

No. 25-6774

In the Supreme Court of the United States

CHARLES DON FLORES, PETITIONER

v.

TEXAS

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

**BRIEF OF *AMICUS CURIAE* CHRISTOPHER
SCOTT IN SUPPORT OF PETITIONER**

SAMUEL J. ABRAMS
ARNOLD & PORTER
KAYE SCHOLER LLP
*Three Embarcadero
Center, 10th Floor
San Francisco, CA 94111
(415) 471-3100*

JOHN P. ELWOOD
Counsel of Record
HANNAH M. BEIDERWIEDEN
KERRY K. WALSH
ARNOLD & PORTER
KAYE SCHOLER LLP
*601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5000
john.elwood@arnoldporter.com*

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INTEREST OF *AMICUS CURIAE*¹

Amicus curiae Christopher Scott is a Dallas County exoneree who spent more than thirteen years in prison for a crime he did not commit. After he was exonerated, Scott co-founded House of Renewed Hope, a nonprofit organization dedicated to investigating wrongful convictions and assisting the wrongfully convicted. Through his own experience and his work with other wrongfully convicted individuals, Scott has repeatedly witnessed how recurring systemic failures—for example, unreliable forensic science, mistaken eyewitness testimony, and prosecutorial misconduct—can infect a criminal prosecution and produce a conviction that is profoundly unjust, as his own firsthand experience demonstrates.

Scott submits this brief because he recognizes in petitioner Charles Flores’s case the same patterns that led to his wrongful conviction and the wrongful convictions of the Dallas County exonerees he has assisted throughout the years. Drawing on his experience with the criminal justice system in Dallas County, Scott is deeply concerned that the systemic failures now widely acknowledged by courts, legislatures, and scholars as drivers of wrongful convictions may culminate here in the execution of an innocent man.

SUMMARY OF ARGUMENT

Wrongful convictions often feature a series of systemic failures that together undermine the fairness and reliability of the criminal proceeding. Decades of

¹ No counsel for a party authored this brief in whole or part, and no counsel or party made a monetary contribution to fund the preparation or submission of this brief. No one other than *amicus curiae* and his counsel made any monetary contribution to its preparation and submission. The parties were given timely notice of this filing.

exonerations in Dallas County and across the nation reflect this reality, and they often bear certain hallmarks: for example, unreliable or discredited forensic science, mistaken eyewitness identifications, and prosecutorial misconduct.

Petitioner Charles Flores’s case reflects the same familiar pattern. When viewed alongside the experiences of the Dallas County exonerees whose stories are recounted here, his prosecution bears hallmarks that courts, legislatures, and scholars now recognize as leading contributors to miscarriages of justice. The constitutional principles that ultimately justified relief in those cases—fairness, reliability, and due process—apply with equal force here.

This brief presents the stories of several Dallas County exonerees whose convictions were tainted by the same systemic failures present in petitioner’s case.

First, the cases of Steven Mark Chaney and Andrew Roark show how admission of unreliable scientific theories—often called “junk science”—has contributed to wrongful convictions. Petitioner’s conviction rests heavily on since-discredited hypnotically induced witness testimony; Chaney and Roark’s relied on repudiated bite-mark analysis and the Shaken Baby Syndrome hypothesis. But unlike petitioner, Chaney and Roark ultimately obtained relief under Texas’s “junk science” writ, Article 11.073, which is meant to right the very wrongs petitioner experienced.

Second, the exonerations of *amicus curiae* Christopher Scott, Larry Fuller, and James Giles show how overreliance on eyewitness identification—one of the most powerful yet least reliable forms of evidence—can drive wrongful convictions. Human memory is limited and prone to error. Petitioner’s conviction is a stark example of this: the sole eyewitness failed to identify him in the immediate aftermath of the crime and instead

described two perpetrators looking nothing like petitioner; she only identified him 13 months later in court after hypnosis and repeated exposure to his image.

Third, the cases of Stanley Mooze and Dennis Allen show how prosecutorial misconduct, especially violations of *Brady v. Maryland*, can infect criminal proceedings. Petitioner's prosecution involved such misconduct too: undisclosed deals with witnesses, reliance on recanted testimony, and suppression of exculpatory identification evidence.

