaving the victim in the care of the three men. *Id.*

Later, Collings asked N.M. to drive him home, and the two convinced Spears to go with them. *Id.* Spears left the victim asleep in her room and went with the two other men. *Id.* The men bought more liquor and went to Collings's trailer where they drank and smoked marijuana. *Id.*

After an hour, N.M. and Spears left to go home, taking backroads rather than the direct highway route in order to avoid the police. *Id.* Collings later confessed that he took the highway directly to Spears's farm, knowing that, if he hurried, he could get there while the victim was alone. *Id.* at 750. Collings admitted to arriving there while the nine-year-old victim was alone and raping her. *Id.* at 750–51. Collings further revealed that, after raping her, he strangled her to death with a rope when

she recognized him. *Id.* at 751. Collings threw the victim's body into a sinkhole. *Id.* Collings admitted that he had burned the clothing he wore during the attack, the victim's pajama pants and underwear, and the rope he used to strangle the victim in a wood stove. *Id.* He also admitted to burning his own mattress, which he believed he had contaminated with the victim's blood. *Id.* Collings's confession was surprising to investigators because they were operating under the assumption that Spears was the killer and that Collings merely had knowledge about Spears's guilt.

Collings was tried in March of 2012. Roughly one year before trial, the prosecuting attorney sent a report to the defense disclosing that, in 1968, Police Chief C.C. was arrested for desertion that was amended to AWOL and that C.C. was the subject of an investigative arrest for forgery in Arkansas. The report further stated that no disposition of the charges was shown, and that a computer printout of the criminal histories was available upon request. Appendix 114a. Nothing in the record indicates that Collings followed up on the matter before or during trial, on direct appeal, or in the ordinary course of state post-conviction review litigation.

The Missouri Supreme Court affirmed Collings's convictions and sentences on direct review, *id.* at 768, and this Court denied his petition for a writ of certiorari. *Collings v. Missouri*, 574 U.S. 1160 (2015).

In contradiction of Collings's confession, Spears gave a confession in which he claimed that he had acted in concert with Collings in committing the murder. *Collings v. State*, 543 S.W.3d 1, 15–16 (Mo. 2018) ("*Collings II*"). Collings's trial counsel viewed Spears's confession as placing Collings in an even worse light than

Collings' own confession, making it more difficult to argue for a second-degree murder conviction. *Id.* So, counsel made a strategic decision to keep evidence of the step-father's confession out of the case if possible, and to argue for a second-degree murder conviction based solely on Collings's confession. *Id.*

Following an evidentiary hearing, the post-conviction review court denied Collings's motion for post-conviction relief. *Collings v. State*, 15PH-CV00097 (Phelps County Cir. Ct. Nov. 1, 2016). The Missouri Supreme Court unanimously affirmed the denial of post-conviction relief, *Collings II*, 543 S.W.3d at 8, and this Court once again denied Collings's petition for a writ of certiorari. *Collings v. Missouri*, 139 S. Ct. 247 (2018).

In April of 2019, Collings filed a federal habeas petition in the United States District Court for the Western District of Missouri, alleging twenty-eight claims for relief. *Collings v. Griffith*, No. 4:18-CV-08000-MDH, Petition, Document 8 (W.D. Mo. Apr. 16, 2019). The petition did not allege, however, that any of the claims were unexhausted. *Id.* Collings filed a traverse in the district court in September 2020. *Collings v. Griffith*, No. 4:18-CV-08000-MDH, Traverse, Document 18 (W.D. Mo. Sep. 11, 2020). The traverse also failed to argue that any of the claims were unexhausted. *Id.* at 31–39. Instead, Collings argued that cause and prejudice existed to excuse the default of claims that were technically exhausted by procedural default. *Id.*

