No. 25-7430; 25A1290

In the Supreme Court of the United States

TONY VON CARRUTHERS,
PETITIONER

v.

STATE OF TENNESSEE,
RESPONDENT

ON APPLICATION FOR STAY OF EXECUTION AND ON
PETITION FOR WRIT OF CERTIORARI
TO THE TENNESSEE SUPREME COURT

APPENDIX TO RESPONDENT'S BRIEF IN OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF CERTIORARI AND APPLICATION FOR STAY

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Appendix 1:

Carruthers's Appellant Brief Challenging the Denial of his Petition for Post-Conviction DNA Analysis, *Carruthers v. Tennessee*, No. W2026-00706-SC-RDM-PD (Tenn. May 16, 2026)

DEATH PENALTY CASE
Case No. W2026-00706-SC-RDM-PD
EXECUTION SCHEDULED May 21, 2026, at 10:00 a.m.

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

TONY VON CARRUTHERS,
Petitioner/Appellant,

v.

STATE OF TENNESSEE,
Respondent/Appellee.

APPELLANT'S INITIAL BRIEF
(ORAL ARGUMENT REQUESTED)

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STATEMENT OF ISSUES

1. Whether the post-conviction court erred in denying Mr. Carruthers' request for DNA testing under Tennessee's Post-Conviction DNA Analysis Act of 2001 without a hearing.

2. Whether the post-conviction court erred in denying Mr. Carruthers' request for DNA testing under Tennessee's Post-Conviction DNA Analysis Act of 2001 based on conclusions that are not supported by law or substantial evidence.

3. Whether the post-conviction court denied Mr. Carruthers' right to due process in denying his request to compel the State to disclose existing information that could be used to confirm Mr. Carruthers' innocence.

STATEMENT OF THE CASE

"DNA testing has an unparallelled ability to both exonerate the wrongly convicted and to identify the guilty." *Dist. Attorney's Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52, 55 (2009). Appellant Tony Carruthers—a prisoner under sentence of death at Riverbend Correctional Facility in Nashville, Tennessee and scheduled for execution on May 21, 2026, for crimes he maintains he did not commit—seeks to utilize the power of DNA testing to prove his innocence before his execution.

Mr. Carruthers was convicted and sentenced to death based entirely on circumstantial evidence. No physical evidence has ever linked Mr. Carruthers to the crimes underlying his sentence.

Mr. Carruthers requested DNA testing under Tennessee's Post-Conviction DNA Analysis Act of 2001 (§§ 40-30-304, 40-30-305, Tenn. Code Ann.) (the "**DNA Act**") of evidence directly connected to the crimes in the Shelby County Criminal Court. He also asked the Criminal Court to compel Appellee State of Tennessee to disclose existing information that could be used to confirm Mr. Carruthers' innocence—a power the DNA Act gives the Criminal Court. Without a hearing, the Criminal Court denied Mr. Carruthers' requests. Mr. Carruthers appealed to the Criminal Court of Appeals (the "**CCA**"), and this Court assumed jurisdiction under Tenn. Code Ann. § 16-3-201(d).

The Criminal Court's Orders were premature, unsupported, and violated Mr. Carruthers' right to due process. Accordingly, this Court should reverse the Criminal Court's rulings and remand for further litigation.[1]

STATEMENT OF FACTS

Mr. Carruthers was indicted, convicted, and sentenced to death for crimes that occurred in early 1994. *See State v. Carruthers*, 35 S.W.3d 516, 524 (Tenn. 2000). His conviction and death sentence rest entirely on circumstantial evidence—including testimony from a secretly paid government informant, several convicted felons, and a medical examiner who has since disavowed his trial testimony.

