Nos. 25-385 & 25A378

In the Supreme Court of the United States

CHARLES RAY CRAWFORD,
Petitioner,

v.

THE STATE OF MISSISSIPPI,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Mississippi

COMBINED BRIEF IN OPPOSITION AND RESPONSE IN OPPOSITION TO STAY OF EXECUTION

LYNN FITCH
Attorney General
LADONNA HOLLAND
Special Assistant
Attorney General
Counsel of Record
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205-0220
LaDonna.Holland@ago.ms.gov
(601) 359-3840
Counsel for Respondent

*** * * EXECUTION SCHEDULED FOR * * ***
WEDNESDAY, OCTOBER 15, 2025, 7:00 P.M. EDT

CAPITAL CASE
QUESTION PRESENTED

In 1993, while out on bond for charges of aggravated assault, kidnapping, and rape involving two teenage girls, petitioner broke into twenty-year-old Kristy Ray's home. Petitioner abducted Kristy, left a ransom note, and drove her to a secluded wooded area where he handcuffed, gagged, forcibly raped, and sexually battered her. He then stabbed Kristy in the chest and left her to bleed to death. Petitioner later led officers to Kristy's body and confessed—he woke up from a "blackout" inside Kristy's home where he found her handcuffed and crying, and after concealing her in a barn overnight, he awoke from another "blackout" and found Kristy dead. Faced with a confession and petitioner's DNA on Kristy's vaginal swab, petitioner's counsel pursued an insanity defense. A jury convicted petitioner of capital murder, burglary, rape, and sexual battery and sentenced him to death. The Mississippi Supreme Court upheld that capital murder conviction and death sentence four times, federal habeas courts repeatedly denied relief, and this Court denied four requests for certiorari review. In mid-September, the Mississippi Supreme Court determined that petitioner has "exhausted all state and federal remedies for purposes of setting an execution date" and set petitioner's execution for October 15, 2025.

Over two decades after petitioner's capital-murder conviction, this Court held in *McCoy v. Louisiana*, 584 U.S. 414, 420, 426 (2018), that the Sixth Amendment prohibits counsel from

conceding guilt at trial "over the defendant's intransigent and unambiguous objection." In a third petition for state post-conviction relief—filed only after the State moved to set his execution and seven years after *McCoy*—petitioner for the first time ever argued that his conviction violated *McCoy*. The Mississippi Supreme Court rejected that claim as procedurally barred on state-law timeliness and successiveness grounds and dismissed the petition without any registered dissent. The court ruled that petitioner failed to show that *McCoy*—decided seven years before petitioner sought relief—qualified as an "intervening decision" under a state-law exception to those statutory bars or that it should be given retroactive effect. And the court found that, notwithstanding the bars, petitioner's claim lacked merit.

The question presented is whether this Court should review the Mississippi Supreme Court's rejection of petitioner's third post-conviction petition, when that decision rests on at least two adequate and independent state-law grounds, petitioner asks the Court to review a federal question the Mississippi Supreme Court did not decide, and, in any event, petitioner's claim is meritless and the petition does not satisfy any traditional certiorari criteria.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Constitutional Provisions

Statutes

OPINIONS BELOW

The Mississippi Supreme Court's opinion denying petitioner's third petition for post-conviction relief (Petition Appendix (App.) 1a-4a) is not reported.

JURISDICTION

The Mississippi Supreme Court entered judgment on September 12, 2025. App.1a-4a. The petition for certiorari was filed on October 1, 2025. This Court's jurisdiction is invoked under 28 U.S.C. § 1257(a).

STATEMENT

In 1993, petitioner Charles Ray Crawford murdered Kristy Ray after breaking into her parents' home, kidnapping her, and raping her. A jury convicted petitioner of capital murder and sentenced him to death. That sentence was affirmed on direct appeal, and this Court denied certiorari. Over the next three decades, the Mississippi Supreme Court rejected three state post-conviction challenges to petitioner's conviction and sentence, and federal courts denied habeas relief.

The present petition for certiorari arises from the Mississippi Supreme Court's denial of petitioner's third petition for post-conviction relief. App.1a-4a.

1. In 1991, Charles Ray Crawford lured two teenage girls to his house, where he bound and raped one and attacked the other with a hammer, resulting in aggravated assault, kidnapping, and rape charges. *Crawford v. State*, 192 So. 3d 905, 907-08 (Miss. 2015). Three days before his trial was set to begin on the assault charge, petitioner, armed with a Ka-Bar knife, shotgun, and revolver, broke into twenty-year-old Kristy Ray's parents' home in Tippah County,

Mississippi. *Crawford v. State*, 716 So. 2d 1028, 1032-36 (Miss. 1998). Petitioner left a note demanding "fifteen thousand dollars … or she dies," then took Kristy to an "abandoned barn" where he had been "stockpiling food and drink" for about a month. *Id.* at 1032, 1034. That same day, petitioner's family found "a ransom note in their attic" that was "similar" to the one left at Kristy's home, causing them to worry that petitioner "might kidnap someone." *Id.* at 1033. Petitioner's family contacted his attorney in the aggravated assault case, and the attorney alerted the authorities. *Ibid.* But by the time law enforcement officers found petitioner the next day, he had already raped Kristy and stabbed her to death. *Ibid.*

Petitioner initially told officers that he "didn't know Kristy" or why officers wanted to speak to him. 716 So. 2d at 1033. But when asked by FBI agents "if Kristy was alive," he "began to cry" and "admit[ted] that Kristy was no longer alive." *Ibid.* Petitioner then led officers to Kristy's body, hidden in a wooded area near the abandoned barn. *Id.* at 1033-34. Her jeans had been "pulled down below her hips," her "hands were cuffed behind her back around a small cedar sapling," a "sock had been stuffed into her mouth, and a gag was around her head to keep it in place." *Id.* at 1034. An autopsy later revealed that Kristy's cause of death was "a large stab wound to the left mid-chest which punctured her heart and left lung, causing extensive internal and external hemorrhaging." *Ibid.* Forensic testing showed that seminal fluid collected from a vaginal swab matched petitioner's known DNA sample, and both Kristy and petitioner's blood were on male underwear found hidden near Kristy's body. *Id.* at 1036.

