

No. 25-6726
CAPTIAL CASE

In the
SUPREME COURT OF THE UNITED STATES

WILLIAM LEWIS REECE,

Petitioner,

-vs-

STATE OF OKLAHOMA,

Respondent.

On Petition for Writ of Certiorari to the
Oklahoma Court of Criminal Appeals

BRIEF IN OPPOSITION TO PETITION
FOR WRIT OF CERTIORARI

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**CAPITAL CASE
QUESTION PRESENTED**

Whether state appellate courts are forbidden from reviewing the admission of a defendant's confession for an abuse of discretion, and whether a state appellate court must evaluate the harmlessness of an error it determined did not exist?

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**BRIEF IN OPPOSITION TO PETITION
FOR WRIT OF CERTIORARI**

The State respectfully urges this Court to deny Petitioner William Lewis Reece's Petition for Writ of Certiorari to review the published opinion of the Oklahoma Court of Criminal Appeals ("OCCA") entered in this case on July 16, 2025. *Reece v. State*, 575 P.3d 95 (Okla. Crim. App. 2025). Pet. App. "A."

STATEMENT OF THE CASE

A. Factual Background.

The OCCA set forth the relevant facts in its opinion on direct appeal:

William Reece is a serial rapist and killer. This case deals with his crimes against Tiffany Johnston occurring on July 26, 1997. On that day, Reece happened upon Johnston at the Sunshine Carwash in Bethany, Oklahoma.¹ Johnston was a young newlywed who happened to be at the car wash that day.² Reece brutally raped and killed Johnston at the car wash, then dumped her body in a remote location west of Yukon, Oklahoma.

¹ Victim Tiffany Johnston is identified by name. Previous victims are identified by initials in an effort to protect their privacy.

² Tiffany Johnston was from Anadarko and Reece knew her mother. There was some speculation that Reece knew or knew of Tiffany at the time of the attack. Reece's mother was best friends with Tiffany Johnston's mother. (This information was garnered from Reece's statements, which were played for the jury.)

In 2016, Reece confessed to killing Johnston as he was interviewed about his involvement in murdering women in Texas, whose bodies had not been located. According to Reece's statement to law enforcement, he pulled into the car wash with his truck and horse trailer when he noticed an oil leak. While there, he used a sprayer to clean his truck and horse

trailer. Johnston was there cleaning her car and had hung her car mats on the wall of the wash bay.

Reece sprayed Johnston with the sprayer, which according to Reece, caused Johnston to become upset and a confrontation ensued. Reece hit Johnston and drug her into the horse trailer, popped off the straps of her overalls, and undressed her. He put his penis in her vagina for about two minutes, but had trouble maintaining an erection due to the heat. He stopped and started to get up when Johnston hit him in the head with a horseshoe.

Reece became enraged and started choking Johnston, first with his hands then with a horse bridle. Reece strangled Johnston until she was dead. After killing Johnston, Reece took her body to an area west of Yukon, Oklahoma.

Further investigation revealed that, during this trip, he stopped in Yukon and made a phone call from a pay phone. A prepaid calling card confirmed that Reece had made the call.

After making the call, Reece found a desirable location to dump Johnston's body. He left Johnston along Gregory Road just south of Interstate-40 in tall grass. She was completely nude except for a floral bikini top that she wore under the overalls.

The night after she had been abducted, Bethany police officers discovered Johnston's car at the car wash, with the keys still in it. The floor mats were still hanging on the carwash wall. The next day, Johnston's body was found. Her body bore the signs of strangulation with the use of hands. She had bruises, scratches, and contusions on her hands and wrists. Johnston also had scratches on her shoulders, and bruises to her left arm and left hip.

The medical examiner testified that she had a bruise to her scalp from blunt force trauma and a fractured hyoid bone which is associated with strangulation. Johnston also had "fine petechiae" on the right-side wall of her vagina caused by trauma. The medical examiner ruled the cause of death as asphyxiation by strangulation and the manner of death was homicide. A rape kit was collected, but due to limited technology at the time, DNA testing was not performed. Johnston's death remained unsolved for many years. It was not until 2016, while serving a prison sentence for an offense he committed against S.S. in May 1997, that Reece confessed to Johnston's murder, as well as other murders committed in Texas.

Evidence produced at trial began with Reece's earliest attacks against young women. In 1986, in Norman, Oklahoma, Reece kidnapped and forced nineteen-year-old L.E. to perform oral sex on him. Her car had broken down on the side of the road, he stopped and indicated he would render aid. Instead, he lured her into his semi-truck and forced her into the sleeper portion of the cab. She asked Reece why he was doing this, and he said, "because I'm crazy."