In his 2019 federal habeas petition, Collings raised a due process violation under *Brady v. Maryland*, 373 U.S. 83 (1963), asserting that the prosecuting attorney did not disclose Police Chief C.C.'s prior criminal history. Collings also alleged that

his trial counsel was constitutionally ineffective for not further investigating C.C.'s criminal history. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 8 at 61–68, 56–58. In relation to his ineffective assistance of counsel claim, Collings alleged that, at least as early as March 11, 2011, counsel was on notice of C.C.'s arrests. *Id.* at 69. Collings alleged that the information needed to impeach C.C. was readily available had counsel investigated the matter and that counsel could have obtained the records through an open records request with the Department of Defense. *Id.* at 69–70. The warden then obtained C.C.'s military records, including his court martial records, through a request to the National Archives and sent those documents to Collings's federal habeas counsel and to the district court reviewing Collings's 2019 federal habeas petition. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 10-43.

On July 1, 2022, over three years after filing his federal habeas petition, Collings filed a motion for stay requesting that the district court hold his federal habeas proceedings in abeyance pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), to allow him the opportunity to exhaust his state-court remedies. *Collings v. Griffith*, No. 4:18-CV-08000-MDH, Motion for Stay and Abeyance, Document 45. The warden opposed this motion, specifically arguing that the claims upon which Collings sought a stay were exhausted through procedural default, that the claims would not be the proper subject for a stay if they were unexhausted (which they were not), and that the claims were without legal merit. Appendix 115a–123a. With respect to the *Brady* and ineffective assistance of counsel claims concerning C.C.'s military arrests, the warden argued that these claims were procedurally barred, that these claims were

meritless because the arrests were so remote in time as to have little or no logical relevance and that, although the warden provided Collings and the district court with C.C.'s military records, the district court should only consider the evidence in the state-court record. *Id.* at 122a–123a.

On September 30, 2022, the district court denied Collings's motion for a stay. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 57. On the same date, the district court denied his federal habeas petition and refused to issue a certificate of appealability. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 58. The district court found that Collings had admitted that he did not raise the *Brady* claim in state court despite the pretrial disclosure of C.C.'s arrests, and it also found that Collings conceded that this claim was defaulted but argued that the default could be excused under *Martinez v. Ryan*, 566 US. 1 (2012), due to his post-conviction counsel's alleged ineffectiveness. Further, the district court concluded that Collings had not demonstrated that the State failed to disclose C.C.'s arrests, and also that Collings could not prove prejudice even if the State had failed to disclose this information because the arrests occurred decades before C.C.'s involvement in Collings's underlying criminal case. *Id.* at 18–19. Additionally, the district court rejected the ineffective assistance of counsel claim as procedurally barred, and also denied it as meritless because there was no reasonable probability that the outcome of the proceeding would have been different. *Id.* at 19–20.

On December 15, 2022, the district court denied Collings's Rule 59(e) motion and again denied Collings a certificate of appealability. *Collings v. Griffith*, 4:18-CV-

08000-MDH, Document 67. The United States Court of Appeals for the Eighth Circuit then denied Collings a certificate of appealability on June 28, 2023, denied rehearing en banc on August 10, 2023, and issued its mandate on September 18, 2023. *Collings v. Griffith*, 23-1064. This Court denied certiorari on April 1, 2024. *Collings v. Vandergriff*, 23-6703. On April 2, 2024, the State of Missouri filed a motion to set an execution date. *State v. Collings*, SC92720.

On June 27, 2024, Collings filed a petition for a writ of habeas corpus in the Missouri Supreme Court asserting the *Brady* claim concerning C.C.'s 1968 and 1969 arrests, which he had unsuccessfully raised on federal habeas review. Appendix 4a–37a. The warden filed suggestions in opposition to this state habeas petition. Appendix 188a–193a. These suggestions indicated that Collings's trial counsel had been put on notice of C.C.'s arrests in March of 2011, roughly one year before trial. *Id.* at 188a. These suggestions further explained that the record did not indicate that Collings ever followed up on the disclosure during the ordinary course of state-court review, either with the prosecutor or by seeking military records to determine the disposition of the arrests. *Id.* at 189a. These suggestions also revealed that Collings had raised the *Brady* claim in his 2019 federal habeas petition, along with a claim that trial counsel was ineffective for not obtaining and using C.C.'s military records after the prosecuting attorney's pretrial disclosure. *Id.* These suggestions pointed out that, on federal habeas review, the warden obtained C.C.'s military records and provided them to Collings and the district court, and also that, following its receipt of these records, the district court rejected both claims related to them. *Id.*