The Court of Criminal Appeals's refusal to account for these failures in petitioner's case offends due process and risks grave error. Meaningful review is essential to prevent the irreversible injustice of executing an innocent man.

ARGUMENT

A. Wrongful Convictions Often Arise From a Combination of Systemic Failures

This January, the Dallas County Commissioners Court passed a historic resolution formally exonerating Tommy Lee Walker, a Black teenager from Dallas County, Texas, who was executed in 1956 for the 1953 rape and murder of Venice Lorraine Parker. A joint investigation involving journalists, the Innocence Project, and the Dallas County District Attorney's Office Conviction Integrity Unit revealed that Walker's arrest, prosecution, and conviction were "fundamentally compromised by false or unreliable evidence, coercive interrogation tactics, and racial bias." Briefing/Court Order at 1 (Dallas Cnty. Comm'rs Court) (Jan. 21, 2026), <https://perma.cc/2PVU-PVNE>. The Commission acknowledged that Walker's conviction and execution "represent a profound miscarriage of justice." *Id.* at 2. Before his sentencing, Walker said, "I feel that I have been tricked out of my life." See *Texas Executed an*

Innocent Man, Court Declares, EJI (Jan. 28, 2026), <https://perma.cc/L5EV-YAS8>. It is a sentiment shared by many exonerees.

Unfortunately, Walker’s story is not unique. But it highlights that justice for the wrongfully convicted is too often delayed, sometimes until relief is no longer possible—an acute risk petitioner faces here. It also shows that wrongful convictions often result from a combination of systemic failures. Indeed, decades’ worth of post-conviction exonerations like Walker’s reveal that wrongful convictions rarely result from a single, isolated error.

Courts, legislatures, and scholars have identified several “hallmarks” of wrongful convictions. One prominent example is the admission of unreliable or untested scientific theories, often labeled as “junk science.” Because they are presented with a veneer of scientific credibility, jurors tend to give them outsized weight. Such convictions may involve mistaken eyewitness identification, which can be caused by natural errors in human judgment. Or, more sinister, they may feature prosecutorial misconduct, such as suppression of exculpatory evidence. See, *e.g.*, Jon B. Gould & Richard A. Leo, *One Hundred Years Later: Wrongful Convictions After a Century of Research*, 100 *J. Crim. L. & Criminology* 825, 838–41 (2010) (identifying several “contributing sources” of wrongful convictions). Indeed, eyewitness testimony, imprecise forensic analysis, and government misconduct are the three most prevalent causes of wrongful convictions. See *Wrongful Convictions: The Literature, the Issues, and Unheard Voices* at 5, NIJ (Dec. 2023), <https://perma.cc/G5J3-T69X>.

The National Registry of Exonerations documents thousands of cases in which one or more of these factors contributed to a wrongful conviction. Each entry catalogues the recurring causes: “False or Misleading

Forensic Evidence,” “Mistaken Witness ID,” “Official Misconduct,” “False Confession,” and others. Nat’l Registry of Exonerations, <https://perma.cc/Z6U7-M7FA> (last visited Mar. 11, 2026). The pattern is unmistakable.

This case presents that same pattern when it is the most consequential—with petitioner facing the penalty of death. Petitioner’s conviction rests on eyewitness testimony that was the product of hypnosis, unreliable eyewitness procedures, and suppressed impeachment evidence. Texas itself has recognized, through Article 11.073 and related reforms, that convictions resting on repudiated science or tainted evidence demand meaningful reexamination. Yet despite those legislative judgments—and despite the lessons drawn from decades of exonerations—the Texas Court of Criminal Appeals declined to provide meaningful review here.

The question whether courts must meaningfully confront convictions bearing these well-documented hallmarks—particularly where the sentence is death—is of exceptional importance. Petitioner’s case exemplifies the systemic failures that have produced repeated wrongful convictions in Dallas County and nationwide. Without this Court’s intervention, those failures may culminate in an irreversible punishment. Review is warranted to ensure that constitutional safeguards designed to prevent miscarriages of justice are not rendered illusory when they are needed most.