After leading officers to Kristy's body, petitioner

"gave a more detailed account of the kidnap[p]ing and murder." 716 So. 2d at 1034. He "claimed" that he had "a blackout" and "the next thing he remembered was being inside the Ray residence." *Ibid.* He "heard someone crying in one of the back bedrooms of the house," found Kristy handcuffed, and "put her in the car and drove away" all while armed with a "knife, revolver, and shotgun." *Id.* at 1034-35. Petitioner abandoned the car and walked Kristy to the abandoned barn. *Id.* at 1035. The next morning, petitioner heard sirens and "fled into the woods" with Kristy. *Ibid.* Petitioner claimed that he had another blackout and woke up "sitting on a stump in the woods" with Kristy "lying at his feet, handcuffed behind her back, dead." *Ibid.* Petitioner admitted that "he must have killed her, but could not remember doing so." *Id.* at 1036.

2. At petitioner's trial, the State presented "overwhelming" proof of petitioner's guilt, and petitioner presented an expert-backed insanity defense. 716 So. 2d at 1036; *Crawford v. Epps*, 2008 WL 4419347, at *44 (N.D. Miss. Sept. 25, 2008).

During trial, petitioner complained to the trial court about his counsel three times. First, he told the court that he sent counsel letters on "things" he "wanted them to do" that they "ha[d] not done." Tr. 409. Those letters directed trial counsel to "file various motions, such as a motion to dismiss, a challenge to the indictment, and a recusal motion," and complained about "counsel's failure to secure favorable rulings on the motions." 2008 WL 4419347, at *33. Petitioner also claimed that counsel told the jury in voir dire that he was "guilty before the trial started." Tr. 409. After counsel explained their actions, petitioner said his "problem" was that he

wanted counsel to impeach FBI agents he felt "told a complete different story here today" than they had during a pretrial hearing. Tr. 504. Petitioner "believe[d]" that his counsel "if they tried could prove that these … agents committed perjury on the stand but they won't go that far" and that he "fe[lt] like" he was not "being fairly represented." *Ibid*. The court responded by explaining that petitioner's counsel were "very experienced trial lawyers, very capable trial lawyers," and that their cross-examination had been "very effective and very competently done." Tr. 505. The second time petitioner addressed the court he clarified that his complaints about counsel did not concern "what happened here today and during this trial." Tr. 669. He instead complained of a lack of in-person visits and "return phone calls," and that counsel ignored his "suggestion[s]." *Ibid*. The third and final time petitioner addressed the court he complained that, in his view, counsel's voir dire and opening statement caused the jury to think he was "already guilty." Tr. 819.

At trial, the State presented overwhelming proof of petitioner's guilt, including petitioner's confession, testimony that he led authorities to Kristy's body, and expert testimony that petitioner's DNA was in Kristy's vagina. 716 So. 2d at 1032-36. Petitioner presented an insanity defense "through the testimony of family members" and psychiatrist Dr. Stanley Russell. *Id*. at 1036. Dr. Russell, who testified that petitioner had a prior diagnosis of "bipolar disorder," diagnosed petitioner "as a psychogenic amnesiac" who experienced "periods of time lapse about which he has no memory." *Ibid*. In Dr. Russell's opinion, petitioner met "the *M'Naghten* test for not being criminally responsible for his actions as a result of mental

disorder that affected his reasoning to the point that he was not aware of the nature and consequence of his behavior." *Ibid*. The State presented competing expert opinions that "psychogenic amnesia was a rare diagnosis," that petitioner "did not have," and that he "appeared to be malingering his problems or memory deficits." *Id*. at 1037. The State's experts opined that petitioner "plan[ed]" Kristy's abduction and "purposely concealed" her body, which "showed that he knew the nature and quality of his act" and "did not want to get caught." *Ibid*. The jury rejected petitioner's insanity defense, convicted him of capital murder, and after a bifurcated sentencing proceeding, sentenced petitioner to death. *Id*. at 1031.

3. The Mississippi Supreme Court affirmed petitioner's capital-murder conviction and death sentence on direct appeal, rejecting 19 claims of error. 716 So. 2d at 1037-52. This Court denied certiorari review. *Crawford v. Miss.*, 525 U.S. 1021 (1998).

4. In 2003, the Mississippi Supreme Court denied petitioner's first petition for state post-conviction relief. *Crawford v. State*, 867 So. 2d 196, 204-219 (Miss. 2003). Petitioner claimed that his "diminished capacity" left him unable to "assist his counsel at trial" and that the "attorney client relationship" was a "failure" *Id*. at 206-07. And he asserted ten allegations of ineffective assistance of counsel. *Id.* at 206-19. In rejecting petitioner's claim that counsel failed to "conduct [an] effective opening statement," the Mississippi Supreme Court ruled that petitioner's "version of the facts [was] incorrect" and that, although "[t]he record reflects that counsel conceded underlying facts," counsel "at all times argued that [petitioner] was not guilty by reason of insanity." *Id.* at 212. The court also rejected petitioner's claim that

counsel's closing argument was ineffective, ruling that "counsel never conceded guilt in this case, just underlying facts" and that counsel "steadfastly maintained throughout trial that [petitioner] was not guilty due to insanity." *Id.* at 216. This Court denied certiorari review. *Crawford v. Miss.*, 543 U.S. 866 (2004).

5. Petitioner next sought federal habeas review on many grounds, including his claims challenging his counsel's performance that the state supreme court rejected. *Crawford v. Epps*, No. 3:04CV59-SA, 2008 WL 4419347 (N.D. Miss. Sept. 25, 2008). The district court denied relief on all grounds. *Id.* at *10-54. The court rejected petitioner's argument that trial counsel conceded guilt in his opening statement by presenting "a defense that [p]etitioner was not guilty by reason of insanity" and credited the state supreme court's finding that "trial counsel never conceded guilt" by arguing that petitioner was not guilty by reason of insanity. *Id.* at *41, *46.

