

No. 25-6240

IN THE SUPREME COURT OF THE UNITED STATES

JOEL CONTRERAS-AGUILAR, PETITIONER

v.

STATE OF TEXAS, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI
TO THE TEXAS COURT OF CRIMINAL APPEALS

BRIEF FOR THE STATE OF TEXAS IN OPPOSITION

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QUESTIONS PRESENTED

- (1) Has the State of Texas courts undermined presently established federal law in regards to the disclosure of immigration status of defendants in criminal cases?
- (2) Does the Strickland test only apply to defense counsel?

Construing Petitioner's *pro se* petition liberally, the State of Texas rephrases the questions presented as follows:

- Was trial counsel ineffective for bringing up Petitioner's immigration status during voir dire and by not objecting when Petitioner's immigration status was mentioned during testimony elicited by the State?

See Estelle v. Gamble, 429 U. S. 97, 106 (1976).

RELATED CASES

Post-Conviction Writ of Habeas Corpus – Remand to Trial Court Order

Texas Court of Criminal Appeals

Ex parte Joel Contreas-Aguilar, No. WR-96,470-01, 2025 WL 985200

(Tex. Crim. App. Apr. 2, 2025) (not designated for publication)

Direct Appeal

Texas Third Court of Appeals

Contreras-Aguilar v. State, No. 03-20-00112-CR, 2021 WL 2557954

(Tex. App.—Austin June 23, 2021, no pet.) (not designated for publication)

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OPINION BELOW

The Texas Court of Criminal Appeals (“TCCA”) denied the state-post-conviction writ of habeas corpus without written order on findings of the trial court and on the court’s independent review of the record. Prior to denying the writ without a written order, the CCA remanded the writ to the trial court. That order is available at 2025 WL 985200.

JURISDICTION

The judgment of the Texas Court of Criminal Appeals was entered on September 17, 2025. The petition for writ of certiorari was filed on November 10, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

STATEMENT

1. Introduction

About 2007, Petitioner got married and moved in with his new wife and her children to a home in Texas. 3 RR 30; *Contreras-Aguilar v. State*, No. 03-20-00112-CR, 2021 WL 2557954 (Tex. App.—Austin June 23, 2021, no pet.) (not designated for publication). Over the next year or so, Petitioner sexually abused two of the children repeatedly. *Id.* at *1-2. Petitioner penetrated each girls' sexual organ with his finger. *Id.* He also touched their genitals. *Id.*

On July 19, 2009, when the outcries of sexual abuse came to light, Petitioner fled the country and secreted himself in Mexico. 4 RR 97; *Contreras-Aguilar*, 2021 WL 2557054 at *1. Approximately nine years after fleeing, Petitioner was finally apprehended in 2018. *Id.* His trial on his child sex offenses began on February 2020. 2 RR 1. The jury convicted Petitioner of two counts of aggravated sexual assault of a child, one count of sexual assault of a child, and two counts of indecency with a child by contact. *Contreras-Aguilar*, 2021 WL 2557054 at *1. The jury assessed punishment of forty-years confinement at the Texas Department of Criminal Justice for each of the aggravated sexual assault counts, and ten-years confinement for each of the remaining counts. *Id.*

2. Appellate and Post-Conviction History

Subsequently, Petitioner appealed his conviction to the Third Court of Appeals. *Id.* at *9. On direct appeal, Petitioner complained that his counsel was constitutionally ineffective for “failing to object to impermissible hearsay testimony,

to object to the admission of extraneous offenses, to call any witnesses at either phase of the trial, to engage a mitigation expert, and to investigate and present mitigating evidence.” *Id.* at *3. Notably, Petitioner did not raise the issue he now presents on this post-conviction writ regarding trial counsel’s statements to the voir dire panel about his immigration status. The Third Court of Appeals affirmed the judgment of the trial court, and no petition for discretionary review was filed in Texas Court of Criminal Appeals. *Id.* at *9.