He drove to an air conditioner plant loading dock where he committed sexual attacks on her. She was finally able to get help from someone at the loading dock, after she convinced Reece to let her use the restroom.

Two months later, in Anadarko, Oklahoma, twenty-year-old A.C. came home from a local club. She was feeling ill, so she went to bed. She woke up in the middle of the night to Reece undressing her. She tried to scream, but Reece put his hand around her throat and the other on her mouth. Reece raped her and forced her to perform oral sex on him. A.C. was able to escape, and later she identified Reece as her attacker.

Reece was convicted of both crimes and sentenced to prison. He was released in October 1996. A few months after his release, Reece's reign of terror on women began in earnest. In March 1997, twelve-year-old L.S. was jogging near her house in Friendswood, Texas. She never returned home. Seventeen days later, she was found in a pond twenty miles away. She was nude except for the socks she wore, and her neck had been broken.

In his 2016 confession, Reece said he hit something with his vehicle, and went to see what he hit. He saw L.S. lying in the ditch screaming and crying. To stop her from screaming he put his hand over her mouth, broke her neck, and dumped her body. Evidence of this murder was also introduced during the first stage of trial.

In May 1997, Reece abducted nineteen-year-old S.S. from a Waffle House parking lot in Webster, Texas, a neighboring city of Friendswood, Texas. Earlier, S.S. was at a convenience store using the payphone. She saw Reece staring at her. Inexplicably, while she was in the convenience store, her tire had gone flat. S.S. did not notice the flat until she drove away. She pulled into the Waffle House parking lot, because of the flat, and Reece pulled in behind her and offered to help.

Reece asked S.S. to retrieve something from his truck, a white dually pickup. When she got to the truck, Reece came up behind her, pressed a

knife to her throat, and ordered her to get in the truck. He drove to a different parking lot where he tore her shirt partially off and began touching her breasts.

Reece began driving again and said he was taking her to Dallas. On the highway, he ordered S.S. to take off her pants. She slowly slid to the passenger door and opened it. Reece grabbed the back of her shirt, but she fought him off and jumped out while the pickup was traveling at highway speeds.

Ultimately, S.S. was able to identify Reece, and he was convicted in May 1998 of aggravated kidnapping and sentenced to prison. However, between his attack on S.S. and his arrest and conviction for her kidnapping, Reece attacked five more women including Tiffany Johnston.

On July 3, 1997, he kidnapped sixteen-year-old E.D. and seventeen-year-old C.B. after offering them a ride home from a cafe' in Pearland, Texas, a suburb south of Houston (and bordering Friendswood). They accepted the ride because they recognized Reece as a regular patron of the cafe. Instead of taking them home, Reece took them to his apartment where he forcibly raped both girls. E.D. asked why he was doing this, and he said it was because he was crazy. They eventually pleaded for him to take them home and promised not to tell. Reece consented and took them home. He told C.B. he wanted to come back for her and take her to Oklahoma.

C.B. and E.D. were embarrassed and ashamed, so they made a pact not to tell anyone what had occurred. They told no-one until they saw Reece on the news in connection to the S.S. kidnapping in October 1997.

On July 15, 1997, Reece kidnapped and killed K.C. She was last seen in Denton, Texas where she locked her keys in her car at the police station. She walked across the street to use the phone to call her boyfriend for a ride. She was never seen alive again. Her disappearance remained unsolved until Reece confessed to the murder in his 2016 interviews.

He said that K.C. ran into him at the convenience store, spilled her drink on him, and insulted him. He slammed K.C. against his truck, slapped her, and strangled her. He believed her neck was broken. He buried her naked body in a rice field in Brazoria County, Texas³ using a bulldozer he kept in the area. Ten days later, July 25, he encountered Tiffany Johnston and ended her life.

³ A county south of Houston which includes the town of Pearland.

After killing Tiffany Johnston, on August 17, 1997, Reece encountered seventeen-year-old J.C. in Clear Lake, Texas⁴ at a Bennigan's restaurant. Reece claimed they got into a confrontation when one or the other banged the other's car door. He claimed he drove away, but J.C. chased him down in her vehicle. They pulled over on the side of the road and Reece attacked her, held her down between the cars, and strangled her to death with a strap he found on the road. He buried J.C.'s body near a gas line on property in Houston, Texas. Like the other killings, her murder was unsolved until Reece confessed during the 2016 interviews.⁵

⁴ Also bordering Friendswood, Texas.