**B. The Admission of Unreliable Scientific Theories
Is a Leading Contributor to Wrongful
Convictions**

The admission of unreliable scientific theories—often referred to as “junk science”—has contributed to wrongful convictions both in Dallas County and nationwide. Forensic evidence carries an aura of objectivity and certainty that jurors understandably find compelling. Yet history has shown that many forensic

methodologies were allowed into courtrooms without rigorous empirical validation. As a result, juries have heard “expert” testimony asserting scientific certainty where none exists, and convictions have been secured on foundations later shown to be unsound. The consequences are significant: roughly one in four people exonerated since 1989 were wrongfully convicted based on false or misleading forensic evidence. See *McCrorry v. Alabama*, 144 S. Ct. 2483, 2483 & n.1 (2024) (Sotomayor, J., statement respecting denial of certiorari) (citing the National Registry of Exonerations).

Concerns about the reliability of such evidence are well documented. A landmark study published in 2009 by the National Academy of Sciences found that several commonly used forensic techniques lacked adequate scientific validation and cautioned courts against affording undue weight to such evidence. See *Strengthening Forensic Science in the United States: A Path Forward* at 4, Nat’l Res. Council (2009). The report questioned, among other things, bite-mark comparison, firearm-matching evidence, and microscopic hair and fiber analysis. More recently, Members of this Court have expressed concern about whether existing post-conviction mechanisms adequately address convictions premised on forensic theories later repudiated by scientific consensus. See *McCrorry*, 144 S. Ct. at 2483 (Sotomayor, J., statement respecting denial of certiorari). As petitioner’s case shows, they often are not.

Unreliable forensic science undermines the reliability of the criminal process and threatens core guarantees of due process. Recognizing the problem, the Texas Legislature enacted Article 11.073 of the Texas Code of Criminal Procedure—Texas’s “Junk Science Writ”—to provide a vehicle for relief when the scientific basis for the reliability of trial evidence has been fundamentally undermined by subsequent developments. The statute

reflects a legislative judgment of statewide importance: when a conviction rests on scientific testimony later shown to be unreliable, the fairness of the proceeding is called into question and courts must meaningfully reconsider the verdict.

The exonerations of Steven Mark Chaney and Andrew Wayne Roark demonstrate both the dangers of unvalidated forensic theories and the critical role Article 11.073 was designed to play.

Chaney was convicted in 1987 of a double murder based largely on bite-mark testimony. *Steven Chaney*, Nat'l Registry of Exonerations, <https://perma.cc/6NYC-DXWX> (last visited Mar. 11, 2026). Despite several alibi witnesses placing Chaney elsewhere and limited physical evidence, that testimony proved decisive. Dr. Jim Hales, chief dental consultant for the Dallas County Medical Examiner's Office, testified that the upper and lower arches of Chaney's mouth matched the bite mark on the victim's arm. *Ibid.* The chances were "one in a million," he claimed, that anyone other than Chaney made the bite mark. *Ibid.* Another expert testified he was certain—"to a reasonable degree"—that Chaney was the one who bit the victim. *Ibid.* Chaney was sentenced to life imprisonment for capital murder. *Ibid.*

In the years that followed, scientific scrutiny revealed that bite-mark comparison lacked empirical support. The National Academy of Sciences' 2009 report concluded that, while many "forensic odontologists are satisfied that bite marks can demonstrate sufficient detail for positive identification, no scientific studies support this assessment, and no large population studies have been conducted." See *Strengthening Forensic Science in the United States: A Path Forward*, *supra*, at 176. Other studies have confirmed that bite-mark analysis lacks adequate empirical support. See generally *Bitemark*

Analysis: A NIST Scientific Foundation Review, NIST (Mar. 2023), <https://perma.cc/569K-GQ5Q>.

In 2015, Chaney filed a petition for a writ of habeas corpus, seeking to vacate his conviction. *Steven Mark Chaney*, Innocence Project, <https://perma.cc/4V5Q-73CW> (last visited Mar. 11, 2026). He argued that new scientific evidence contradicted the bite-mark evidence presented at trial and that the testimony was knowingly false at the time it was given. See *Ex parte Chaney*, No. WR-84, 091-01 at 40 (Tex. Ct. Crim. App. Dec. 19, 2018), <https://perma.cc/RVF2-NEPW>. The State’s own star expert witness recanted his testimony as “scientifically unsound,” and Chaney’s counsel presented other DNA evidence supporting his claim of innocence. *Chaney*, Innocence Project, *supra*. In 2018, the Texas Court of Criminal Appeals granted relief under Article 11.073, noting that “[e]ach piece of the State’s trial evidence” was questionable, undermined, or completely invalidated. See *Ex parte Chaney*, *supra*, at 67.

