NO. 24-7194

In The

SUPREME COURT OF THE UNITED STATES

NEIL AARON CARVER,

PETITIONER,

Vs.

STATE OF TEXAS,

RESPONDENT.

On Petition for a Writ of Certiorari to the

Texas Court of Criminal Appeals

Petitioner's Reply to the Respondent's Brief in Opposition

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COMES NOW, NEIL AARON CARVER, Petitioner in the above -styled and -numbered cause, and files his reply to show this Honorable Court the following points; and thus, seeks for this Court to grant certiorari as explained:

Reply 1: **The Petitioner's claims are now ripe for this Honorable Court to grant certiorari and rule upon the merits thereafter.**

The Respondent wants this Honorable Court to say that Certiorari is inappropriate because the Petitioner's claims are ripe for federal habeas review. See Res. Brf. pgs. 1, 6. Then, the Respondent relies on Kyles v. Whitley, to try to convince this Court that certiorari is inappropriate. Id, 498 U.S. 931, 932 (1990)(Stevens, J. concurring).

The Petitioner agrees with the Respondent that his claims are ripe for review; but, these claims are ripe for this Court's reviewing power. The Petitioner's claims are inappropriate for federal habeas review today. Truly, Kyle v. Whitley is a decision handed down by this Court pre-AEDPA. Before, the AEDPA was set in motion by Congress, the Petitioner's claims would have been raised

in a federal habeas proceeding before this Honorable Court would have ever seen it. However, we are living in the post-AEDPA days.

This Honorable Court has clearly established that once a state court rejects a Petitioner's claims on the merits, AEDPA bars federal habeas relief unless the state court's decision "was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by [this Honorable Court]." See Davis v. Smith, 145 S.Ct. 93, 95 (2025)(quoting 28 U.S.C. § 2254-(d)(1)). This Honorable Court has made it unmistakably clear that reviewing federal court may not "essentially evaluat[e] the merits de novo, only tacking on a perfunctory statement at the end of its analysis asserting that the state court's decision was unreasonable." See Shinn v. Kayer, 592 U.S. 111, 119 (2020)(per curiam). Yet, the Respondent wishes for a federal court to do just that. Therefore, federal habeas is inappropriate to review the Petitioner's claims without the AEDPA getting in the way.

Taken together, the Petitioner's questions are ripe for this Honorable Court to decide this case without the AEDPA standing in the way; and thus, unlike what the Repondent wants this Court to believe, the Petitioner's claims are of constitutional magnitude and have compelling interests attached to them. As explained in Petitioner's petition for a writ of certiorari, this Honorable Court should grant certiorari at bar.

Reply 2: **This Honorable Court should revisit Wiggins and extend its holdings to serious non-capital cases; and thus, Petitioner's ineffective assistance of counsel claims are ripe and meritorious for this Honorable Court to grant certiorari.**

First, the Respondent tells this Honorable Court that Petitioner's claims are ripe for federal review, then argues that the claims are frivolous and meritless pertaining to his ineffective assistance of counsel claims. See Respondent's Brief, pgs. 6, 11-15. The irony in Respondent's brief is that she used the very affidavits filed in the trial court to discredit the prejudicial effects of Counsel's inaction, when these very affidavits were never seen by the penal of judges sitting in the Texas Court of Criminal Appeals. The reason why the Court of Criminal Appeals never seen the affidavits is due to the trial court never sending them to their superior court.

Second, the Respondent used the affidavits to discredit the prejudicial effects of counsel's inactions by focusing only on guilt-innocence-like testimony to declare the "jury" being "unpersuaded by it." Res. Brf. pgs. 13-14. Then, the Respondent applied the Spriggs "significantly less harsh standard;" instead, of the traditional Strickland's prejudice standard. Id.

Yes, the jury was unpersuaded by Deavah Campbell'Vigil's testimony at guilt-innocence alone; however, if the jury would have heard testimony during guilt-innocence from the victim's own mother, Christa S. Carver, explaining that she was present at the "supposed abusive touching incident pertaining to dog bites," and did not see any such touching because she was guiding Petitioner to apply the medicine on their own daughter because of her own injuries. The jury would most definitely would have been persuaded by the victim's own mother testifying that Petitioner did not abuse his daughter; therefore, the Respondent's "the jury would be unpersuad-

ed by Petitioner's witnesses" argument is completely non-sense.

The Petitioner avers that these witnesses, may believe Petitioner is innocent; but, the witnesses do understand that they can still testify about Petitioner's good character traits, and show the jury that the society still wishes for Petitioner to see their streets again. Therefore, had Counsel presented these witnesses at punishment stage, there is a reasonable probability that the outcome would have been different. The Petitioner would not have received a life sentence. Thus, this Honorable Court should disregard the Respondent's non-sense and grant Petitioner's certiorari at hand.

Reply 3: **Certiorari should be granted because Texas' CSA statute should be reconstructed and narrowed down some.**

First, the Respondent heavily relied on Schad and Richardson and argues that since no appellate court has ever determined that any of the numerous continuing-sexual-abuse states, like the one at issue here, violates the federal constitution. The Respondent then urged this Court to deny certiorari because she declared that this Court placed "its stamp of approval to" CSA statutes that denies jury unanimity. See Res. Brf. pgs. 17-18.

In 2020, this Honorable Court declared that the Sixth Amendment protects a defendant's right to trial by jury to also include a right to a unanimous verdict to be applied to the states as well. See Ramos v. Louisiana, 590 U.S. 83 (2020). Since this Honorable Court recently declared that the federal law now protects jury unanimity, certiorari should be granted to revisit Schad and Richardson because they are over 25 years old and they may conflict

with Ramos as the Respondent inferred by her argument. In other words, does Schad and Richardson's decisions harmonize with recent developments of Ramos' reasoning?