⁵ Evidence of Reece's other crimes was introduced during the first stage of trial and the evidence was also incorporated into the second stage to prove the aggravating circumstances to support the death penalty.

Reece had been a suspect in these numerous murders, and as early as 2013 Reece voluntarily agreed to give a DNA sample. Reece's DNA was finally tested against the rape kit collected from Tiffany Johnston when technology allowed for more definitive testing. Traditional DNA testing showed that Reece could not be excluded as the contributor for the partial male profile developed from the sample taken from the victim. The probability of selecting an unrelated individual at random from the population with the same partial DNA profile was at least 1 in 11,200. Y-STR DNA testing showed that Reece was also a potential source for the DNA collected from Tiffany Johnston with a probability of Reece's Y-STR DNA profile appearing in 54 of 29,182 individuals according to a 2021 published database.⁶

⁶ Y-STR is a short tandem repeat on the male only, Y-chromosome. This test is useful where there may be low amounts of male DNA which can be masked by high concentrations of female DNA.

Other evidence tied Reece to the murder of Tiffany Johnston. The owner of the car wash where Reece attacked Johnston testified that he recognized Reece in a Houston news report in November/December 1997 or January 1998. He had seen Reece at the car wash eight to ten times over a couple of months in 1997. He was standoffish and was driving a

large white Ford dually pickup with a half-type of camper shell, extending from the cab about three feet. He contacted the Oklahoma State Bureau of Investigation at the time and reported what he had observed.

Reece, 575 P.3d at 104-07 (paragraph numbers omitted).

B. Procedural Background.

In 2021, a jury convicted Reece of first degree murder and sentenced him to death, finding the existence of four aggravating circumstances: (1) the defendant was previously convicted of a felony involving the use or threat of violence to the person; (2) the murder was especially heinous, atrocious, or cruel; (3) the murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution; and (4) the existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society. *Reece*, 575 P.3d at 104.

On July 16, 2025, the OCCA affirmed Reece's Judgment and Sentence on direct appeal. In relevant part, the court rejected Reece's claim that his inculpatory admissions had been coerced by promises that he would not face the death penalty:

In Proposition One, Reece claims that his confessions to murdering Tiffany Johnston, L.S., K.C., and J.C. were coerced and induced. Reece preserved this error with contemporaneous objections; thus, we review the trial court's decision to allow the confessions into evidence for an abuse of discretion; the decision will not be disturbed absent an abuse of that discretion. *Hammick v. State*, 2019 OK CR 21, ¶ 4, 449 P.3d 1272, 1274. To determine an abuse of discretion, we review the trial court's legal conclusions *de novo*, and factual findings for clear error, in the light most favorable to the State. *Id.*

An abuse of discretion is an unreasonable, unconscionable, and arbitrary action taken without proper consideration of the facts and law pertaining to the matter submitted. *Cuesta-Rodriguez v. State*, 2010 OK

CR 23, ¶ 19, 241 P.3d 214, 225. Stated another way, an abuse of discretion is any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue. *State v. Busby*, 2022 OK CR 4, ¶ 2, 505 P.3d 932, 934 (citing *State v. Haliburton*, 2018 OK CR 28, ¶ 12, 429 P.3d 997, 1000-01). An abuse of discretion has also been described as a clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented. *Busby*, 2022 OK CR 4, ¶ 2, 505 P.3d at 934.

The trial court conducted a pre-trial *Jackson v. Denno*¹⁰ hearing and found that the State had met its burden by a preponderance of the evidence, that the confessions were freely and voluntarily given, and that Reece's statements were admissible.¹¹ While ruling that the confessions were admissible, the trial court concluded that Texas Ranger James Holland promised "that he would try to get everybody on board. He fulfilled that promise. It was not up to him. It was up to the district attorney, Mr. Reece knew that, to give the last word."

¹⁰ 378 U.S. 368, 84 S.Ct. 1774, 12 L.Ed.2d 908 (1964).

¹¹ See *Brown v. Illinois*, 422 U.S. 590, 604, 95 S.Ct. 2254, 45 L.Ed.2d 416 (1975) (Holding that the burden of showing admissibility rests on the prosecution). See also *Brown v. State*, 1998 OK CR 77, ¶ 41, 989 P.2d 913, 927 (quoting *Matthews v. State*, 1998 OK CR 3, ¶ 12, 953 P.2d 336, 341-42).