Another scientific theory that has been hotly debated within the medical community—and prominently challenged in Texas courts—is Shaken Baby Syndrome (SBS). That theory traditionally posited that the triad of injuries (subdural hemorrhage, cerebral edema, and retinal hemorrhage) could result only from violent shaking of a baby and must have been inflicted by the last adult caretaker. Evolving medical research has undermined that assumption, resulting in several exonerations nationwide and in Dallas County.

For example, Andrew Wayne Roark was convicted in 2000 of injuring his fiancée’s 13-month-old daughter based on SBS testimony. See *Andrew Roark*, Nat’l Registry of Exonerations, <https://perma.cc/8DLV-N2CY> (last visited Mar. 11, 2026). Roark maintained that the child had suffered an accidental fall, but several medical experts testified at trial that the child’s injuries were

consistent with child abuse. *Ibid.* Based on their flawed analysis, Roark’s was a clear-cut case of SBS. Roark was sentenced to 35 years in prison. *Ibid.*

With the help of the Innocence Project of Texas, Roark’s counsel petitioned to overturn his conviction. *Roark*, Nat’l Registry of Exonerations, *supra*. During his imprisonment, scientific developments had undermined the SBS hypothesis—that is, research found that the triad of injuries associated with SBS could be caused by other events, such as accidental falls. Over the course of years, Roark filed several habeas petitions, including pursuant to Article 11.073, supported by expert testimony undermining the medical evidence presented at trial. *Ibid.* Finally, in October 2024, the Texas Court of Criminal Appeals granted Roark a new trial, concluding that “if the newly evolved scientific evidence [regarding SBS] were presented at [Roark’s] trial, it is more likely than not he would not have been convicted.” *Ex parte Andrew Wayne Roark*, No. WR-56,380-03 at 55 (Tex. Ct. Crim. App. Oct. 9, 2024), <https://perma.cc/K4RD-3GLM>.

The state dismissed Roark’s case. *Roark*, Nat’l Registry of Exonerations, *supra*. Dallas County District Attorney John Creuzot stated that “[t]here exists no evidence in which we could support a conviction and believe Roark is actually innocent.” *Ibid.*

Petitioner’s case presents the same concern. His conviction rests centrally on eyewitness testimony that was the product of hypnosis—a technique now widely rejected by modern scientific consensus because of its capacity to contaminate memory and inflate confidence. Texas *itself* has barred the use of testimony tainted by investigative hypnosis in criminal proceedings, joining at least twenty other states. See Pet. 2; see also Tex. Code Crim. Proc. art. 38.24; *Texas Appeals Court Declines to Apply Junk-Science Law to Review Death Sentence Based Upon Hypnotically Assisted Identification*

Testimony, Death Penalty Info Ctr. (May 13, 2020), <https://perma.cc/XZL2-U5R4>. The scientific and legal repudiation of such methods is clear.

In the cases of Chaney and Roark, Article 11.073 functioned as the Texas Legislature intended: it allowed them to prove their innocence by establishing that since-discredited science contributed to their wrongful convictions. But petitioner has been denied relief under the very statutory mechanism Texas enacted to address convictions resting on discredited scientific methods. That is especially troubling because no forensic evidence other than the testimony of this hypnotized eyewitness linked him to the crime, and another individual has confessed to it. But the Texas Court of Criminal Appeals nevertheless summarily denied petitioner relief.

That divergence raises an issue of exceptional importance: whether state courts may decline to meaningfully apply legislatively created safeguards designed to prevent convictions from standing when their scientific foundation has eroded—particularly where the sentence is death. This case therefore presents more than an individual claim of error. It implicates the integrity of post-conviction review in cases involving repudiated forensic science, an issue that has recurred across jurisdictions and has drawn sustained attention from courts, legislatures, and this Court. When a conviction rests on scientific methods now widely rejected, due process requires more than summary denial. Review is warranted to ensure that safeguards enacted to prevent miscarriages of justice operate as intended—before an irreversible sentence is carried out.