Petitioner then sought a certificate of appealability on eighteen claims. *Crawford v. Epps*, 353 F. App'x 977, 978 (5th Cir. 2009). The Fifth Circuit denied a COA on seventeen claims. *Id.* at 978. In rejecting petitioner's claim that counsel was ineffective for "conceding" his guilt in opening statement, the Fifth Circuit ruled that counsel's opening statement remarks about the "escalating nature of [petitioner's] problems" and "his level of violence directed at women" did not "amount[ ] to a concession of guilt." *Id.* at 992. The court explained: "[C]ounsel may have conceded that Crawford committed certain acts and had certain tendencies, but persisted in arguing that he was not guilty by reason of insanity." *Ibid.* In denying a COA on

petitioner's claim that trial counsel was ineffective for delivering an "inadequate closing argument," the Fifth Circuit ruled that "[a]lthough counsel may have admitted the commission of certain acts" and that petitioner "posed certain dangers," those arguments "support[ed] the insanity defense" *Ibid.* The Fifth Circuit granted a COA on one claim unrelated to petitioner's trial—whether petitioner's Sixth Amendment right was violated by being subjected to a pretrial psychiatric evaluation without the assistance of counsel—and remanded that claim to the district court for further consideration. *Id.* at 994. On remand, the district court ruled that the evaluation violated petitioner's rights, but that pretrial error was "harmless" because the State only used information from the "contested … evaluation" in rebutting petitioner's insanity defense. *Crawford v. Epps*, No. 3:04CV59-SA, 2012 WL 3777024, at *7-8 (N.D. Miss. Aug. 29, 2012). The Fifth Circuit affirmed, *Crawford v. Epps*, 531 F. App'x 511 (5th Cir. 2013), and this Court again denied certiorari review. *Crawford v. Epps*, 571 U.S. 1205 (2014).

6. In 2016, the Mississippi Supreme Court rejected petitioner's second petition for state post-conviction relief that largely repackaged his prior ineffective-assistance-of-counsel claims. *Crawford v. State*, 218 So. 3d 1142, 1154-65 (Miss. 2016). The Mississippi Supreme Court held that petitioner's claims were barred by res judicata and alternatively lacked merit. *Ibid.* This Court again denied certiorari review. *Crawford v. Miss.*, 581 U.S. 995 (2017).

7. Around the same time as the litigation on petitioner's second state post-conviction petition on his capital murder conviction and sentence, petitioner separately challenged his 1993 rape conviction—one

of the aggravators underpinning his death sentence. *See Crawford v. State*, 192 So. 3d 905 (Miss. 2015). State and federal courts rejected petitioner's challenges at every level. *See ibid.*; Order, No. 2016-M-00938-SCT (Miss. Dec. 15, 2016); *Crawford v. Lee*, No. 3:17-CV-105-SA-DAS, 2020 WL 5806889 (N.D. Miss. Sept. 29, 2020); *Crawford v. Cain*, 122 F.4th 158 (5th Cir. 2024); *Crawford v. Cain*, 145 S. Ct. 2752 (2025).

8. On November 22, 2024, after the Fifth Circuit affirmed denial of federal habeas relief on petitioner's rape conviction, the State filed a motion to set petitioner's execution date. Motion to Set, *Crawford v. State.*, No. 94-DP-01016-SCT (Miss. Nov. 22, 2024).

Three weeks later, petitioner filed a third petition for state post-conviction relief challenging his capital-murder conviction and death sentence. Petition for Post-Conviction Relief, *Crawford v. State*, No. 2024-DR-01386-SCT (Miss. Dec. 12, 2024). Petitioner's prior state post-conviction petitions had challenged his counsel's efforts in developing and presenting his insanity defense at the capital-murder trial. *See*, *e.g.*, 218 So. 3d 1154-60. Yet petitioner's third petition claimed (for the first time) that under *McCoy v. Louisiana*, 584 U.S. 414 (2018), his trial counsel violated his Sixth Amendment right to "client autonomy" by "admit[ting] his guilt and pursu[ing] an unwanted insanity defense over [his] repeated objections before and during trial." Petition 1-2, No. 2024-DR-01386-SCT (Miss. Dec. 12, 2024). Petitioner acknowledged that *McCoy* held that counsel cannot "conced[e] guilt over a [ ] client's express objection," and that *McCoy* "did not involve an insanity defense unwillingly forced on a competent defendant." *Id.* at 37, 44. But petitioner argued that *McCoy*'s ruling

dictates reversal of his conviction because "the decision whether to assert an insanity defense is a fundamental decision over which a criminal defendant must have ultimate authority," and because "pleading insanity [is] the functional equivalent to a guilty plea." *Id*. at 4-5, 44-45.

Petitioner supported his third post-conviction petition with an affidavit from David Bell, one of his trial counsel. Exhibit A, No. 2024-DR-01386-SCT (Miss. Dec. 12, 2024). Counsel's affidavit (executed three years before the petition was filed, and decades after trial) said that petitioner "objected to the concession of his guilt and the pursuit of an insanity defense before and during trial" "on several occasions, all of which are evident from the trial transcript." *Id.* at 1. The affidavit admitted that the "matters" discussed in it "date back over twenty years," but counsel "believe[d] [his] memory to be accurate," or at least "consistent" with his "review of the trial transcript." *Ibid*. The petition also relied on petitioner's complaints to the trial court during trial about counsel's alleged failures to do what they were asked in "letters" and about counsel's opening statement on his insanity defense that petitioner thought caused jurors to think he was "already guilty." Petition for Post-Conviction Relief, *Crawford v. State*, No. 2024-DR-01386-SCT (Miss. Dec. 12, 2024), at 12, 20-22.

Petitioner further argued that his newfound *McCoy* claim was not procedurally barred by the Mississippi Uniform Post-Conviction Collateral Relief Act's (UPCCRA) one-year-limitations and successive-petition bars. Petition 3-4, No. 2024-DR-01386-SCT (Miss. Dec. 12, 2024). According to petitioner, "*McCoy* qualifies as an intervening decision" under an

exception to the UPCCRA's bars. *Id*. at 3-4.