Later when the State sought to introduce the statements, Reece made his contemporaneous objection, thus preserving the issue for review. 12 O.S.2011, § 2104. See *Hancock v. State*, 2007 OK CR 9, ¶ 72, 155 P.3d 796, 813, *overruled on other grounds by Williamson v. State*, 2018 OK CR 15, ¶ 51 n.1, 422 P.3d 752, 762 n.1 (holding that a contemporaneous objection must be made at the time the alleged error is being committed); see also *Dodd v. State*, 2004 OK CR 31, ¶ 64, 100 P.3d 1017, 1038.

Initially, Reece cites to his low-level intelligence quotient (75 at 12 years of age, and 78 prior to trial) and his borderline intellectual disability to show that he was easily induced by Ranger Holland to believe he would not get the death penalty if he cooperated. Reece claims that Holland convinced him that, although he did not make the death penalty decisions, he had the power to influence the decision makers. Reece cites to a plethora of conversations between Holland and Reece to show that Reece was coerced and induced into confessing. He uses Holland's

statements to show that Holland indicated that he had the authority and the power to get deals done.

On appeal, Reece bears the burden to show that the trial court abused its discretion in ruling that his statements were admissible under the facts and circumstances of this case. We find that he has not met his burden.

In admitting the statements, the trial court reasoned that Holland did not promise that Reece would not receive the death penalty if he confessed, but that Holland promised that he would do everything in his power to convince the prosecutors not to seek the death penalty. The trial court also found that Holland repeatedly told Reece that the decision was not up to him, but that he would intervene on his behalf if he cooperated. We review the trial court's determination in the following manner.

This Court is tasked with determining whether the trial court's view of the facts was clearly erroneous. We look to the totality of the circumstances to determine whether Reece's confession was the product of an essentially free and unconstrained choice by him. *See Gilbert v. State*, 1997 OK CR 71, ¶ 42, 951 P.2d 98, 111 (citing *Crawford v. State*, 1992 OK CR 62, ¶ 28, 840 P.2d 627, 635); *see also Schneekloth v. Bustamonte*, 412 U.S. 218, 225-26, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973). The confession "must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence." *Malloy v. Hogan*, 378 U.S. 1, 7, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964) (quoting *Bram v. United States*, 168 U.S. 532, 542-43, 18 S.Ct. 183, 42 L.Ed. 568 (1897)).

In *Bench v. State*, 2018 OK CR 31, ¶ 39, 431 P.3d 929, 948-49, this Court quoted *Culombe v. Connecticut*, 367 U.S. 568, 602, 81 S.Ct. 1860, 6 L.Ed.2d 1037 (1961), stating that the test for the admissibility of an inculpatory statement comes down to answering one simple question:

Is the confession the product of an essentially free and unconstrained choice by its maker? If it is, if he has willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process.

"Whether a suspect's statements to police are voluntary in the legal sense depends on an evaluation of all the surrounding circumstances,

including the characteristics of the accused and the details of the interrogation.” *Underwood*, 2011 OK CR 12, ¶ 33, 252 P.3d at 238 (citing *Schneckloth*, 412 U.S. at 226, 93 S.Ct. 2041).

The facts support the trial court’s findings. During the initial, February 9, 2016, interview between Holland and Reece, Holland urged Reece to aid in locating the bodies of the victims, J.C. and K.C., so he could help control his own destiny. Holland told Reece that he thought Oklahoma would agree to forego seeking the death penalty if the defendant led him to the bodies of J.C. and K.C., but that the choice was not up to him. Holland told Reece that the choice was up to the respective District Attorneys. Throughout the interview, Holland expressly told Reece that he could not promise him anything. At one point, however, Holland indicated that Oklahoma promised to give the death penalty if he didn’t cooperate. Holland repeatedly tells Reece that he is not the D.A., not the Judge, not the Governor, and not the decision maker. He clearly tells him that he is not the decision maker. He also tells Reece that he needs to help and give them a reason not to file for the death penalty. At the conclusion of this interview, Holland agreed to let Reece think over the weekend. At that point, Reece arranged photographs of four victims that he was willing to talk about the following week.

That following week, on February 15, 2016, Holland returned to talk to Reece. Reece presented a list of demands, and Holland reminded him that he did not have the power to grant his requests. Reece informed Holland that he could not get the death penalty because he was a special education student. Again, Holland told Reece that he believed that Oklahoma would agree not to seek a death sentence, but he was not the District Attorney and could not speak for him. Holland repeatedly informs Reece that he is not the decision maker, but shared a belief that he would not get the death penalty. Two counties in Texas had already agreed not to seek the death penalty under certain circumstances, but Holland told Reece that there were no agreements with Oklahoma and another Texas county.