Petitioner then filed a post-conviction writ of habeas corpus under Tex. Code Crim. Proc. art. 11.07, alleging that his “trial counsel was ineffective for mentioning his immigration status to the venire panel and for failing to object to the State’s introduction of evidence related to his immigration status.” *Ex parte Contreas-Aguilar*, No. WR-96,470-01, 2025 WL 985200 (Tex. Crim. App. April 2, 2025) (not designated for publication) (remanding to the trial court to develop the record and respond to the claim). Subsequently, based on the findings returned and the court’s independent review of the record, including trial counsel’s affidavit which was provided to the district court, the Court of Criminal Appeals of Texas denied the application for writ of habeas corpus without a written order. *Ex parte Contreas-Aguilar*, No. WR-96,470-01 (Tex. Crim. App. Sep. 17, 2025) (denying relief without opinion). Petitioner filed this instant writ of certiorari.

3. The Trial

a. *Voir Dire*

The State did not mention Petitioner’s immigration status during its voir dire. See 2 RR 120–259. During Petitioner’s voir dire, his trial counsel did raise the issue in the following manner:

Now, each of you can see that my client has a translator over there. Joel doesn't speak English. He speaks Spanish. Joel is an illegal alien. That means that Joel jumped the line in front of all those who lawfully wait in line for their place in America. People that come here illegally escape the rule of law from their countries and simultaneously violate our rule of law.

However, that being said, the law provides that illegal aliens have the same constitutional rights in a trial as any other citizen.

Knowing all that, my question is, honestly, do you think you can be fair and impartial?

2 RR 259–260. Counsel then went venireperson by venireperson through the entire panel, asking each for an answer to that question. 2 RR 260-268. Most of the panel said they could be fair and impartial, individually responding “yes.” *Id.* However, twenty-four potential jurors said that they could not. For example, this exchange occurred:

VENIREPERSON #12: I find that difficult.

TRIAL COUNSEL: So is it fair to say no?

VENIREPERSON #12: Yes. I grew up in extreme south Texas.

2 RR 260. Twenty-three were struck for cause and the remaining potential juror (#48) did not make it onto the jury. 2 RR 386-87. No other mention of immigration status was mentioned during voir dire.

b. Guilt-Innocence Phase

Neither side mentioned Petitioner's immigration status during opening statements. *See* 3 RR 21–28. And neither side mentioned Petitioner's immigration status during closing arguments. *See* 5 RR 29–68.

The only time Petitioner's status was brought up in the evidentiary portion of the trial was when the State questioned Hays County Sheriff Deputy Juan Villarreal. Villarreal was not the primary detective in the case. But Villarreal interviewed Petitioner because he was the only law enforcement available at the time who could speak Spanish. 4 RR 86.

Q. Did you read him his Miranda warnings?

A. Yes.

Q. Okay. And did he acknowledge that he understood those?

A. Yes. After each right, he nodded in agreement, saying he understood them.

Q. Okay. And did you say those in English or Spanish?

A. Spanish.

Q. One moment. Was Mr. Contreras-Aguilar in the free, or was he in the jail when you interviewed him?

A. He was actually in custody at the jail. We walked over from our office to the jail --

Q. Do you know how --

A. -- to speak to him.

Q. I'm sorry. Do you know how he got to the jail?

A. I believe he was arrested trying to come back to the United States by immigration and was in custody at Webb County Jail.

Q. Okay.

4 RR 87.

The State offered the body cam video and certified copy of the translation into evidence without objection. 4 RR 89.

Q. And then Page 8 of that transcript, he says, I left the house in Mexico because I had problems, oh, in Mexico. I had something I needed to resolve and I left but I was going to come back after. And I could not return because of questions. I'm illegal in the country and economically I don't have to pay someone to bring me if I stayed living in Mexico. And then he says -- so he -- how long did he say he had left the United States?

A. He said he had left July 17, 2009.

Q. And this interview again was on what day?

A. May 4th, 2018.

Q. But he tells you he was going to come back?

A. Yes, but didn't have the money at the time to --

4 RR 97. Petitioner's trial counsel did not object.

c. Trial Counsel's Affidavit Explaining His Strategy

Trial counsel's affidavit explained that he brought up his Applicant's immigration status during voir dire to remove all those potential jurors who would hold his client's immigration status against him. Trial Counsel reasonably believed that potential jurors would independently conclude that his client was an illegal immigrant during the course of the trial. In trial counsel's opinion, he made a strategic decision to address the issue of Petitioner's immigration status directly to root out biased jurors than to have jurors consciously or subconsciously think about status. Counsel also explained that he did not object when the State's brief mention

of Petitioner's immigration status during the trial because he would have lost credibility with the jury by objecting to it. The relevant text of the affidavit is reproduced below:

The applicant ran to Mexico when these allegations came about. The fact that he ran to Mexico was admissible to show consciousness of guilt. This attorney would have had to walk a disingenuous tightrope to avoid the applicant's immigration status. But, this attorney notes that even without that, this attorney feels he would be ineffective for not addressing the applicant's immigration status.