The State moved to dismiss petitioner's third petition for post-conviction relief under the UPCCRA as barred. Motion to Dismiss, *Crawford v. State*, No. 2024-DR-01386-SCT (Miss. Jan. 24, 2025).

On September 12, 2025, the Mississippi Supreme Court granted the State's motion to dismiss, ruling (without a registered dissent) that "all of the claims now before the Court are barred" and alternatively that the "petition is without merit." App.2a-3a. The supreme court first held that the UPCCRA's "one-year time bar" and "successive writ bar" applied and that petitioner failed to prove that *McCoy* "amounts to an intervening decision" that qualifies "an exception to the bars." *Ibid*. The supreme court explained that petitioner "waited seven years" to file his petition "after the decision in *McCoy* was issued" and "ma[de] no effort to argue why [his] claim could not have been brought sooner." App.3a. The court further explained that petitioner "has not shown that *McCoy* should be given retroactive effect." *Ibid*. Next, the court determined that petitioner submitted "several affidavits" that "were executed more than a year before the petition was filed" and withheld "until the State filed its motion to set an execution date," and that petitioner failed to "show[ ] that the information in those affidavits could not have been presented at trial or in [his] initial petition." *Ibid*. Based on a "full review of the affidavits and the related claims," the supreme court determined that petitioner failed to make "a substantial showing of the denial of a state or federal right and that no relief should be granted." *Ibid*.

The same day, the Mississippi Supreme Court set

petitioner's execution for Wednesday, October 15, 2025, at 7:00 pm EDT. App.5a. The court's execution order stressed that petitioner had "exhausted all state and federal remedies for purposes of setting an execution date." App.5a.

On October 1, 2025, petitioner filed the petition for certiorari at issue here and an emergency stay application.

REASONS FOR DENYING THE PETITION

Petitioner asks this Court to decide "whether, under the retroactivity framework established in *Teague v. Lane,* 489 U.S. 288 (1989), *McCoy* announced a new rule that does not apply retroactively to convictions that became final before *McCoy* was decided." Pet. i.

The Mississippi Supreme Court properly applied the State's bars on untimely and successive post-conviction petitions, so this Court lacks jurisdiction to review the decision below. In any event, petitioner presents a supposed *McCoy* claim that is meritless and rests on disputed facts. And the petitioner asks this Court to decide a question that was not decided by the Mississippi Supreme Court and the answer would afford him no relief; he identifies no circuit or state-court-of-last-resort conflict; and his claim reflects a baseless, last-minute attempt to forestall petitioner's lawful punishment. The petition and accompanying emergency stay application should be denied.

I. This Court Lacks Jurisdiction To Review The Decision Below

This Court lacks jurisdiction to review the

Mississippi Supreme Court's dismissal of petitioner's *McCoy* claim because that decision rests on adequate and independent state-law grounds.

A. This Court "will not review judgments of state courts that rest on adequate and independent state grounds." *Herb v. Pitcairn*, 324 U.S. 117, 125 (1945). "This rule applies whether the state law ground is substantive or procedural." *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). And where, as here, this Court is asked to directly review a state-court judgment, "the independent and adequate state ground doctrine is jurisdictional." *Ibid.*

That rule bars this Court's review. The Mississippi Supreme Court's dismissal of petitioner's late-pressed *McCoy* claim rests on at least two adequate and independent "state law ground[s]." *Coleman*, 501 U.S. at 729. *First*, as that court ruled, petitioner's claim is barred by the Mississippi Uniform Post-Conviction Collateral Relief Act's one-year limitations period. App.2a (citing Miss. Code Ann. § 99-39-5(2)(b)). Under that statute, "filings" seeking "post-conviction relief in capital cases" must be made "within one (1) year after conviction." Miss. Code Ann. § 99-39-5(2)(b). Petitioner's conviction became final in 1998 yet he failed to file his third petition for post-conviction relief until 2024—well beyond the one-year limitations period. *Second*, as the supreme court independently ruled, petitioner's *McCoy* claim is barred by the UPCCRA's successive-writ prohibition. App.2a (citing Miss. Code Ann. § 99-39-27(9)). Under that statute, "[t]he dismissal or denial" of a prior "application" for post-conviction relief "is a final judgment and shall be a bar to a second or successive application." Miss. Code Ann. § 99-39-27(9). The supreme court denied petitioner's first two petitions for post-conviction

relief. *Crawford v. State*, 867 So. 2d 196 (Miss. 2003); *Crawford v. State*, 218 So. 3d 1142 (Miss. 2016). So his third petition for post-conviction relief is successive and barred. State law thus required that the court deny all the claims asserted in his successive petition. Miss. Code Ann. § 99-39-27(5).

Those state-law grounds are "independent of" federal law and "adequate to support the judgment" below. *Coleman*, 501 U.S. at 729. Start with independence. A state-law ground is "independent of federal law" if its resolution does not "depend upon a federal constitutional ruling on the merits." *Stewart v. Smith*, 536 U.S. 856, 860 (2002) (per curiam). The UPCCRA's time and successive-writ bars satisfy that standard because both apply without regard for federal law. Because the decision below was not "entirely dependent on" federal law, did not "rest[ ] primarily on" federal law, and was not even "influenced by" federal law, it is "independent of federal law." *Foster v. Chatman*, 578 U.S. 488, 499 n.4 (2016). Now take adequacy. A state-law ground is "adequate to foreclose review" of a "federal claim" when the ground is "firmly established and regularly followed." *Lee v. Kemna*, 534 U.S. 362, 376 (2002). Mississippi's time and successive-writ bars satisfy that standard. Longstanding precedent holds that those time and successive-writ bars are firmly established and regularly followed. *E.g.*, *Moawad v. Anderson*, 143 F. 3d 942, 947 (5th Cir. 1998) (finding the UPCCRA's successive-writ bar is an "adequate state procedural rule"); *Lott v. Hargett*, 80 F. 3d 161, 164-65 (5th Cir. 1996) (finding the UPCCRA's time and successive-writ bars "adequate" to support a judgment because they are "consistently or regularly applied"); *Sones v. Hargett*, 61 F. 3d 410, 417-18 (5th

Cir. 1995) (holding that the Mississippi Supreme Court "regularly" and "consistently" applies the UPCCRA's time bar). Because this Court's "only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights," *Herb*, 324 U.S. at 125-26, and because the Mississippi Supreme Court's denial of petitioner's post-conviction-relief motion was based on state-law rules that are independent of federal law and are consistently followed, this Court lacks jurisdiction and should deny review on that basis alone.