Reece knew Oklahoma had not agreed to any terms. Nevertheless, Reece agreed to lead authorities to one of the bodies that day. Reece directed Holland to a site (Site 1) where he claimed to have buried K.C. On the way, Reece admitted to killing K.C. and described disposing of the body.

The next day, Holland picked up Reece and they drove to Site 1. They were accompanied by Detective Doug Bacon of the Friendswood police department. Bacon recorded Reece’s conversations during the successive

trips to Site 1. Holland testified that Reece seemed more than willing to talk about the murders. Holland reminded him daily that Oklahoma had not decided about the death penalty.

On February 18, Reece gave details about the murders of K.C. and J.C. to Holland and Detective Eric Beckwith of the Denton Police Department. Reece insisted they find K.C.'s body first instead of trying to find J.C. first. He replied that "if they don't want to deal, . . . let them give me the needle." He also stated that he was willing to take the death penalty and would show authorities where J.C. was, but they had to find K.C. first.

On February 19, Reece gave information about the murders of L.S., J.C., and K.C. He was frustrated that they had not found K.C.'s body. Reece seemed more interested in showing that he was being truthful, so his frustration was evident.

On February 23, Reece wanted to take Holland to the location of J.C.'s body. Reece made Holland promise that they would continue to search for K.C.'s body. Finally, on the 26th, at Reece's request, Detective Bacon formally questioned Reece, reading the *Miranda*¹² warning to Reece for the first time. Reece wanted to get things off his chest. After the *Miranda* warning, Reece gave incriminating statements regarding the murders of L.S., J.C., and K.C. Then on February 27, Detective Bacon interviewed Reece specifically about Tiffany Johnston. Immediately, Reece began to provide his version of the events as set forth in the above facts.

¹² *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

On March 1, 2016, Reece discussed his life and the murders. Reece stated that he was speaking freely because he wanted to clear his conscience and help the families. J.C.'s remains were found on March 18, and K.C.'s remains were found on April 1, 2016.

On June 21, 2016, Holland arrived at the jail at Reece's request. Holland told Reece that he was under arrest and read the *Miranda* warning to Reece. Reece had not been taken to excavation sites, at his attorney's request, after J.C.'s remains were found. Reece, however, wanted to get things off his chest, and he wanted to give families closure. Reece spoke with his attorney, Anthony Osso, who advised him not to talk, but Reece ignored the advice and provided information about the murder of L.S. He stated that he was talking of his own free will. Days later, Holland,

Osso, and others met with the Oklahoma County District Attorney asking that he not seek the death penalty. The District Attorney did not answer their request at that time, and, in fact, days later Reece was informed that Oklahoma was going to seek the death penalty.

The trial court heard all of this evidence and determined that the statements were freely and voluntarily given, especially in light of his February 15th demands knowing that there was no agreement between the parties about foregoing the death penalty. We find that the trial court's decision did not amount to an abuse of discretion and the statements were admissible. Proposition One is denied.

Reece, 575 P.3d at 110-12.

On August 5, 2025, Reece filed a Petition for Rehearing and Motion to Recall Mandate; on September 3, 2025, the OCCA entered its Order Denying Petition for Rehearing and Denying Motion to Withdraw the Mandate. Petition for Rehearing and Motion to Recall Mandate (“Pet. for Reh’g”), *Reece v. State*, No. D-2021-867 (Okla. Crim. App. Aug. 5, 2025); Pet. App. “B”; Order Denying Petition for Rehearing and Denying Motion to Withdraw the Mandate, *Reece v. State*, D-2021-867 (Okla. Crim. App. Sept. 3, 2025); Pet. App. “C.” Petitioner filed this Petition for Certiorari on February 2, 2026.

REASONS FOR DENYING THE WRIT

Reece asks this Court to grant certiorari to second-guess the OCCA’s rejection of his Fifth Amendment claim. Although Reece asserts that the OCCA’s review of this claim “was in direct conflict” with *Payne v. Arkansas*, 356 U.S. 560, 561 (1958), *Chapman v. California*, 386 U.S. 18, 24 (1967), and *Arizona v. Fulminante*, 499 U.S. 279, 295 (1991), such an assertion is patently without merit. “A petition for a writ of certiorari will be granted only for compelling reasons,” such as to resolve conflicts in the law among federal circuit courts and/or the highest state courts or if a state court

“has decided an important federal question in a way that conflicts with the relevant decisions of this Court.” Sup. Ct. R. 10(a)-(c). However, “[a] petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.” Sup. Ct. R. 10.