Spanish speakers sit there, with an interpreter, in front of the jury. The elephant in the room is what is this person's immigration status? You can avoid that, but I do not view it as smart or advisable. The jury will then go back and deliberate and assume a defendant is an illegal alien. Many people harbor prejudice against illegal aliens and will not grant them the constitutional protections to which they are entitled. This attorney prefers to address this upfront in voir dire, and thus get rid of such jurors for cause. ***In fact, twenty-four jurors said that they could not be fair and impartial in this case and were accordingly struck for cause. See R.R.2.***

Putting aside the fact that this attorney is of the opinion that it is objectively reasonable to point out a Client's lack of immigration status (if a defendant obviously has an interpreter), to strike biased jurors and be simultaneously genuine to the venire panel, in this case, it had to be addressed no matter what. The applicant fled to Mexico upon learning of these charges. *See R.R.3 at 57, 61; R.R.4 at 97.* Objecting to the State's introduction of such status would have been disingenuous and caused this attorney to lose credibility with the jury. The State merely anticipated that this attorney would address immigration status to the venire panel, as this attorney discussed such fact with opposing counsel in an amicable manner.

This attorney respectfully requests that this Court should hold that voir diring [sic] on a Client's lack of immigration status is objectively reasonable, no matter what. People harbor deep prejudices against illegal aliens, and a defense attorney must know if they can set those deep prejudices aside or not. Avoiding the elephant in the room is not a way to try a case. The elephant in the room, no matter what the "elephant" is, must be addressed in voir dire if a defendant is to have any outside shot to pull off a not guilty. Sure an attorney can ask, are

you going to hold it against my Client if he has an interpreter or does not speak English? But, that will not address the elephant in the room, which is my Client's immigration status. The asking of those questions, which are appropriate, will indirectly point to a person's immigration status and cause the venire panel to think about a defendant's immigration status consciously or unconsciously. The bottom line is that, unfortunately, it is an unavoidable topic. Not to mention, a person's immigration status has unfortunately been politicized in this Country.

ARGUMENT

This petition for writ of certiorari should be denied. First, Petitioner is unable to overcome either of the *Strickland* prongs. Second, this Court should not categorically prohibit defense counsel from exercising their strategic judgment. And third, this is the wrong moment for this Court's intervention. Petitioner points to no case (and the State could find none) where the mention of a defendant's immigration status by defense counsel to root out biased jurors constituted constitutional ineffective assistance of counsel. This Court should wait until this issue has sufficiently developed in lower courts before making a binding ruling on all.

1. Petitioner is Unable to Satisfy the *Strickland* Standard

a. The Strickland standard

“Surmounting Strickland's high bar is never an easy task.” *Padilla v. Kentucky*, 559 U.S. 356, 371 (2010). To amount to ineffective assistance of counsel under *Strickland's* two-prong test, counsel's representation must fall “below an objective standard of reasonableness” and there must be “a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 366 (quoting *Strickland v. Washington*, 466 U.S. 668, 688-694 (1984)). The burden to establish both of these prongs rests on the defendant. *Id.* at 696. Review of a trial counsel's performance is to be “highly deferential” as “(t)here are countless ways to provide effective assistance in any given case” and different attorneys may choose different strategies. *See Id.* at 659 (“a court must indulge a

strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance”).

b. Strickland first prong

Even assuming Petitioner’s argument that a defendant’s immigration status may be automatically inflammatory to a jury when presented by the State, it does not follow that Defense counsel must have acted ineffectively when choosing to bring it up. As counsel noted, Petitioner needed to use an English to Spanish translator during the trial, obviously indicating to the jury that he did not understand English. 2 RR 259–260. The jury would also become aware that Petitioner fled the country to Mexico after learning about the charges, and ultimately lived there for nearly a decade. Texas Courts recognize flight as evidence of consciousness of guilt. *See Bigby v. State*, 892 S.W.2d 864, 883 (Tex. Crim. App. 1994) (Texas courts have long allowed evidence of flight or escape “as a circumstance from which an inference of guilt may be drawn”).