B. Petitioner attempts to invoke this Court's jurisdiction by claiming that the decision below is a "federal-law determination that *McCoy* does not apply retroactively" because the Mississippi Supreme Court's determination that his barred claim did not meet Mississippi's "intervening decision" exception "depend[ed] on" or was "intertwined" with federal law. Pet. 25-26. And he suggests that the "intervening decision" exception is not "firmly established and regularly followed" Pet. 28-29. He is wrong on both counts.

The state supreme court's decision rested exclusively on state-law grounds. The court ruled that petitioner's "third petition for post-conviction relief" was "barred" under the UPCCRA's "one-year time bar" and "successive writ bar" and that petitioner failed to satisfy the UPCCRA's "intervening-decision exception" to those bars. App.2a-3a. That exception allows an untimely or successive petition for post-conviction relief to proceed if it is based on "an intervening decision of the Supreme Court of either the State of Mississippi or the United States which would have actually adversely affected the outcome of [the petitioner's] conviction or sentence." Miss. Code

Ann. § 99-39-5(2)(a)(i); see id. § 99-39-27(9). Petitioner claimed in his third post-conviction petition that this Court's 2018 decision in *McCoy*—issued seven years before that petition was filed—was an "intervening decision" that allowed petitioner to overcome the UPCCRA's time and successive-writ bars. App.2a. The state supreme court ruled "all of the claims" pressed by petitioner were "barred," thereby rejecting petitioner's view that *McCoy* qualified as "intervening decision" under the UPCCRA. App.3a. The court also explicitly rejected petitioner's contention that *McCoy* should be given any retroactive effect in his case. *Ibid*.

The Mississippi Supreme Court's ruling is sound. Indeed, petitioner himself repeatedly concedes that *McCoy* "did not announce a new rule" and instead simply "clarified bedrock Sixth Amendment protections that already applied by the time petitioner's conviction became final." *E.g.*, Pet. 3, 16-17, 23.

The Mississippi Supreme Court's conclusion that *McCoy* is not an "intervening decision" under the UPCCRA comports with that court's precedent. The supreme court has consistently ruled that a decision that merely reinforces or clarifies existing law does not trigger the intervening-decision exception. *E.g.*, *Powers v. State*, 371 So. 3d 629, 689-90 (Miss. 2023) (rejecting the exception because *Snyder v. Louisiana*, 552 U.S. 472 (2008), *Foster v. Chatman*, 578 U.S. 488 (2016), and *Flowers v. Mississippi*, 588 U.S. 284 (2019), merely applied *Batson v. Kentucky*, 476 U.S. 79 (1986), and announced no new rule of law); *Jackson v. State*, 860 So. 2d 653, 663-64 (Miss. 2003) (rejecting the exception where a decision "announced no new rule of law" and instead applied "existing law"); *Patterson v. State*, 594 So. 2d 606, 608-09 (Miss.

1992) (rejecting the exception where a decision "simply recognized and applied a pre-existing rule"). That the Mississippi Supreme Court applies the intervening-decision exception on a case-by-case basis fails to show that the UPCCRA's underlying procedural bars are not "firmly established and regularly followed." *Contra* Pet. 29. It merely demonstrates that the exception is precisely that—*an exception*, which requires an assessment based on the circumstances of a particular case.

Petitioner insists, however, Mississippi Supreme Court precedent required that court to apply Mississippi's intervening decision exception to cases like *McCoy* that, he claims, only clarified existing law. Pet. 27-29. Petitioner invokes *Gilliard* v. *State*, 614 So. 2d 370 (Miss. 1992), which applied the intervening-decision exception to allow a petitioner to "relitigate" his Eighth Amendment "challenge" to the application of Mississippi's "especially heinous, atrocious, or cruel" (HAC) sentencing aggravator. Pet. 25; *see* Pet. 24-27. In petitioner's view, *Gilliard* applied the exception based on two decisions of this Court that did not create a new rule of constitutional law but "merely clarified" the Eighth Amendment requirements that applied at the time of the defendant's "sentencing." Pet. 28. *Gilliard* does not help petitioner. That case recognized that an intervening decision of this Court held that an HAC aggravator was "unconstitutionally vague when given without a limiting instruction." 614 So. 2d at 374 (citing *Maynard v. Cartwright*, 486 U.S. 356 (1988)). And another decision "unequivocally settled" "for the first time" that a capital sentence "cannot be upheld" "without detailed reweighing or harmless-error analysis" if it is based on an "invalid aggravating

circumstance." *Id.* at 376 (citing *Clemons v. Mississippi*, 494 U.S. 738 (1990)). The defendant in *Gilliard* was sentenced to death after the jury applied Mississippi's HAC aggravator without a limiting instruction—exactly the circumstance that this Court later held invalid. *Id.* at 371, 373. And so *Maynard* (and *Clemons*) had changed the legal landscape such that those cases "would have 'actually adversely affected' the outcome of [the defendant's] sentence." *Id.* at 374 (quoting Miss. Code Ann. § 99-39-27(9)); *see id.* at 375. The same holds true for *Irving v. State*, 618 So. 2d 58 (Miss. 1992), where the defendant's sentence similarly was "tainted" by application of the HAC aggravator that this Court later ruled "invalid" in *Maynard*. *Id.* at 60-61, 62; *see* Pet. 25-27.