Here, Reece’s case does not present a compelling issue for this Court’s review. Reece’s constitutional arguments are patently without merit—let alone do they present any compelling question warranting further consideration. First, while Reece claims that the manner in which the OCCA reviewed his Fifth Amendment claim is in conflict with this Court’s precedent, no such conflict exists. Not only does he fail to cite to a single authority from this Court rebuking the standard of review applied by the OCCA to his claim, he also fails to show the OCCA’s denial of his claim was in conflict with this Court’s precedent regarding coerced confessions. Finally, he has failed to show any conflict with this Court’s precedent where the OCCA did not conduct a harmless error analysis for an alleged error it found did not exist. Ultimately, Reece’s petition does nothing to call into question the constitutionality of his convictions and sentences, and he certainly does not show that his case is worthy of this Court’s review.

The Petition for Writ of Certiorari should be denied.

CERTIORARI REVIEW ON THIS QUESTION PRESENTED SHOULD BE DENIED BECAUSE THE OCCA'S REVIEW OF REECE'S FIFTH AMENDMENT CLAIM DOES NOT CONFLICT WITH THE RELEVANT DECISIONS OF THIS COURT.

Reece's case is not entitled to certiorari review because he has failed to show the OCCA decided an important federal question in direct conflict with this Court's precedent in *Payne v. Arkansas*, *Chapman v. California*, and *Arizona v. Fulimante*. Along these lines, Reece argues that the OCCA failed to "conduct[] the proper constitutional error analysis" when it applied an abuse of discretion standard to the trial court's admission of Reece's confession. Reece claims the OCCA was required to "conduct a de novo review to determine whether there was error" under the Fifth Amendment. Pet. at 9 (citing *Payne*, 356 U.S. at 561; *Fulminante*, 499 U.S. at 287). He further claims that the OCCA failed to "determine if the admission of the confession was harmless beyond a reasonable doubt." Pet. at 9 (citing *Chapman*, 386 U.S. at 24).

A. Reece's case does not warrant review because he has failed to show that this Court's precedent forbade the OCCA from reviewing the trial court's admission of his statements for an abuse of discretion.

This Court should find Reece's attempt to manufacture conflict between its precedent and the OCCA's disposition of Reece's Fifth Amendment claim unpersuasive. For starters, he has failed to identify any controlling precedent from this Court which requires a state appellate court to conduct a de novo review of a Fifth Amendment claim, rather than reviewing for an abuse of discretion. On direct appeal, Reece made a similar appeal for de novo review to the OCCA, asserting that "[t]he denial of a constitutional right is entitled to an independent *de novo* review on

appeal, Original Brief For and on Behalf of William Lewis Reece Appellant (“Aplt’s Br.”), *Reece v. State*, No. D-2021-867 (Okla. Crim. App. Aug. 1, 2023) (citing *White v. Estelle*, 459 U.S. 1118, 1121-22, n.3 (1983), Marshall, J., dissenting), and that the OCCA “should conduct an independent review of the evidence on dispositive constitutional issues,” Aplt’s Br. at 28 (citing *Bose Corp. v. Consumers Union*, 466 U.S. 485, 508 (1984)).

However, neither of these cases supported Reece’s claim of entitlement to an entirely de novo review of his Fifth Amendment claim. In *White*, Reece merely cites to Justice Marshall’s dissent from the Court’s denial of certiorari. Rather than discussing the standard of review that should be applied by state appellate courts to federal constitutional claims arising from state court convictions, Justice Marshall’s dissent discussed cases establishing the standard of review for collateral attacks on state-court judgments prior to the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). *White*, 459 U.S. at 1121-22, n.3. Reece failed to mention in his citation to *White* the posture of the dissenting opinion, instead asserting incorrectly that the case held that an “accused is entitled to an independent determination on the merits as to constitutional claims.” Pet. for Reh’g at 28.

Reece’s reliance upon *Bose Corp.* was similarly misguided. In *Bose Corp.*, this Court considered a civil appeal originating from a federal district court involving product disparagement. *Bose Corp.*, 466 U.S. at 487. Specifically, this Court considered an issue of first impression regarding whether a federal appellate court erred in failing to apply the “clearly erroneous” standard of Federal Rule of Civil

Procedure 52(a) to the district court's determination of whether "actual malice" existed. *Bose Corp.*, 466 U.S. at 487, 493 (citing *New York Times v. Sullivan*, 376 U.S. 254, 283-84 (1964)). Thus, like *White*, Reece's assertion of entitlement to de novo review under *Bose Corp.* fails because this case has no bearing or relevance to a state appellate court's review of a Fifth Amendment claim arising from a state-court criminal conviction.