Therefore, even if Petitioner’s trial counsel did not explicitly state that Petitioner was an illegal alien, the jury would have likely inferred as much from the proceedings. Counsel then made the strategic decision that in order to not appear “disingenuous” and to “lose credibility with the jury,” he would approach the topic head-on, and root out prejudice immediately in voir dire. *See Trial Counsel’s Affidavit supra*. The asking of direct-probing questions to individual venirepersons is generally “the better practice... particularly... when the overall circumstances and surroundings suggest the possibility of racial bias.” *United States v. Ortiz*, 315 F.3d

873, 889 (8th Cir. 2002) (quoting *United States v. Bear Runner*, 502 F.2d 908, 512 (8th Cir. 1974)) (in the context of a voir dire conducted by a federal judge directly instead of by defense counsel, but applicable here).

Striking two dozen potentially prejudiced jurors is no small feat. If anything, it demonstrates that counsel made at least a justifiable if not the correct strategic choice here. It is entirely possible, that these jurors would not have been struck had they just been asked if they were biased against Spanish speakers. Petitioner's trial counsel's decision exposed those who would not have been fair and impartial to Petitioner.

c. Strickland second prong

Even if ineffective, Petitioner would still need to demonstrate some resulting prejudice. He cannot do so, as the jurors who had a bias against illegal immigrants were identified *and removed* from the jury panel. 2 RR 369 (bench conference after voir dire marking jurors one by one to be removed for cause). Removing the biased jurors removed any prejudice from tainting this case. In effect, what Petitioner requests is that this Court find his trial counsel provided ineffective assistance when he utilized voir dire to root out and eliminate two dozen jurors from the panel. Two dozen potential jurors who would otherwise be biased against him just because of his status. The remaining venirepersons all indicated that they could remain fair and impartial. 2 RR 259-268 (venirepersons stating one by one that "yes" they could be fair and impartial despite knowing Petitioner was an "illegal alien").

Nevertheless, Petitioner would have this Court effectively find that these individuals lied to the district court, thereby undercutting the entire purpose of voir dire. If this were to be the case, we could never trust the answers of venirepersons, and every jury empaneled in this country would be suspect. This cannot be the rule. The sworn jury panel members spoke the truth. Those who admitted they could not be fair and impartial to an illegal immigrant defendant were removed.

2. Defense Counsel Should Be Left With The Strategic Decision

If the right to counsel means anything, it means that defense counsel should have the freedom “to make independent decisions about how to conduct the defense” free from government interference. *Strickland*, 466 U.S. at 686. Because no fixed set of “detailed rules for counsel’s conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant” this Court has been hesitant to “restrict the wide latitude counsel must have.” *Id.* at 688-89. As to the specific issue of examining prejudice in voir dire, this Court in a plurality expressed that: “[i]n our judgment, it is usually best to allow the defendant to resolve this conflict by making the determination of whether or not he would prefer to have the inquiry into racial or ethnic prejudice pursued.” *Rosales-Lopez v. United States*, 451 U.S 182, 191 (1981); *see also Menchaca v. State*, 901 S.W.2d 640, 645 (Tex. App.—El Paso 1995) (“With counsel's consent, the trial court asked if immigration status would affect a venireperson's service, to which question one venireperson responded affirmatively.”).

If this Court finds trial counsel ineffective, it removes from defendant a strategic decision on whether to highlight or deemphasize a specific issue. Defense counsel makes dozens of calls throughout every trial. For example, asking for a jury instruction to not hold it against defendant for not taking the stand. *See Carter v. Kentucky*, 450 U.S. 288, 307 (1981) (Stevens, J., concurring) (“I remain convinced that the question whether such an instruction should be given in any specific case—like the question whether the defendant should testify on his own behalf—should be answered by the defendant and his lawyer, not by the State.”). Or asking for defensive instructions. *See Posey v. State*, 966 S.W.2d 57, 63 (Tex. Crim. App. 1998). Or deciding “whether to object to damaging testimony at the risk of drawing the jury’s attention to it[.]” *Gresser v. Franke*, 628 Fed. Appx. 960, 963 (9th Cir. Oct 26, 2015).