Petitioner cannot make any similar showing here because *McCoy* did not similarly change the landscape of Sixth Amendment claims about the right to make a defense belonging personally to the defendant and counsel's role of assisting in that defense, as petitioner acknowledges. Pet. 4-5; *McCoy v. Louisiana*, 584 U.S. 414, 421-24 (2018) (citing *Faretta v. California*, 422 U.S. 806, 819-20, 834 (1975) (relying on precedent showing that the "right to defend is personal" and that counsel's role is that of an "assistant" in holding that when a defendant "expressly asserts" that his defense objective is to "maintain innocence," counsel "must abide by that objective and may not override it by conceding guilt).

Petitioner resists all this, claiming that by deciding that *McCoy* did not qualify as an "intervening decision" under the UPCCRA to overcome its statutory bars, the Mississippi Supreme Court implicitly ruled that *McCoy* "does not constitute a new federal constitutional rule," which he claims "is

a federal question governed by *Teague* [*v. Lane*, 489 U.S. 288 (1989)]." Pet. 25-26. But the Mississippi Supreme Court did not decide that question and petitioner cannot now manufacture a federal issue by recharacterizing the Mississippi Supreme Court's ruling. When the state law ground "is not clear from the face of the opinion," this Court can then "presume that there is no independent and adequate state ground for a state court decision." *Coleman*, 501 U.S. at 735. But that "presumption" is "avoid[ed]"if the state court decision "clearly and expressly" states that it is "based on … independent grounds," even if the state court decision "look[ed] to federal law for guidance." *Id*. at 733. The Mississippi Supreme Court expressly and clearly relied on state-law timeliness and successiveness rules, so this Court should not "presume" its decision depends on federal-law, even if that court, without saying so, looked to *Teague* for guidance. *See id*. Further, the Mississippi Supreme Court's additional finding that *McCoy* should not "be given retroactive effect" (App.3a) is not "governed" by *Teague*. *Contra* Pet. 26. "Since *Teague* is based on statutory authority that extends only to federal courts applying a federal statute, it cannot be read as imposing a binding obligation on state courts." *Danforth v. Minnesota*, 552 U.S. 264, 278-79 (2008).

Petitioner next argues that if the Mississippi Supreme Court did find that *McCoy* created no new rule, as is the respondent's view, the decision presents a "Catch-22." Pet. 28. He claims that "if the intervening law exception only authorizes claims based on new rules of constitutional law" "rather than clarifications of the kind at issue here," then "the exception would never apply" because "new rules of constitutional law generally cannot be a bases for

post-conviction relief." Pet. 28.

Petitioner's own cases show that that view is wrong. The Mississippi Supreme Court has not limited the intervening-decision exception to "new rules of constitutional law. *Contra* Pet. 28. *Gilliard* and *Irving* recognized that intervening decisions of this Court (*Maynard* and *Clemons*) "did not constitute 'new rules' under *Teague*." *Irving*, 618 So. 2d at 61; *see Gilliard*, 614 So. 2d at 374; Pet. 25. But the state supreme court applied the intervening-decision exception anyway: *Maynard* and *Clemons* did sufficiently change the legal landscape in Mississippi such that they "would have actually adversely affected" the defendants' sentences in *Gilliard* and *Irving*—even if they did not establish new rules within the meaning of *Teague*. *Irving*, 618 So. 2d at 62 (cleaned up); *see Gilliard*, 614 So. 2d at 374-75. Indeed, as the state supreme court explained, whether a decision counts as an "intervening decision[ ]" for purposes of the UPCCRA is "a matter of state law" that is separate and distinct from the retroactivity analysis under *Teague*. *Gilliard*, 614 So. 2d at 375. Petitioner's claimed "Catch-22" has no purchase.

Nor does *Yates v. Aiken*, 484 U.S. 211 (1988), help petitioner. *Contra* Pet. 26-27. Yates faulted the South Carolina Supreme Court's refusal to retroactively apply a decision of this Court that "did not announce a new rule" "of federal constitutional law." 484 U.S. at 217-18. *Yates* rested on the fact that South Carolina had "placed [no] limit on the issues that" its courts would "entertain in collateral proceedings." *Id.* at 218. And because the South Carolina Supreme Court had "considered the merits of the [defendant's] federal claim," this Court concluded that the state court

"ha[d] a duty to grant the relief that federal law requires." *Ibid.* But here, Mississippi has expressly "placed" "limit[s] on the issues" that a petitioner may raise "in collateral [state] proceedings." *Ibid.* The UPCCRA's time and successive-writ bars prohibit Mississippi courts from considering untimely or successive claims on post-conviction review unless an exception applies. And no such exception applies here.

* * *

The Mississippi Supreme Court properly applied the State's adequate and independent time and successive-writ bars to reject petitioner's Sixth Amendment claim. Petitioner's attempt to invoke this Court's "reaffirm[ance]" of "the fundamental meaning of the Sixth Amendment" in *McCoy* (Pet. 26)—seven years after *McCoy* was decided—does not overcome those bars.

II. Petitioner's *McCoy* Claim Is Meritless And Does Not Warrant Further Review.

Even if this Court had jurisdiction to review petitioner's procedurally barred *McCoy* claim, it should still deny the petition because that claim is meritless and because the petition does not satisfy any traditional certiorari criteria.

