NO. 25-6213

IN THE

SUPREME COURT OF THE UNITED STATES

SAMUEL GALBRAITH—PETITIONER

V.

TIM HOOPER, WARDEN—RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES FIFTH CIRCUIT COURT OF APPEALS

PETITIONER'S REPLY BRIEF ON THE MERITS

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We are approaching 10 years since the State's lawless action rescinding Galbraith's grant of parole. In its recent opposition, the State takes three diversionary approaches: (1) the old faithful *ad hominem* attack; (2) state exhaustion *ignoring* the exceptions and precedent; and (3) arguing that this Court should focus on other pressing issues of national importance. But let's focus directly on the State's issue to be sure. The State presents this single question verbatim:

> Whether a state prisoner's failure to purse an available state habeas corpus proceeding to challenge allegedly unlawful confinement requires dismissal of his federal habeas corpus proceeding?

So let's answer the state's question with a verbatim answer from the law, and a gentle reminder of the law with no spin, no rhetoric, and no bias. The law at issue —28 U.S.C. 2254(b)(1)—answers the State's question thusly:

> (b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted **unless it appears that--**
>
> (A) the applicant has exhausted the remedies available in the courts of the State; or
>
> **(B)(i) there is an absence of available State corrective process; or**
>
> **(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.**

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28 U.S.C. 2254(b)(1). [emphasis added by Galbraith]

If this were an interoffice research memo from a law clerk or associate to a partner, the associate would possibly provide a short answer and a long answer. The short answer to the partner's query would read: "*No. A state prisoner's failure to pursue a state habeas corpus does not require dismissal of his federal habeas corpus petition when there is an absence of available corrective process, or circumstances exist that render such process ineffective to protect the rights of the applicant.*" The long answer would then look something like Galbraith's original brief citing *Preiser, Young, Hawk, Cruz, Jackson, Garret and Wilwording.*

The State makes no attempt to address, distinguish, or oppose these longstanding precedents. Instead, the State obstinately focuses on everything but the complete recitation of the state exhaustion law located in 2254.

This bypassing maneuver is not a surprise. Zealous lawyering usually involves skipping the unfavorable parts of the law or facts, and simply doing the best with what is available. What that looks like here is the State's entire brief, which assumes the inquiry ends if a petitioner did not exhaust state remedies. Section 2254 (b)(1)(A) does not stop once state exhaustion is not established. If it did stop there, the State would be correct and Galbraith would not have obtained relief in the district court, and the Fifth Circuit on its first go round. The law

statutorily assumes there may be a state remedy but allows a petitioner to file a federal claim despite a state remedy when that state remedy is actually no remedy at all. This Court can see the State's legal strategy of avoidance.

The State's brief offers no persuasive defense of the Fifth Circuit's about face on whether the state habeas corpus would be "adequate," and "available" and "meaningful remedy" and "not otherwise preordained" or "futile." There is zero discussion by the respondent on this primary issue. The State's opposition is silent on the complete prongs of the statute, namely when there is an absence of state corrective process or circumstances exist that render the process unavailable or meaningless. Again, this is telling.

With more wrangling and avoidance, the State narrows the focus to Louisiana parolees with no significance to the nation as a whole. This is, as expected, an argument solely to divert attention from the federal statute regarding exhaustion. Is this a rare case about a Louisiana prisoner who was granted parole? Yes. However and sadly, the rarity is because this state seldom grants parole. And now almost 10 years after being granted parole, the state unlawfully rescinded.

But this Louisiana prisoner, Galbraith, presents the issue of 2254 exhaustion that Louisiana, and the other 49 states must adhere to in the United States of America. So while the State attempts to narrow the issue to some poor undeserving

soul in Louisiana, this case and question presented is a national question of 2254 interpretation that the 5th Circuit second-guessed itself, and in doing so, went against plain statutory law and federal precedent. Federal statutory law and 60+ years worth of federal precedent is the issue before the court. The illegality by Louisiana on one of its citizen prisoners, while brazen and obnoxious, is only the catalyst.

This is not to mention that one of the states in this nation is boldly and publicly breaking the law, going completely off script to rescind parole that has been previously granted, with **no legal or factual authority**. There is no other way to put it. The State is mad that it granted Galbraith parole. The State is mad that it has no law allowing it to break its contract after changing its mind. Knowing it has no available legal or factual ground to stand on (or "dead in the water" as the State likes to write), it still breaks the law. Why? Because it is the State of Louisiana, and it can do what it wants, when it wants and how it wants, with or without legal backing. This country enjoys the euphemism that no one is above the law. This should stand true with the State as well.

CONCLUSION

For the foregoing reasons and those stated in the original brief, this Court should reverse the judgment of the Federal Fifth Circuit Court of Appeals, on rehearing (*Galbraith II*), and reinstate the mandate issued by the Middle District of Louisiana and the Fifth Circuit in *Galbraith I*.

Dated: April 19, 2026.

Respectfully submitted:

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