C. Mistaken Eyewitness Identification Is a Leading Contributor to Wrongful Convictions

Few forms of evidence are more powerful in a courtroom than an eyewitness identification. When a witness points to the defendant and says, “That’s the person,” jurors understandably give that testimony substantial weight. But decades of research and experience have confirmed a troubling truth: eyewitnesses can be sincere—and wrong. As too many Dallas County exonerees know, “eyewitnesses make mistakes.” *Identifying the Culprit: Assessing Eyewitness Identification* at 103, Nat’l Res. Council (2014), <https://perma.cc/GUV2-S54H>.

False identifications have contributed to nearly 70% of over 375 wrongful convictions between 1989 and 2020 that were later overturned by DNA evidence. Pet. App. 417. That striking statistic has prompted extensive scientific study of how memory works and how it fails. See generally *Identifying the Culprit: Assessing Eyewitness Identification*, *supra*. The research shows that memory is not a recording of what happened but a fallible reconstruction—susceptible to suggestion, stress, time, and reinforcement.

The causes of mistaken eyewitness identifications fall into two broad categories: estimator variables and system variables. *Eyewitness Misidentification*, Innocence Project, <https://perma.cc/3CKS-6UUC> (last visited Mar. 11, 2026). Estimator variables are those “outside the control of the criminal legal system”—for example, natural gaps in memory, the passage of time, physical factors affecting identification (poor lighting, physical distance from the crime, etc.), and the natural effects of stress and trauma on the human brain. *Ibid.* System variables are those “controlled by the criminal legal system”—for example, law enforcement procedures for testing and recording eyewitnesses’ memories, or how

lineups and photo arrays are constructed. *Ibid.* These and other variables can result in mistaken eyewitness identification that can taint a criminal prosecution from the start.

The experiences of *amicus curiae* and other Dallas County exonerees show just how these dynamics can produce grave error.

Amicus curiae Christopher Scott was wrongfully convicted of capital murder in Dallas County in 1997 after a home-invasion robbery and sexual assault based primarily on a single eyewitness identification made under traumatic circumstances. See *Christopher Shun Scott*, Nat'l Registry of Exonerations, <https://perma.cc/T38M-NQT2> (last visited Mar. 11, 2026). No physical evidence linked him to the crime. *Ibid.* The judge overseeing the case refused to allow the defense to present evidence implicating other individuals. *Ibid.* More than a decade later, another man confessed to the crime, and Scott was exonerated. *Ibid.*

Larry Fuller is another tragic example. A Dallas County jury convicted Larry Fuller of aggravated rape in 1981 based largely on eyewitness identification. See *Larry Fuller*, Nat'l Registry of Exonerations, <https://perma.cc/9VLY-SCKM> (last visited Mar. 11, 2026). The assault occurred before sunrise in a dimly lit room. The victim initially could not describe her attacker. *Ibid.* Two days after the attack, police showed the victim a photo lineup that included Fuller. *Ibid.* The victim stated that Fuller “looks a lot like the guy,” but declined to give a positive identification; instead, an officer prepared a report that the victim was “unsure of [the] suspect at this time.” *Ibid.* Only after police returned with a second photo array five days later—with Fuller the only person making a repeat appearance in the lineup—did the victim identify him, though only after using her finger to cover his full beard. *Ibid.* Fuller was arrested and charged that

same day. *Ibid.* At trial, the victim identified him and testified there was “a little light” in her room from a window and her clock radio. *Ibid.*

After only 35 minutes of deliberation, the jury convicted Fuller of aggravated rape. He was sentenced to 50 years in prison. *Fuller*, Nat’l Registry of Exonerations, *supra*. In 2006—after decades in prison for a crime he did not commit—DNA testing proved Fuller’s innocence. He was later pardoned by Texas Governor Rick Perry. *Ibid.*