A defense counsel who is familiar with the community on the ground is in the best position to make the call on whether to bring up such an issue as immigration status bias. Some communities are more likely to have prejudiced views. Others not. The trappings of a rural Texas town are not necessarily the same as a Massachusetts city. Attempting to use *Strickland* to create a flat prohibition against exploring a specific prejudice defeats the very rationale of *Strickland*.

This Court should not step in and create a categorical prohibition on defense attorney exercising their judgment on the best way to ensure a fair and impartial jury.

3. The Issue Is Not Sufficiency Developed In Lower Courts.

a. *There is limited caselaw on discussing immigration status during voir dire*

The 5th Circuit “and our sister courts have encouraged—sometimes even required—trial courts to inquire about possible racial or ethnic prejudice during voir dire.” *United States v. Garcia*, 86 F.3d 394, 402 (5th Cir. 1996) (“The district court did not err in mentioning that Camacho may be a Columbian during voir dire”). There is limited caselaw as to the issue of discussing a defendant’s immigration status in voir dire. This Court has yet to declare discussing immigration status in voir dire is inherently prejudicial. The 5th Circuit has held that the defendant’s immigration status, even when admitted at trial, cannot be said to be the type of information that is “of a heinous nature, likely to incite the jury to an irrational decision.” *U.S. v. Yi*, 460 F.3d 623, 633 (5th Cir. 2006) (as part of a Rule 404(b) analysis of evidence admitted in the trial that showed the defendant was arrested by an immigration enforcement agent because of his immigration status as an illegal alien, holding that the trial court did not abuse its discretion); *but see Sanchez v. Davis*, 888 F.3d 746, 751 (5th Cir. 2018) (“Indeed, a defendant's illegal status is considered so inflammatory that it is often the subject of motions in limine, the point of which is to ensure that testimony is not revealed to the jury that is so prejudicial that even a subsequent instruction to disregard cannot undo the damage.”). The 9th Circuit has also noted that “(t)he fact that a successful presidential candidate made derogatory remarks about Mexican immigrants during the campaign does not, on its own, demonstrate that the population at large is prejudiced against such individuals.”

United States v. Garcia-Carillo, 743 Fed. Appx. 767, 769 (9th Cir. 2018). Notably, the jurors in *Garcia Carillo* also individually told the district court in voir dire that they could be fair and impartial in “a criminal immigration case.” *Id.* Additional cases are gathered below:

- A defendant who argued that his counsel was ineffective for stipulating that the defendant was an illegal alien could not show prejudice under *Strickland* “because he was in fact an illegal alien.” *United States v. Morgan*, No. CIV.03-3856, 2003 WL 22245138, at *4 (E.D. Pa. Aug. 6, 2003) (holding that this *Strickland* claim was “utterly without merit,” and stipulating “is often a good trial tactic... so as not to call attention to one’s status” as an illegal alien). In *Morgan*, after one juror indicated that the defendant’s status as an illegal alien would prejudice them against the defendant, the court questioned the rest of the panel if any of them would have a similar prejudice, and “(n)o jurors raised their hands.” *Id.* (status as an illegal alien was relevant to a count of possession of a firearm as an illegal alien).
- While written questionnaires provided by defense counsel did ask potential jurors about “attitudes towards illegal immigrants” and “defendants’ race,” defendant objected that the district court cut the process short after two days of voir dire yielded only six qualified jurors. *Cho Lee Lin v. Bartkowski*, No. CIV.A. 10-5502 DMC, 2012

WL 3201943, at *9 (D.N.J. Aug. 1, 2012) (denying this claim “for lack of merit”).

- Defendant’s complaint that the trial court did *not* inquire about potential juror bias against illegal immigrants did not deprive him of his constitutional right to fair trial. *Hernandez v. Sandor*, No. CV 11-4352-MWF AGR, 2013 WL 1344895, at *8 (C.D. Cal. Jan. 16, 2013), report and recommendation adopted, No. CV 11-4352-MWF AGR, 2013 WL 2285223 (C.D. Cal. May 22, 2013) (“Petitioner has failed to show that the trial court’s refusal to voir dire the panel about bias against undocumented immigrants rendered his trial fundamentally unfair. *Mu’Min*, 500 U.S. at 427 (trial court has wide discretion to conduct voir dire in areas of inquiry that might tend to show juror bias).”).
- “Voir dire was extensive and thorough with prospective jurors being questioned individually if Velazquez–Ramirez’s immigration status or nationality would affect their view of the case and if they could put aside any feelings they had about illegal immigration and make a decision based solely on the evidence presented at the trial. Prospective jurors who indicated they would have difficulty with this were excused for cause.” *Velazquez-Ramirez v. Fayram*, No. C12-4065-MWB, 2014 WL 523810, at *17 (N.D. Iowa Feb. 7, 2014) (again,

stating that “this is the preferred method for investigating possible prejudice”).