Nevertheless, since the Petitioner and the Respondent are on opposite ends of the interpretation of this Court's Richardson case, this case is ripe for this Court to grant certiorari and settle out the compelling dispute.

Second and more importantly, the Respondent provided this Court and Petitioner with more states that also have CSA statutes, that Petitioner was unaware of. See Res. Brf. pg. 24. The seven other states that Petitioner was unaware of and the Respondent provided, actually supports the Petitioner's main argument within his Petition for writ of certiorari—Texas' CSA statute authorizes and encourages arbitrary and discriminatory enforcement to convict.

Except for New York, every state the Respondent provided, their CSA statute declares a violation if "3 or more acts" are committed over a "90 day or 3 month duration." See Ariz. Rev. Stat. § 13-1417; Cal. Penal Code § 288.5; Del. Code Ann. Tit. 11, §776; Haw. Rev. Stat. § 707-733.6; Md. Code, Crim. Law § 3-315; N.D. Cent. Code § 12.1-20-03.1; N.Y. Penal Law §130.75; Wis. Stat. Ann. §948.025. Even New York has a 3 month duration period. Therefore, the Petitioner argues and presents this question: "Does Texas' CSA statute violate the Fourteenth Amendment because it denies Its citizens the equal protection of laws? Petitioner argues that Texas' CSA statute does violate the Fourteenth Amendment because Texas' CSA statute is too broad when it declares "2 or more acts"

over a "30 day" duration period. Tex. Pen. Code 21.02.

Another fact that is in conflict with Texas' CSA statute and that is unequal is, in light of the fact of Petitioner's case, all of these other states set their punishment as a class B felony, or a second degree felony. Id. Punishment in these states carries no more than 25 years punishment for this offense. id. Maryland's punishment does not exceed 30 years inprisonment. Md. Criminal Law Code Ann. 3-315. And Wisconsin's punishment is a 40 year maximum. See State v. Johnson, 243 Wis.2d 365, 376 (2001). In other words, if the Petitioner had been convicted in any of these other states, than he would have received no more than 40 years in prison with the eligibility of parole. Nevertheless, all of these states most likely has parole eligibility for these statutes.

However, Texas' punishment is too severe and unequal, it starts at 25 years to 99 to life, without any parole eligibility. See Tex. Pen. Code 21.02. Even Texas' new continuous sexaul abuse for adults is more narrow than 21.02 because it has a two or more victim requirement and the punishment is less severe. See Tex.Pen. Code 21.03. Therefore, Certiorari should be granted because Texas' CSA statute should be reconstructed and narrowed down some. In light of the neighboring CSA statute's, this Honorable Court should see how Texas CSA statute violated federal law because it authorizes and encourages arbitrary and discriminatory enforcement to convict.

Furthermore, certiorari should be granted because, unlike Respondent asserts, there should be no contemporary acceptance when this CSA statute starts to swallow up innocent people whom cannot defend against such allegation and convictions. Therefore,

this case does raise very compelling interest that are of constitutional magnitude.

Reply 4: **The Respondent is incorrect on her interpretation of Petitioner's Question 3 to his Petition for Writ of Certiorari, pgs. 28-35.**

The Respondent argues that Due process does not require a "live evidentiary hearing for state collateral review." See Res. Brf. pgs. 30-34. This is true; but, the Petitioner is not arguing that he was denied a live evidentiary hearing. Article 11.07, sec. 3 sets out a procedure that the trial court must follow; that is, the prosecution should file an answer and the trial court should file his recommendation. But, the law also provides that if they are to rely on the statutory denial and remain silent, the law requires the clerk of the trial court to gather everything that has been filed pertaining to the habeas proceeding and send it to the Court of Criminal Appeals. See Code.Crim.Proc.art. 11.07. This is very important because the Court of Criminal Appeals declared "in article 11.07 habeas cases, the habeas court is the original fact finder but this court is the ultimate fact finder." See Diamond v. State, 613 S.W.3d 536, 545 (Tex.Crim.App. 2020).

Therefore, if the trial court, as it did in Petitioner's case, does not make any fact-finding in the habeas proceeding, the law requires the Court of Criminal Appeals to do so. The Petitioner is arguing that due process has been violated in his case because the Court of Criminal Appeals never seen the affidavits, nor Petitioner's memorandum of law, that the Respondent has attach-

ed to her brief in opposition because the Court of Criminal never received them. The Respondent fails to reply to the Petitioner's argument on this because the docket sheets in both courts prove that the ultimate fact finder never received them because the trial court never sent them. See Appendix E, to Petitioner's Pet. for Writ of Certiorari. Now, when the trial court withholds evidence and facts from the Court of Criminal Appeals, how can the ultimate fact finder make a just decision on whether to grant or deny a habeas corpus? The Court cannot. Therefore, the Petitioner is arguing that his due process rights have been violated because the Court of Criminal Appeals made a decision based on an incomplete record.

Taken together, this Honorable Court should grant certiorari as explained in his Petition for writ of certiorari due to the compelling interests that Texas citizens have concerning the state habeas proceedings.

Prayer for Relief:

The Petitioner prays that this Honorable Court will grant certiorari due to the compelling reasons sets out in his petition for writ or certiorari, and thus, the Respondent will simply try to mislead this Honorable Court with her fancy smoke screens.

Date: December 30, 2025.

Respectfully Submitted,

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