James Curtis Giles was convicted of aggravated rape by a Dallas County jury in 1983. See *James Curtis Giles*, Nat’l Registry of Exonerations, <https://perma.cc/K4UG-ABSH> (last visited Mar. 11, 2026). After receiving a tip that one of the attackers was named “James Giles,” police began to suspect 28-year-old James *Curtis* Giles. *Ibid.* He lived 25 miles away from the crime scene, was a decade older than the victim’s initial description, and had gold teeth that the victim had not mentioned. *Ibid.* Other witnesses failed to identify him. *Ibid.* Still, he was included in a lineup shown to the victims a month after the crime, and the female victim mistakenly identified him as one of the attackers. *Ibid.* Worse, police failed to disclose that James *Earl* Giles lived across the street from the victim. *Ibid.* Giles was convicted and sentenced to death. *Ibid.*

After decades of sitting on death row awaiting execution, in 2003, DNA evidence excluded Giles from being a perpetrator. *Giles*, Nat’l Registry of Exonerations, *supra*. His conviction was vacated four years later. *Ibid.*

These cases show how common circumstances—stressful conditions, suggestive procedures, and repeated exposure to a suspect’s image—can transform uncertain recollections into confident but mistaken testimony. They demonstrate how eyewitness evidence, though powerful,

can distort the truth-finding process when its limitations are not meaningfully examined. When juries afford such testimony outsized weight—particularly in the face of conflicting physical or other exculpatory evidence—the truth-finding process is distorted, sometimes with devastating consequences.

The same troubling patterns appear here. In the immediate aftermath of the crime—when eyewitness memory is freshest—police asked the only eyewitness, neighbor Jill Bargainer, to describe the suspects, to reproduce their appearance using a composite sketch, and to review three different photo lineups. Pet. App. 15–16, 20–22. Her description and sketch did not resemble petitioner, nor did she pick him from a photo lineup. *Ibid.* It was only *a year later*—after Mrs. Bargainer underwent “hypnosis” and after she was repeatedly exposed to petitioner’s face—that she identified him at trial. Pet. App. 22–25. By then, her recollection had been altered and reinforced by procedures known to contaminate “memory” and inflate confidence, rendering her identification unreliable. Pet. App. 69.

Yet the Texas Court of Criminal Appeals declined to meaningfully confront the reliability of that identification. As in the cases described above, the eyewitness testimony played an outsized role in securing petitioner’s conviction. And as those exonerations demonstrate, mistaken eyewitness identification is not a theoretical concern—it is one of the leading causes of wrongful convictions nationwide.

When a capital conviction rests so heavily on identification testimony altered by suggestive procedures and hypnosis, meaningful judicial review is essential. The risk of error is not abstract. It is documented, recurrent, and—if left uncorrected—irreversible.

D. Prosecutorial Misconduct Is a Leading Contributor to Wrongful Convictions

Few actors in the criminal justice system wield more power than the prosecutor. As Attorney General (and later Supreme Court Justice) Robert Jackson observed, a “prosecutor has more control over life, liberty, and reputation than any other person in America.” Robert Jackson, *The Federal Prosecutor*, Address Delivered at the Second Annual Conference of United States Attorneys (April 1, 1940), <https://perma.cc/36T6-E2A2>. When “at his best,” he “is one of the most beneficent forces in our society,” but “when he acts from malice or other base motives, he is one of the worst.” *Ibid.* Nearly a century ago, this Court admonished that a prosecutor “may strike hard blows” but not “foul ones.” *Berger v. United States*, 295 U.S. 78, 88 (1935). Yet prosecutorial misconduct remains a leading cause of wrongful convictions in the United States. See 2024 Annual Report at 3, Nat’l Registry of Exonerations (Apr. 2, 2025), <https://perma.cc/D63K-4A9K>. Of the 147 exonerations recorded nationwide in 2024, roughly 71% involved official misconduct. *Ibid.* Of the 26 exonerations recorded in Texas during 2024, 17 were tied to misconduct. *Id.* at 5.