The warden's suggestions further noted that the district court found that Collings had acknowledged the procedural default of his *Brady* and ineffective-assistance-of-counsel claims concerning C.C.'s military records. *Id.* at 190a. These suggestions restated the district court's finding that, even if there had been a failure to disclose, which Collings had not proven, there was no reasonable probability that the information about the arrests would have changed the outcome of the proceedings. *Id.*

The warden's suggestions argued that Collings's state habeas petition did not mention the ineffective assistance claim related to C.C.'s military records. These suggestions stated that Collings, in support of his state habeas petition, provided affidavits from his trial counsel arguing about the alleged importance of the records but gave no plausible explanation as to why his trial counsel did not follow up on the matter. *Id.* These suggestions argued that, in denying Collings a certificate of appealability, the district court and the United States Court of Appeals for the Eighth Circuit had determined that the resolution of the claim was not debatable among reasonable jurists. *Id.* at 190a–191a. These suggestions asserted that Collings's *Brady* claim was both inexcusably procedurally barred, and also that this claim was meritless because the information pertaining to C.C.'s military arrests was not material. *Id.* at 191a–192a. On July 1, 2024, Collings filed reply suggestions in support of the petition and a motion for discovery *Id.* at 175a–187a. On August 15,

2024, the Missouri Supreme Court summarily denied both Collings’s state habeas petition and his motion for discovery. *Id.* at 1a–3a.¹

On August 23, 2024, the Missouri Supreme Court set the date for the execution of Collings’s sentence for December 3, 2024. *State v. Collings*, SC92720. Collings had filed his state habeas petition shortly before this, during the summer of 2024, not only after the State had requested that the Missouri Supreme Court set an execution date, but years after he had unsuccessfully raised the same *Brady* claim related to C.C.’s military records in federal court in 2019.

¹ The statement of facts in Collings’s present certiorari petition alleges that there is no evidence Collings could, or should have, obtained C.C.’s records about the arrests, and it further alleges that the prosecutor suppressed this evidence. Certiorari Petition at 2–3. The petition also refers to the State “withholding” the records and continuing to withhold the records throughout Collings’s trial and pretrial proceedings. *Id.* at 12. Collings criticizes the State for arguing that his trial counsel could have obtained C.C.’s records. *Id.* at 17. Collings asserts that the State withheld and concealed this information throughout his direct appeal and post-conviction proceedings. *Id.* at 19–20. Collings further alleges that only the State had the ability to find the information about the disposition of C.C.’s arrests. *Id.* at 20–21.

But these allegations are incorrect. As set forth above, Collings has continuously admitted that at least as early as March 11, 2011, his trial counsel was on notice of C.C.’s arrests. *Id.* at 69. Collings has alleged that the information needed to impeach C.C. was readily available, had his trial counsel investigated this matter, and also that trial counsel could have obtained C.C.’s records through an open records request with the Department of Defense. *Id.* at 69–70. These prior admissions contradict Collings’s current *Brady* claim, which alleges that there is no evidence indicating that his trial counsel could or should have obtained the C.C.’s military records before trial.

SUMMARY OF THE ARGUMENT

Collings fails to raise an issue warranting this Court's review. The Missouri Supreme Court summarily denied his state habeas petition, which was finally filed in 2024 after an execution date had been requested by the State, and that denial is the subject of Collings's present petition.