While this Court has not opined on this issue authoritatively, this Court has authorized the exploration of racial prejudice of potential jurors. *See Aldrige v. U.S.*, 293 U.S. 308, 310-11 (1931) (overturning a conviction when the trial court denied the defense request to ask the jury pool if they had any racial prejudice). While racial prejudice is certainly part of the consideration in the instant case, it does not completely match prejudice dealing with immigration status.

b. Only one case can be found regarding the instant issue

Texas can only find one case alleging ineffective assistance for defense counsel bringing up their client’s immigration status during voir dire where immigration was not material to an element of the offense.

In *People v. Quintana*, No. 295324, 2011 WL 1901942 (Mich. App. Ct. May 19, 2011) (unpublished), Quintana was convicted of sexual assault, assault, and aggravated stalking. *Id.* at *1. During voir dire, Quintana’s lawyer stated to the jury panel:

There was one other thing that I wanted to tell you about [defendant]. We have an interpreter here. English is not his first language. He's not an American citizen. He's actually from Argentina. He's here in this country illegally. It's a big issue in our country and has been for a number of years now. There's quite a bit of discussion about it in the public press and, and people have feelings about that. And what I need to know is whether any of you would hold that against him the fact that he is what we would call in the law an illegal alien? He gets that same presumption of innocence. The People have the same burden of proof as it would be if he were an American citizen. But I'm telling you that now because I need to know whether that will have any effect on your ability to be fair and impartial in this trial.

Id. at *1.

Furthermore, Quintana’s counsel “elicited testimony concerning defendant's illegal alien status during defendant's direct-examination.” *Id.* at *2. The Court found Quintana’s actions did not constitute ineffective assistance of counsel for two reasons. First, the “record shows that defendant's status as an illegal alien was injected as a matter of trial strategy, and defendant has not overcome the presumption of sound strategy.” *Id.* at *2. Quintana’s counsel used the victim’s threat of reporting Quintana’s immigration status to undermine her credibility. *Id.* at *2, Second, the Court found that Quintana’s introduction of his status to expose potential jurors who would not be fair and impartial based on the defendant’s immigration status. *Id.* at *2,

Like Quintana, Petitioner’s trial counsel brought up his status in order to get rid of those potential jurors who would not be impartial based on his immigration status. Both cases had an interpreter for the defendant. While Quintana used the immigration status as mechanism to undermine the victim’s testimony, Petitioner’s trial counsel used it to get ahead of the nine-year flight to Mexico and subsequent arrest, which could be used as evidence of consciousness of guilt in Texas courts.

No case could be found where it was an unreasonable trial strategy for a defense attorney to mention their client’s immigration status to root out biased jurors.

c. This Court should wait until more courts have opined on this issue

Before imposing a rule that will bind all, prudence would tend to lean towards the side of restraint. The ruling of the Texas Court of Criminal Appeals has not “decided an important federal question in a way that conflicts with the decision of

another state court of last resort or of a United States court of appeals” nor has it decided “an important federal question in a way that conflicts with relevant decisions of this Court.” U.S. Sup. Ct. R. 10(b)-(c). (noting that this rule is neither controlling nor binding). At most, even granting that Petitioner is correct on all issues, the decision is merely a “misapplication of a properly stated rule of law,” and in such cases the writ is “rarely granted.” U.S. Sup. Ct. R. 10.

Incidentally, this above cross-section of cases and jurisdictions is a good example of how varied and specific *Strickland* analyses can become, and why such decisions are afforded such deference on review. The trial counsel or court conducting the voir dire in question is the single person best situated to assess what may or may not be appropriate or necessary in any given case. And this Court should continue its tradition of deferring to such evaluations to preserve the flexibility of *Strickland*.

CONCLUSION

Wherefore, the State of Texas respectfully requests that this Court deny the petition for writ of certiorari.

Respectfully submitted,

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