Prosecutorial misconduct takes many forms—overcharging, improper argument, sponsoring false testimony, pressuring defense witnesses not to testify; the list goes on. See Jennifer Lee, “Justice for All”: *The Necessity of New Prosecutorial Accountability Measures*, 90 Miss. L. J. 497, 506 (2021). But one of “the most pervasive” forms of prosecutorial misconduct is *Brady* violations, which “are a principal cause of wrongful convictions.” Gregory M. Varner, *The Prosecutor’s Duty to Help the Defense Make Its Case*, 85 Ala. Law. 14, 15 (2024) (citations omitted); see also Jon B. Gould & Richard A. Leo, *supra*, at 854. *Brady* requires disclosure of material exculpatory and impeachment evidence because

fairness in an adversarial system depends on informed defense advocacy. See *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Giglio v. United States*, 405 U.S. 150, 154 (1972). *Brady* safeguards a defendant’s constitutional right to a fair proceeding and, with it, protects “our system of the administration of justice.” *Brady*, 373 U.S. at 87–88. But noncompliance continues to inflict deep scars: wrongful convictions of the innocent, “including innocent defendants sent to death row.” Jason Kreag, *Disclosing Prosecutorial Misconduct*, 72 Vand. L. Rev. 297, 307 (2019).

Dallas County’s history underscores the seriousness of the problem. For years—including when petitioner was tried—*Brady* violations were especially prevalent in Dallas County. See *Setting the Record Straight on Prosecutorial Misconduct* at 26, Tex. Dist. & Cnty. Attys. Assoc. (2012), <https://perma.cc/Z7QC-T6A3>. Indeed, the number of “high-profile wrongful convictions” and post-conviction DNA exonerations in Dallas County was so high that a new district attorney in 2007 began to “investigat[e]” “what went wrong.” Mike Ware, *Dallas County Conviction Integrity Unite and the Importance of Getting it Right the First Time*, 56 N.Y.L. Sch. L. Rev. 1033, 1034 (2012). And among the “common themes” across all exonerations were *Brady* violations and “intransigence on the part of prosecutors who consistently * * * opposed reasonable requests by convicted defendants to conduct DNA tests on existent, relevant evidence.” *Id.* at 1035–36. The pervasive and persistent problem of prosecutorial misconduct has cost many innocent Texans years, even decades, in prison. See, e.g., 2024 Annual Report, Nat’l Registry of Exonerations, *supra*, at 6.

Take Stanley Mooze and Dennis Lee Allen. In 2000, two Dallas County juries separately convicted them of capital murder for the death of a local pastor and

shopkeeper who was fatally stabbed inside his store a year earlier. *Stanley Mooze*, Innocence Project, <https://perma.cc/XZL7-PQYQ> (last visited Mar. 11, 2026). No one witnessed the crime, though two individuals reported seeing two men arguing with the victim earlier that evening—one tall with deep wrinkles on his face, one short with a distinctive scar across his neck. *Ibid.* The murder went unsolved for weeks. *Ibid.* Then Dallas police homed in on two homeless men, Mooze and Allen. *Ibid.* They were about the same height, and neither had a scar or deep wrinkles. *Ibid.*

The State’s theory at both trials was that the two men acted in concert to commit the robbery-murder. Agreed Findings of Fact and Conclusions of Law on Applicants’ Amended Writs of Habeas Corpus at 21, *Ex parte Allen*, No. WR-56,666-03, *Ex parte Mooze*, No. WR-82,467-01 (265th Dist. Ct. Dallas Cnty. Tex., Mar. 3, 2017), <https://perma.cc/2B5V-2UCG> [*“Allen and Mooze Findings”*]. With no forensic evidence tying either of them to the crime and “no eyewitnesses to the murder,” prosecutors relied almost entirely on uncorroborated testimony from jailhouse informants and an alleged confession by Mooze that was never recorded. *Id.* at 16, 20–21, 25, 55. Fourteen years later, a Texas trial court granted their habeas petitions, finding that the State had knowingly presented false testimony and failed to disclose material *Brady* evidence regarding the informants and the eyewitnesses. *Id.* at 20, 25–26, 30, 56.

Allen’s conviction “was built almost exclusively on” the testimony of one jailhouse informant who said the man had “ad[mitted] to the murder to him.” *Allen and Mooze Findings* at 17, 20. That informant testified that he had received no promises of leniency and had never even discussed the possibility of leniency in his own case. *Id.* at 17–18. That was false. In fact, evidence later emerged that the informant had “conditioned” his testimony “on

dismissal of his own” charges and had “threatened to withdraw his cooperation” without such quid-pro-quo dismissal. *Id.* at 18–19. The prosecution failed to disclose the letters documenting these discussions and did not correct the false testimony. *Id.* at 19.