Collings's petition alleges a failure to disclose information about C.C.'s arrests, which occurred decades before C.C.'s involvement in the investigation of Collings in 2007. But Collings failed to raise this issue in state court until 2024, despite being made aware of C.C.'s arrests a year before his 2012 trial. Further, in his 2019 federal habeas petition, Collings alleged that the information at issue here was readily available to his trial counsel, but his trial counsel did not pursue it. In rejecting his federal habeas petition, the district court found that his *Brady* claim was procedurally barred and meritless because the decades-old evidence of C.C.'s arrests was not material, and also that his ineffective-assistance claim failed due to lack of prejudice. Both the district court and the United States Court of Appeals for the Eighth Circuit denied Collings a certificate of appealability, indicating that reasonable jurists could not disagree as to the merit of these claims.

The summary denial by the Missouri Supreme Court is most likely based on Collings's violation of the state procedural bar, indicating that Collings's current petition does not present this Court with a federal question. Collings has admitted that the information at issue in the *Brady* claim he raises before this Court was readily available before his trial, but his trial counsel did not pursue it in the ordinary

course of review. Additionally, even if this Court were to conclude that the Missouri Supreme Court’s summary denial reached the merits of Collings’s *Brady* claim, Collings cannot demonstrate that the Missouri Supreme Court unreasonably applied federal law in denying this claim on the merits, as the federal courts had already denied it and refused to issue a certificate of appealability.

REASONS FOR DENYING THE PETITION

I. The Supreme Court of Missouri denied relief on an adequate and independent state-law ground, and therefore this Court has no jurisdiction to review the state court’s decision.

This Court does not have jurisdiction to review a decision based on an adequate and independent state-law ground. *Michigan v. Long*, 463 U.S. at 1041–1042. “The adequate and independent state grounds doctrine is the product of two fundamental features of [this Court’s] jurisdiction.” *Cruz v. Arizona*, 598 U.S. 17, 32 (2023) (Barrett, J, dissenting). “First, this Court is powerless to revise a state court’s interpretation of its own law.” *Id.* Thus, this Court “cannot disturb state-court rulings on state-law questions that are independent of federal law.” *Id.* (citing *Murdock v. Memphis*, 87 U.S. 590 (1875)). “Second, Article III empowers federal courts to render judgments, not advisory opinions.” *Id.* (citing *Hayburn’s Case*, 2 U.S. 408 (1792)). Both features are relevant here.

The Missouri Supreme Court denied Collings’s petition for a writ of habeas corpus summarily, and this Court should not disturb that denial because it rests on the state court’s application of a state procedural rule. Thus, any ruling from this Court would either override an application of Missouri’s procedural default rule by

Missouri's highest court, or would require the Court to issue an advisory opinion that would have no effect on Missouri's application of state-law.

While Collings's first question presented rests nearly exclusively on the Missouri Supreme Court's application of the Missouri procedural default rule, Collings may attempt to argue that the state-court decision below should be read as a denial of his *Brady* claim on the merits. But this is not the case. In *Ylst v. Nunnemaker*, 501 U.S. 797, 802 (1991), this Court wrote that the presumption that a state-court's denial of a federal claim prompts federal review is to be applied *only* after it has been determined that the decision fairly appears to rest primarily on federal law or is interwoven with federal law. The Eighth Circuit, citing *Ylst* and this Court's decision in *Coleman v. Thompson*, 501 U.S. 722 (1991), explained that, where it cannot be said that a summary denial of a state habeas petition fairly appears to rest primarily on federal law, or to be interwoven with the federal law, the presumption that federal law is the basis of said state court's summary decision is inapplicable. *Byrd*, 942 F.2d at 1231.

With respect to summary denials of Rule 91 habeas corpus petitions by the Supreme Court of Missouri, "after *Coleman*, there is simply no reason to construe an unexplained Rule 91 denial as opening up the merits of a previously defaulted federal issue." *Id.* at 1232. The Eighth Circuit has consistently followed the rule laid out in *Byrd*, holding that summary denials of state habeas petitions indicate a violation of Missouri's procedural rule directing that such petitions cannot be used to raise claims that could have been raised on direct appeal or in a timely motion for post-conviction

relief. *Preston v. Delo*, 100 F.3d 596, 600 (1996). As the procedural requirements regarding Missouri state habeas petitions are firmly established and regularly followed, a violation of them is adequate to foreclose federal review. *See Lee v. Kemna*, 534 U.S. 362, 376 (2002).