Ultimately, Reece cited to no controlling precedent in his direct appeal brief that would have required the OCCA to review his claim de novo, rather than for an abuse of discretion. Indeed, by the time Reece filed his Petition for Rehearing and Motion to Recall Mandate, he apparently abandoned this position, arguing therein that, "[t]he trial court abused its discretion by ignoring completely the implied promises from Ranger Holland. This Court appears to do the same by making no mention of these implied promises in its July 16, 2025, opinion." Pet. App. "B" at 4.

Reece's arguments before this Court, now backpedaling to his original claim of entitlement to de novo review, are no better. In support of his argument that the OCCA failed to conduct "a proper constitutional analysis," Reece cites first to *Payne v. Arkansas*, for the proposition that, "[t]he use in a state criminal trial of a defendant's confession obtained by coercion—whether physical or mental—is forbidden by the Fourteenth Amendment." Pet. at 8-9. This holding, while correctly asserting a constitutional rule regarding coerced confessions, does not speak at all to the standard of review required by state appellate courts in considering Fifth Amendment claims on direct appeal.

Similarly, *Chapman* provides the standard for assessing the effect of a preserved constitutional error on the outcome of a trial. *Chapman*, 386 U.S. at 24. *Chapman* does not, however, provide any support for Reece’s claim that the OCCA was forbidden from reviewing the admission of his statements for an abuse of discretion. Finally, *Fulminante* also fails to provide such support. In *Fulminante*, Reece points to this Court’s holding that, “The Court has the power to review the record *de novo* in order to determine an error’s harmlessness.” *Fulminante*, 499 U.S. at 287. As in *Chapman*, this holding merely applies to a court’s analysis *after* constitutional error has been found.

Reece also cites to this Court’s statement in *Fulminante* that it “normally give[s] great deference to the factual findings of the state court. Nevertheless, the ultimate issue of voluntariness is a legal question requiring independent federal determination.” *Id.* at 287. While this holding is *closer* to addressing the issue at bar—the deference a state appellate court may give to the trial court’s admission of a defendant’s statements—it still falls far short of forbidding review for an abuse of discretion. This is especially true where the OCCA went on to note that, “to determine an abuse of discretion,” it would, “review the trial court’s legal conclusions *de novo*” and its “factual findings for clear error, in the light most favorable to the State.” *Reece*, 575 P.3d at 110. *See Underwood v. State*, 252 P.3d 221, 232 (Okla. Crim. App. 2011) (“We review the district court’s factual findings for clear error; its analysis of applicable law is reviewed *de novo*.”), *cert denied*, *Underwood v. Oklahoma*, 565 U.S. 1121 (2012), *denied habeas relief by Underwood v. Duckworth*, No. CIV-12-111-D,

2016 WL 4059162, *29-30 (W.D. Okla. July 28, 2016) (“The OCCA’s determination that Petitioner’s waiver of *Miranda* rights and subsequent confession were valid is reasonable under clearly established federal law.”), *denial of habeas relief affirmed by Underwood v. Royal*, 894 F.3d 1154 (10th Cir. 2018), *cert denied, Underwood v. Carpenter*, 586 U.S. 1232 (2019). In considering the record evidence, the OCCA further acknowledged that it had been the State’s burden to demonstrate the admissibility of Reece’s statements. *Reece*, 575 P.3d at 110 & n.11 (citing *Brown v. Illinois*, 422 U.S. 590, 604 (1975)). This standard of review is in complete harmony with *Fulminante*. Thus, the OCCA’s invocation of this standard with regard to Reece’s Fifth Amendment claim is not in conflict with this Court’s precedent, and it presents no compelling issue warranting review by this Court.

B. Reece’s case does not warrant review because the OCCA’s consideration of his Fifth Amendment claim does not conflict with this Court’s precedent on involuntary confessions.