A. Petitioner was accorded his Sixth Amendment rights.

McCoy held that because the Sixth Amendment guarantees a defendant the right to choose the "objective of his defense," when the defendant "expressly asserts" that the defense objective is to "maintain" his "innocence," counsel cannot "override" that objective by "conceding guilt" over the

defendant's "intransigent and unambiguous objection." *McCoy v. Louisiana*, 584 U.S. 414, 417, 420, 423 (2018). In *McCoy*, each of those circumstances was present. The State's proof that McCoy committed a triple homicide was overwhelming, so McCoy's counsel believed that "absent a concession at the guilt stage that McCoy was the killer, a death sentence would be impossible to avoid at the penalty phase." *Id*. at 418. McCoy disagreed and directed counsel "not to make that concession" and to "pursue acquittal." *Id*. at 419. He "vociferously insisted that he did not engage in the charged acts and adamantly objected to any admission of guilt." *Id*. at 417. Counsel and McCoy asked the trial court to resolve their disagreement by allowing counsel to withdraw. *Id*. at 419. But the trial court told counsel "you are the attorney," and "you have to make the trial decision of what you're going to proceed with." *Ibid*. Trial counsel told the jury that "there was 'no way reasonably possible' that they could hear the prosecution's evidence and reach 'any other conclusion than Robert McCoy was the cause of these individuals' death,'" *ibid.*, and that the State's evidence was "unambiguous" and McCoy "committed three murders." *Id*. at 419-20. McCoy testified at trial, "maintain[ed] his innocence" and "press[ed] an alibi difficult to fathom." *Id*. at 420. Then counsel told the jury during closing argument that "McCoy was the killer" and that counsel had taken the "burden off of [the prosecutor]." *Ibid*.

In reversing, this Court ruled that "trial management" remains counsel's "province," but "[a]utonomy to decide … the objective of the defense" belongs to the client." 584 U.S. at 422. "[V]iolation of McCoy's protected autonomy right was complete,"

this Court concluded, "when the [trial] court allowed counsel to usurp control of an issue within McCoy's sole prerogative." *Id*. at 426-27.

For several reasons, petitioner's case is nothing like *McCoy*. First, petitioner never told counsel, expressly or otherwise, that the object of the defense was to maintain innocence of capital murder. Unlike *McCoy*, petitioner did not "vociferously insist[] that he did not engage in the charged acts." *See* 584 U.S. at 417. Petitioner instead claims that his defense objective was for counsel to "vigorously advocate for acquittal," Pet. 7, which is exactly what counsel did.

Second, counsel did not override petitioner's defense objective by "conced[ing] guilt." *See id*. at 420. Counsel pursued an insanity defense aimed at securing petitioner's outright acquittal. *See McElrath v. Georgia*, 601 U.S. 87, 95 (2024) (holding that "a jury's determination that a defendant is not guilty by reason of insanity is a conclusion that criminal culpability had not been established, just as much as any other form of acquittal") (internal quote marks omitted); *Jones v. United States*, 463 U.S. 354, 369 (1983) (explaining that because an "insanity acquittee" has not been convicted, he may not be punished). Moreover, importantly, three different courts have reviewed the trial record, rejected petitioner's challenges to his counsel's actions at trial, and determined—as a matter of fact—that counsel never conceded guilt at trial. *Crawford v. State.,* 867 So. 2d 196, 212, 216 (Miss. 2003); *Crawford v. Epps*, No. 3:04CV59-SA, 2008 WL 4419347, at *41, 45-46 (N.D. Miss. Sept. 25, 2008); *Crawford v. Epps*, 353 F. App'x 977, 990-94 (5th Cir. 2009). In rejecting his first post-conviction petition, the Mississippi Supreme Court disagreed with petitioner's claim that trial

counsel "conceded guilt" during opening statement. 867 So. 2d at 212. "The record reflects that counsel conceded underlying facts, yet at all times argued that Crawford was *not* guilty by reason of insanity." *Ibid*. And in rejecting a claim focused on counsel's closing argument, the state supreme court reiterated that "counsel never conceded guilt in this case" but instead "steadfastly maintained throughout trial that [petitioner] was not guilty due to insanity." *Id*. at 216. On habeas review, the district court agreed with the reasonableness of the state supreme court's findings, elaborating that trial counsel told the jury the defense would "explain the 'why' of the crimes charged against Petitioner, and the 'why' was Petitioner's alleged mental illness." 2008 WL 4419347, at *41. And the court confirmed that "trial counsel never conceded guilt in Petitioner's case." *Id*. at *46. Later, the Fifth Circuit agreed, adding that counsel's opening statement remarks about the "escalating nature of [petitioner's] problems" and "his level of violence directed at women" did not "amount[ ] to a concession of guilt." 353 F. App'x at 992. "[C]ounsel may have conceded that [petitioner] committed certain acts and had certain tendencies," but he "persisted in arguing that [petitioner] was not guilty by reason of insanity." *Ibid*. Petitioner's curated excerpts (at Pet. 7-10) from the trial record and affidavit of counsel (executed decades after trial) ignores these settled, judicial factual findings. And anyway, even if counsel had conceded petitioner's guilt to the jury, that alone is not a Sixth Amendment violation. Only when counsel concedes guilt to the jury over the client's "intransigent and unambiguous objection" is a defendant's "Sixth Amendment-secured autonomy" right violated. *McCoy*, 584 U.S. at 420, 427.

Third, petitioner did not "adamantly object" to counsel presentation of an insanity defense. *See McCoy*, 584 U.S. at 417. The "record" may be "replete with examples of petitioner expressing his objections to the trial court," Pet. 15, but none of those "objections" complained that counsel was "overriding" petitioner's "express[ ] assert[ion]" of his defense "objective." *See* 584 U.S. at 423. While a few cherry-picked quotes from the trial record suggest that petitioner complained to the trial court that counsel "had not done" what he "wanted them to do," Pet. 9-10, those statements, when read in context, reflect disagreements about matters of "trial management," not the defense objective. *See supra* pp. 3, 6-7.

In sum, petitioner's *McCoy* claim defies the state-court record and numerous court rulings on state and federal review. The Mississippi Supreme Court was thus right to alternatively reject that claim on the merits. App.3a. This Court's review of that fact-dependent ruling is unwarranted, even if it has jurisdiction to do so.