In his 2019 federal habeas petition, Collings alleged a due process violation under *Brady v. Maryland*, 373 U.S. 83 (1963), asserting that the prosecuting attorney did not disclose Police Chief C.C.'s prior criminal history. Collings also alleged that his trial counsel was constitutionally ineffective for not further investigating C.C.'s criminal history. *Collings v. Griffith*, 4:18-CV-08000-MDH. Document 8 at 61–68, 56–58. In relation to his ineffective-assistance-of-counsel-claim, Collings alleged that at least as early as March 11, 2011, counsel was on notice of C.C.'s arrests. *Id.* at 69. Collings asserted that the information needed to impeach C.C. was readily available had his trial counsel investigated the matter, and also that his trial counsel could have obtained the records through an open records request with the Department of Defense. *Id.* at 69–70.

In other words, Collings has admitted that the information he needed to raise a *Brady* claim based on C.C.'s arrests was readily available in 2011, a year before his trial. But Collings did not pursue C.C.'s military records before trial, nor did he raise a *Brady* claim pertaining to these records on direct appeal or in the ordinary course of state post-conviction review. Because Collings both failed to raise his present claim in the ordinary course of state court review, and failed to excuse its procedural default, this Court should construe the Missouri Supreme Court's summary denial of

his state habeas petition as an enforcement of a state procedural rule and, therefore, an independent and adequate state-law ground for denying Collings's *Brady* claim. Put simply, the decision below rests on an adequate and independent state-law ground, and as "a well-established principle of federalism[,] this adequate and independent state-law ground renders the decision "immune from review in [] federal court[]." *Wainwright*, 433 U.S. at 81; accord *Lee*, 534 U.S. at 375; *Coleman*, 501 U.S. at 729. This Court should deny Collings's petition for a writ of certiorari.

II. Alternatively, Collings's *Brady* claim is without merit because the allegedly undisclosed evidence was not material.

Collings could have brought his *Brady* claim in the Missouri Supreme Court in 2019, when he raised the same claim in his federal habeas petition. In fact, he could have brought the same claim in the ordinary course of state-court review years before. But he did not. He waited until the State applied for an execution date in 2024, then brought the claim in the hope of delaying his execution. This Court should not reward an attempt at delay that is patently calculated to manipulate the judicial process to confer a benefit to Collings. See *Bucklew*, 587 U.S. at 149. ("The people of Missouri, the surviving victims of [Collings's] crimes, and others like them deserve better."). This Court should deny the petition for that reason alone. But the claim is also without merit, and does not implicate any real conflict.

On September 30, 2022, the district court denied Collings's motion for stay. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 57 (W.D. Mo.). On the same date, the district court denied Collings's federal habeas petition and refused to issue him a certificate of appealability. *Collings v. Griffith*, 4:18-CV-08000-MDH,

Document 58 (W.D. Mo.). The district court found that Collings had admitted that he did not raise the *Brady* claim in state court despite the pretrial disclosure of C.C.'s arrests, and it also found that Collings conceded that this claim was defaulted but argued that the default could be excused under *Martinez v. Ryan*, 566 US. 1 (2012), due to his post-conviction counsel's alleged ineffectiveness. Further, the district court concluded that Collings had not demonstrated that the State failed to disclose C.C.'s arrests, and also that Collings could not prove prejudice even if the State had failed to disclose this information because the arrests occurred decades before C.C.'s involvement in Collings's underlying criminal case. *Id.* at 18–19. Additionally, the district court rejected the ineffective assistance of counsel claim as procedurally barred, and also denied it as meritless finding there was no reasonable probability that the outcome of the proceeding would have been different. *Id.* at 19–20.