Moreover, the OCCA’s opinion shows that its adjudication of the issue was consistent—and not in conflict—with this Court’s precedent on involuntary confessions. Along these lines, the OCCA noted that it must “look to the totality of the circumstances to determine whether Reece’s confession was the product of an essentially free and unconstrained choice by him.” *Reece*, 575 P.3d at 111 (citing *Gilbert v. State*, 951 P.2d 98 (Okla. Crim. App. 1997) (citing *Crawford v. State*, 840 P.2d 627 (Okla. Crim. App. 1992)); *Schneckloth v. Bustamonte*, 412 U. S. 218, 225-26 (1973)). The OCCA went on to hold that a defendant’s statements “must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence.” *Id.* (citing

Malloy v. Hogan, 378 U.S. 1, 7 (1964) (quoting *Bram v. United States*, 168 U.S. 532, 542-43 (1897))). Finally, the OCCA cited to *Columbe v. Connecticut*, 367 U.S. 568, 602 (1961), stating that “the test for the admissibility of an inculpatory statement comes down to answering one simple question:

Is the confession the product of an essentially free and unconstrained choice by its maker? If it is, if he has willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process.

Id. Thus, Reece’s assertion that the OCCA “disregarded” this Court’s precedent and “treated the constitutional claim as an evidentiary issue” is simply untrue. Pet. at 10. The standards utilized by the OCCA in reaching the merits of Reece’s claim did not ignore the constitutional dimension of the issue; on the contrary, the OCCA explicitly held that the admissibility of Reece’s statements hinged on the question of whether they were coerced in violation of due process. *Id.* The OCCA’s adjudication of Reece’s Fifth Amendment claim was not in conflict with this Court’s precedent. See *Hammick v. State*, 449 P.3d 1272, 1274 (Okla. Crim. App. 2019) (finding no abuse of discretion in the trial court’s admission of Hammick’s confession where it was voluntary) (citing, e.g., *Columbe*, 367 U.S. at 602; *Schneckloth*, 412 U.S. at 226), *denied habeas relief by Hammick v. Quick*, No. 20-cv-0622-CVE-CDL, 2023 WL 7003700, *5 (N.D. Okla. Oct. 24, 2023) (unpublished) (“The OCCA applied the correct legal principles in its adjudication of Hammick’s Fifth Amendment claim and reasonably applied the law to the facts.”); *Underwood*, 252 P.3d at 232 (“A suspect’s custodial statements are not voluntary if they are the product of coercion, including promises of leniency or other

benefit. . . . Whether a suspect’s statements to police are voluntary in the legal sense depends on an evaluation of all the surrounding circumstances, including the characteristics of the accused and the details of the interrogation. . . . The ultimate inquiry is whether the confession is ‘the product of an essentially free and unconstrained choice by its maker.’”) (internal citations omitted) (citing, e.g., *Malloy*, 378 U.S. 1; *Schneckloth*, 412 U.S. at 226; *Culombe*, 367 U.S. at 602), *cert denied*, *Underwood v. Oklahoma*, 565 U.S. 1121 (2012), *denied habeas relief by Underwood v. Duckworth*, No. CIV-12-111-D, 2016 WL 4059162, *29-30 (W.D. Okla. July 28, 2016) (“The OCCA’s determination that Petitioner’s waiver of *Miranda* rights and subsequent confession were valid is reasonable under clearly established federal law.”), *denial of habeas relief affirmed by Underwood v. Royal*, 894 F.3d 1154 (10th Cir. 2018), *cert denied*, *Underwood v. Carpenter*, 586 U.S. 1232 (2019).

C. Reece’s case does not warrant review because the OCCA’s omission of a harmless error analysis where it found no error to exist does not conflict with this Court’s precedent.

Next, Reece argues that the OCCA’s opinion was in conflict with this Court’s precedent because it failed to invoke the *Chapman* standard for assessing whether the effect of a constitutional error can be ruled harmless beyond a reasonable doubt. This assertion has one glaringly fatal flaw, however—the OCCA did not find any constitutional error in the admission of Reece’s statements. On the contrary, it held:

The trial court heard all of this evidence and determined that the statements were freely and voluntarily given, especially in light of his February 15th demands knowing that there was no agreement between the parties about foregoing the death penalty. We find that the trial court’s decision did not amount to an abuse of discretion and *the statements were admissible*.

Reece, 575 P.3d at 112 (emphasis added). In *Chapman*, this Court held that, “[b]efore a federal constitutional error can be held harmless, the court must be able to declare a belief that it was harmless beyond a reasonable doubt.” *Chapman*, 386 U.S. at 24. However, *Chapman* does not require a harmless error analysis where no error was found to exist. There is no conflict with the OCCA’s denial of his Fifth Amendment claim and *Chapman*, and correspondingly no compelling issue warranting this Court’s review.

CONCLUSION

For the reasons set forth above, the State respectfully requests that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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