B. Petitioner's claim does not satisfy any traditional certiorari.

Setting aside the jurisdictional and merits defects in the petition, this Court should deny review for several other reasons. First, the question petitioner asks this Court to decide—whether, under the retroactivity framework established in *Teague v. Lane*, 489 U.S. 288 (1989), *McCoy* announced a new rule that does not apply retroactively to convictions that became final before *McCoy* was decided—was not decided by the Mississippi Supreme Court. Instead, that court decided that petitioner's claim was barred on state law grounds and that *McCoy* did not qualify

as an intervening-decision within the UPCCRA's enumerated exceptions to overcome those bars. App.1a-3a. As shown above, *supra* pp. 17-18, whether a decision counts as an "intervening decision" for purposes of the UPCCRA is "a matter of state law" that is separate and distinct from the retroactivity analysis under *Teague*. *See Gilliard*, 614 So. 2d at 375. Because this Court is one "of review, not of first view," this is not the right case to answer the question presented. *See Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005).

Second, this Court's answer to petitioner's question would benefit him none. If this Court were to agree with petitioner, *see*, *e.g.,* Pet. 3, 16-17, 23, that *McCoy* did not create a new rule, then his claim that the intervening-decision exception should apply to permit his barred claim is doubtful at the least. *See supra* p. 15; *see also Patterson*, 594 So. 2d at 608 (explaining that the exception "applies only to those decisions that create new intervening rules, rights, or claims that did not exist" before petitioners' conviction became final). On the other hand, if this Court were to find that *McCoy* did announce a new rule, then petitioner fairs no better. As petitioner acknowledges, "new rules of constitutional law generally cannot be a basis for post-conviction relief." Pet. 28.

Finally, no significant split of authority exists on the question that petitioner claims to present. There is no circuit or state-court-of-last-resort split on that question. Petitioner instead pits the Mississippi Supreme Court's ruling here against one intermediate state appellate court and one state trial court. *See* Pet. 23-24.

This Court's intervention is unwarranted.

* * *

III. Petitioner's stay application should be denied.

"Last-minute stays should be the extreme exception, not the norm[.]" *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019). This Court's well-settled precedent recognizes that "a stay of execution is an equitable remedy. It is not available as a matter of right." *Hill v. McDonough*, 547 U.S. 573, 584 (2006); *see also In re Blodgett*, 502 U.S. 236, 239-40 (1992) (per curiam); *Delo v. Stokes*, 495 U.S. 320, 323 (1990) (Kennedy, J., concurring). This Court considers the following factors in assessing whether a stay of execution is warranted: "(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, 434 (2009). The "party requesting a stay bears the burden of showing that the circumstances justify an exercise of [judicial] discretion." *Id.* at 433-34.

The first two factors are the most critical. *Id.* at 434. If an "applicant satisfies the first two factors, the traditional stay inquiry calls for assessing the harm to the opposing party and weighing the public interest." *Id.* at 435. The third and fourth factors "merge when the [State] is the opposing party" and "courts must be mindful that the [State's] role as the respondent in every … proceeding does not make the public interest in each individual one negligible."

Ibid. Because the State and the victims of the crimes "have an important interest in the timely enforcement of a sentence," this Court "must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Hill*, 547 U.S. at 584. To that end, "[a] court considering a stay must also 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.'" *Ibid.* (quoting *Nelson v. Campbell*, 541 U.S. 637, 650 (2004)). "The federal courts can and should protect states from dilatory or speculative suits." *Id.* at 585.

A. As shown above, *supra* pp. 12-25, the petition for certiorari at issue here raises a claim over which this Court lacks jurisdiction, is meritless, and does not satisfy any traditional certiorari criteria. So petitioner cannot show any likely merits success.

B. Petitioner also cannot show that he will likely be "irreparably injured absent a stay." *Nken*, 556 U.S. at 434. His guilt is not in question—petitioner no doubt committed the crime that sent him to death row. Petitioner was sentenced to death by a Mississippi jury in 1994. Three decades of litigation have not demonstrated constitutional errors occurred at trial. The Mississippi Supreme Court has upheld his conviction and sentence four times, and lower federal courts have denied him habeas relief. This Court has denied certiorari review at every turn. The claim presented in his latest petition for certiorari does nothing to undermine those prior determinations. Petitioner has received the process he was due, his punishment is just, and his execution will be constitutional. In short, petitioner has

identified no irreparable harm that is not a direct consequence of the valid, constitutional, and long-final death sentence the jury imposed in 1994 for his brutal murder of Kristy Ray. Any "irreparable injury" will be because his lawful death sentence was finally carried out—not because this Court denies a stay.

C. Finally, the equities clearly favor the State. As noted above, "[b]oth the State and the victim of crimes have an important interest in the timely enforcement of a sentence." *Hill*, 547 U.S. at 584. "Only with real finality can the victims of crime move forward knowing the moral judgment will be carried out." *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.'" *Ibid.* (quoting *Herrera v. Collins*, 506 U.S. 390, 421 (1993) (O'Connor, J., concurring)). According to this Court, "[t]here is always a public interest in prompt" enforcement of the law absent a showing of its unconstitutionality. *Nken*, 556 U.S. at 436. "[T]he State is entitled to the assurance of finality." *Calderon*, 523 U.S. at 556; *see also Martel v. Clair*, 565 U.S. 648, 662 (2012) ("Protecting against abusive delay is an interest of justice.").

Petitioner admittedly broke into Kristy's parents' home and, before taking her by force, left a note demanding ransom. He then took Kristy to a secluded barn where he confined her overnight. After being alerted to a police search the next day, rather than let Kristy go, he dragged her to a wooded area, handcuffed her to a tree, gagged her, vaginally and anally raped her, then stabbed her in the chest, puncturing her heart and lungs. After encountering police, petitioner pretended not to know who Kristy

was before admitting that she was no longer alive and taking police to her still-bound-and-gagged, partially unclothed, and partially buried body. Pressing yet another weak claim that he waited nearly seven years to raise and that this Court has no jurisdiction to consider does not justify delaying petitioner's execution and justice for Kristy or the Ray family any longer.

CONCLUSION

The petition and application for stay of execution should be denied.

Respectfully submitted.

LYNN FITCH
Attorney General

LADONNA HOLLAND
Special Assistant
Attorney General
Counsel of Record
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205-0220
LaDonna.Holland@ago.ms.gov
(601) 359-3840

Counsel for Respondent

October 9, 2025