On December 15, 2022, the district court denied Collings's Rule 59(e) motion and again denied Collings a certificate of appealability. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 67 (W.D. Mo.). The United States Court of Appeals for the Eighth Circuit then denied Collings a certificate of appealability on June 28, 2023, denied rehearing en banc on August 10, 2023, and issued its mandate on September 18, 2023. *Collings v. Griffith*, 23-1064. This Court denied certiorari on April 1, 2024. *Collings v. Vandergriff*, 23-6703.

The Missouri Supreme Court did not act erroneously in rejecting Colling's meritless *Brady* claim, let alone act in a manner necessitating intervention from this Court.

REASONS FOR DENYING THE APPLICATION FOR STAY OF EXECUTION

“[A] stay of execution is an equitable remedy. It is not available as a matter of right, and equity must be sensitive to the State’s strong interest in enforcing its criminal judgments without undue interference from the federal courts.” *Hill v. McDonough*, 547 U.S. 573, 584 (2006). A request for a stay of execution must meet the standard required for all other stay applications. *Id.* “Under that standard, a court considers four factors: ‘(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.’” *Nken v. Holder*, 556 U.S. 418, 425–26 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

“Given the State’s significant interest in enforcing its criminal judgments, there is a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004); *see also, e.g., Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992) (per curiam) (holding that the “last-minute nature of an application” may be grounds for denial of a stay). Indeed, “an inmate is not entitled to a stay of execution as a matter of course.” *Hill*, 547 U.S. at 583–84. This is because “both the State and crime victims have an important interest in the timely enforcement of a sentence.” *Id.* at 584. Belated motions for stay are not favored because they offend the State’s and the victims’

rights to final disposition of criminal judgments. *Bucklew*, 587 U.S. at 149.

I. Collings is not likely to succeed on the merits of his petition.

Collings has not demonstrated any probability that this Court will grant a writ of certiorari, let alone a fair prospect that he is likely to succeed on his meritless *Brady* claim. Here, the alleged point of a stay would be to allow Collings to litigate an allegedly meritorious challenge to his judgment of conviction and sentence. But his present claim was rejected on an independent and adequate state-law ground, and, even if this Court could reach his claim, every federal court to consider it has found that its lack of merit is beyond dispute by reasonable jurists.

II. There is no irreparable harm to Collings.

A stay would irreparably harm both the State and Collings's victims. On the other hand, Collings will not be irreparably harmed absent the stay. Collings has no right to raise meritless claims to delay the execution of his sentence. He suffers no harm, then, when he is not given a delay to which he is not entitled.

It is not irreparable harm by any reasonable definition that Collings is not allowed to delay the execution of his sentence by repeatedly presenting meritless claims. In contrast, the State of Missouri, crime victims, for whom the case goes on for decades without resolution, and the criminal justice system are all harmed by endless litigation of meritless claims. *See Bucklew*, 587 U.S. at 149–50 (noting that the State and crime victims have an important interest in the timely enforcement of a sentence and that the people of Missouri and crime victims deserve better than the excessive delays that now routinely occur before the enforcement of a death sentence);

see also Wainwright, 433 U.S. at 90 (noting the criminal trial should be the main event in a criminal case rather than a tryout on the road for later litigation).

III. The State and crime victims will be harmed by a stay.

On December 15, 2022, the district court denied Collings’s Rule 59(e) motion and again denied Collings a certificate of appealability. *Collings v. Griffith*, 4:18-CV-08000-MDH, Document 67 (W.D. Mo.). The United States Court of Appeals for the Eighth Circuit then denied Collings a certificate of appealability on June 28, 2023, denied rehearing en banc on August 10, 2023, and issued its mandate on September 18, 2023. *Collings v. Griffith*, 23-1064. This Court denied certiorari on April 1, 2024. *Collings v. Vandergriff*, 23-6703. Now Collings seeks federal intervention to issue a late-arriving stay to press a claim he could have asserted, in some form, as early as his trial.²

