

In the  
Supreme Court of the United States

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IN RE BLAINE MILAM,

*Petitioner.*

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ON PETITION FOR A WRIT OF HABEAS CORPUS

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**REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

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Texas stands perilously close to executing an innocent man. Barring intervention from this Court, Blaine Milam will be executed. Jesseca Carson was responsible for the brutal and tragic murder of her thirteen-month-old daughter, but Milam faces the ultimate punishment for her crime. Milam's petition meticulously documents the scientific developments that wholly discredit the State's case against him. Yet, despite this powerful new evidence he comes to this Court without a currently recognized federal claim. Whether under the Eighth Amendment or the Due Process Clause, this Court should create an avenue for relief to prevent the execution of an innocent man.

The State's Brief in Opposition offers no principled justification for denying the petition. It spends much time attempting to explain why the scientific evidence admitted against Milam at trial should still be credited, despite the substantial body of new evidence that has developed since then discrediting all of it. Milam will simply point this Court back to his petition, which chronicles

the significant newly presented evidence of his innocence that dismantles the State's case against him.

Essentially, the State's only remaining evidence against Milam is his vague statement that he made to a jail nurse of having done "it." Milam explained in his petition why he made that statement, including his attempt to protect Carson and his cognitive limitations. Milam has been diagnosed as intellectually disabled by multiple experts, including the State's trial expert who changed his diagnosis in 2021 and now recognizes that Milam is intellectually disabled. While ultimately courts rejected Milam's intellectual disability claim, it is undisputed that he has significant cognitive impairments, evidenced by his IQ scores of 68 and 71 on pretrial testing, which places him at a significant risk for falsely confessing.

This Court should now decide the question that it has sidestepped for decades: Does the Constitution permit an innocent man to be executed? The answer to that question is not difficult; clearly, it is no. The salient question then is whether this Court will use Milam's case to answer that question now, or whether it will save it for another day. Should this Court decline to intervene, Milam's execution will be a solemn reminder of a dark chapter in this country's experiment with the death penalty, where the innocent could be executed with no avenue for federal relief.

Milam's petition should be granted and his execution stayed.

Respectfully submitted,

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