The same pattern emerged at Mooze’s trial. There too, a jailhouse informant testified that Mooze had confessed to having participated in the robbery-murder. *Allen and Mooze Findings* at 37. And he too claimed “he had no deal” and “repeatedly denied” that “his testimony had anything to do with his own plea and sentence.” *Id.* at 38–39. And that was again false. In fact, the State had “agree[d]” to “assist” the informant—who was awaiting trial on his own felony theft case—“in obtaining a sentence reduction after he testified.” *Id.* at 37, 38. Indeed, it went to “extraordinary and improper lengths” to hold up its end of the bargain later, shaving *nineteen years* off his jail term. *Ibid.* But the State did not disclose the agreement or turn over the informant’s letters referencing “explicit, pre-testimony discussions” with the prosecution “about assistance regarding his own” case. *Id.* at 39.

After fourteen years in prison, a Texas court concluded that the State had knowingly presented false testimony and failed to disclose “classic impeachment material subject to mandatory disclosure under *Brady*,” and that “confidence in both verdicts [was] clearly undermined.” *Allen and Mooze Findings* at 56; see also *Ex Parte Allen*, No. WR-56,666-03 (Tex. Cr. App. Jan. 10, 2018). In 2019, both men were declared actually innocent. Courtney Gilmore, *2 Men Declared Innocent After 14 Years Behind Bars*, NBCDFW (May 10, 2019), <https://perma.cc/3L3A-QGZL>.

These are not isolated examples. They reflect a broad and well-documented pattern—one that is found in petitioner’s own case. For example, petitioner’s jury was

never told that the State had promised several witnesses leniency in exchange for their testimony. Pet. 9, 19. Nor was the jury told that the key eyewitness failed to pick a recent image of petitioner out of a photo lineup. Pet. 11, 19. That information went directly to credibility and reliability, yet it was withheld.

When a capital conviction rests on testimony shaped by undisclosed incentives and suppressed impeachment evidence, the integrity of the verdict is necessarily in doubt. Dallas County's history demonstrates that such misconduct is neither theoretical nor rare. It is documented, recurring, and often revealed only years later—after irreparable harm has been done.

Meaningful review is therefore essential here. The documented prevalence of prosecutorial misconduct in Dallas County, particularly in serious felony and homicide cases, underscores the urgent need for this Court's intervention before the ultimate punishment is carried out.

* * * * *

This case bears the hallmarks that history has repeatedly shown to be associated with wrongful convictions: discredited scientific methods, compromised eyewitness identification, and suppressed impeachment evidence. Those same failures have sent innocent men from Dallas County to prison for decades. In at least one tragic instance, they resulted in an execution later acknowledged to have been a miscarriage of justice.

Texas has recognized the dangers posed by repudiated science and prosecutorial misconduct. The Legislature enacted safeguards such as Article 11.073 to ensure that convictions resting on eroded foundations do not stand unexamined. Yet in petitioner's case—where the sentence is death and the risks are irreversible—the

Texas Court of Criminal Appeals declined to provide meaningful review.

The question is thus not merely whether error occurred in a single prosecution. It is whether courts must meaningfully confront capital convictions bearing the well-documented hallmarks of wrongful conviction—particularly when the scientific and legal premises underlying those convictions have since been rejected.

Amicus curiae knows firsthand the human cost of these systemic failures. Scott, as well as the wrongly convicted exonerees he has assisted, were convicted by juries that believed the evidence against them was reliable, and who believed they were being presented the entire story. Years later, that evidence proved otherwise. Scott was fortunate to obtain relief before it was too late.

Petitioner may not have that chance.

CONCLUSION

Before an irreversible sentence is carried out, this Court's review is essential to ensure that constitutional safeguards designed to prevent miscarriages of justice are not rendered illusory in practice. The petition for a writ of certiorari should be granted, or the judgment below summarily reversed.

SAMUEL J. ABRAMS
ARNOLD & PORTER
KAYE SCHOLER LLP
*Three Embarcadero
Center, 10th Floor
San Francisco, CA 94111
(415) 471-3100*

JOHN P. ELWOOD
Counsel of Record
HANNAH M. BEIDERWIEDEN
KERRY K. WALSH
ARNOLD & PORTER
KAYE SCHOLER LLP
*601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5000
john.elwood@arnoldporter.com*

MARCH 2026