This Court has repeatedly recognized the States’ important interests in enforcing lawful criminal judgments without federal interference. “The power to convict and punish criminals lies at the heart of the States’ ‘residuary and inviolable sovereignty.’” *Shinn v. Ramirez*, 596 U.S. 366, 376 (2022) (quoting *The Federalist* No. 39, p. 245 (J. Madison) (Clinton Rossiter ed. 1961)); *see also Gamble v. United States*, 587 U.S. 678, 688–90 (2019). “Thus, [t]he States possess primary authority for defining and enforcing the criminal law and for adjudicating constitutional challenges to state convictions.” *Id.* (quotations and citations omitted). Federal

² While Collings could not have raised the *Brady* claim until after his trial, the warden reiterates that Collings knew of the information underlying his *Brady* claim in 2011—prior to his trial.

intervention “disturbs the State’s significant interest in repose for concluded litigation,” and it “undermines the States’ investment in their criminal trials.” *Id.* at 377 (quotations and citations omitted). “Only with real finality can the victims of crime move forward knowing the moral judgment will be carried out.” *Id.* at 376 (quoting *Calderon v. Thompson*, 523 U.S. 538, 556 (1998)). “To unsettle these expectations is to inflict a profound injury to the powerful and legitimate interest in punishing the guilty, an interest shared by the State and the victims of crime alike.” *Id.* at 376–77 (quoting *Calderon*, 523 U.S. at 556). There are few more harmful forms of federal intervention to the State’s sovereignty and to the finality interests of the victims of Collings’s crime than the issuance of a last-second stay, giving Collings the opportunity to press a meritless claim, which he has had the tools to raise for more than a decade.

IV. A stay would be against the public interest.

The public interest lies in the denial of Collings’s request for a stay. Only with real finality can the victims of Collings’s crime know that the moral judgment of the people of Missouri will be carried out. *Shinn*, 596 U.S. at 376. Collings has received the benefit of several layers of state and federal review. In those multiple layers of review, Collings has had the opportunity to press numerous federal and state-law claims in an attempt to unsettle his conviction. Collings could have raised some form of the instant claim in the ordinary course of state-court review. But he failed to do so, and every federal court to have considered his *Brady* claim after this failure has found it to be meritless. The public interest lies in the carrying out of the lawful death

sentence entered against Collings nearly two decades ago after he kidnapped, raped, and murdered a nine-year-old girl and dumped her body in a sinkhole. This Court should refuse to issue a stay.

V. Collings unreasonably delayed in bringing this petition.

In considering Collings’s request, this Court must apply “a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson*, 541 U.S. at 650. “[L]ate-breaking changes in position, last-minute claims arising from long-known facts, and other ‘attempt[s] at manipulation’ can provide a sound basis for denying equitable relief in capital cases.” *Ramirez v. Collier*, 595 U.S. 411, 434 (2022) (second bracket in original) (quoting *Gomez v. U.S. Dist. Ct. for N. Dist. Of Cal.*, 503 U.S. 653, 654 (1992)). The “last-minute nature of an application” may be reason enough to deny a stay. *Gomez*, 503 U.S. at 654.

Collings could have brought his *Brady* claim in the Missouri Supreme Court in 2019, when he raised the same claim in his federal habeas petition. In fact, he could have brought the same claim in the ordinary course of state-court review years before. But he did not. He waited until the State applied for an execution date in 2024, then brought the claim in the hope of delaying his execution. This Court should not reward an attempt at delay that is patently calculated to manipulate the judicial process to confer a benefit to Collings. See *Bucklew*, 587 U.S. at 149. (“The people of Missouri, the surviving victims of [Collings’s] crimes, and others like them deserve better.”). This Court should deny the stay application.

CONCLUSION

This Court should deny the petition for a writ of certiorari and deny the application for a stay of execution.

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