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[1] On May 14, the Criminal Court of Appeals entered an order expediting this appeal. Due to the expedited nature of this appeal, Mr. Carruthers' counsel has not had access to the paginated record prior to finalizing and filing this Initial Brief. Therefore, citations to documents in the record are to the documents themselves rather than the paginated record. Mr. Carruthers' *Motion for DNA Testing Pursuant to the Tennessee Post-Conviction DNA Analysis Act of 2001* filed in the Criminal Court on May 4, 2026, is referenced as the "**DNA Motion**" and cited as "DNA Mot." The Appendix to the DNA Motion is cited as "DNA App'x." The *State's Response in Opposition to Petitioner's Motion for DNA Analysis Pursuant to the Tennessee Post-Conviction DNA Analysis Act of 2001* filed in the Criminal Court on May 5, 2026, is referenced as the "**DNA Response**" and cited as "DNA Resp." Mr. Carruthers' *Motion for Order Compelling Disclosure* filed May 10, 2026, is referenced as the "Motion to Compel" and cited as "Compel Mot."

Mr. Carruthers has also sought a stay of execution from this Court (Case No. W1997-00097-SC-DDT-DD).

Mr. Carruthers has maintained his innocence of the crimes underlying his conviction and sentence. Yet, his execution is set for May 21, 2026. (*See* DNA App'x, Ex. 1.)

I. Mr. Carruthers' conviction and death sentence are based entirely on circumstantial evidence.

The three victims—Marcellos "Cello" Anderson, his mother Delois Anderson, and Fredrick Tucker—disappeared on February 24, 1994. *Id.* After Ms. Anderson was reported missing, Mr. Carruthers' codefendant, Jonathan Montgomery, led authorities to the victims' bodies. *Id.* On March 3, 1994, the victims' bodies were found in a grave in a Memphis cemetery. *Id.* Mr. Anderson's hands were bound behind his back with cloth ties. (DNA App'x, Ex. 3.) Mr. Tucker was also bound with cloth ties at his hands and feet. *Id.* Ms. Anderson had two red socks knotted together wrapped around her neck, and one arm was tied behind her back with a pair of knotted pantyhose. *Id.* There were no eyewitnesses to the murder. *Carruthers*, 35 S.W.3d at 523-72.

Jonathan also led police to the involvement of his brother James Montgomery. While Jonathan gave inconsistent statements to police, he ultimately—after several unrecorded interrogation breaks and across multiple days—told police that he, James, and Mr. Carruthers were present at the gravesite when the victims were killed, but that neither James nor Mr. Carruthers killed anyone. (DNA App'x, Ex. 8.) Instead, Jonathan told police

that Bobby Wilson was the actual killer. *Id.* Jonathan was found hanged in his cell prior to trial. *Carruthers*, 35 S.W.3d at 524 n.2.

The State believed that Ms. Anderson's home was the scene of a kidnapping because Ms. Anderson did not take her purse with her, someone answered the phone when her niece telephoned the residence but failed to speak, and a half-eaten meal was found in Ms. Anderson's bedroom. Police collected multiple latent prints suitable for comparison from Ms. Anderson's house, including prints from the doorknobs and the phone receiver. The fingerprints collected from Ms. Anderson's house, which included six unidentified prints, excluded Mr. Carruthers and Mr. Montgomery.[2]

Consistent with Jonathan Montgomery's statement that Mr. Carruthers did not commit these crimes, no forensic evidence linked Mr. Carruthers to the crime. *See id.* at 523-72. In fact, the State's case against Mr. Carruthers was originally dismissed in General Sessions Court for lack of evidence. (DNA App'x, Ex. 4.)

The State was only able to obtain an indictment against Mr. Carruthers after enlisting the services of a career snitch named Alfredo Shaw, who testified to Mr. Carruthers' purported confession. (DNA App'x, Ex. 5; *see also*

[2] In 2022, the Memphis Police Department ran the unidentified prints in AFIS. (DNA App'x, Ex. 10.) One print on the northwest bedroom door matched Ms. Anderson's niece, but there still remain six unidentified prints. *See id.*

DNA App'x, Ex. 6 (Shaw's grand jury testimony).) That testimony formed the basis for the State's original theory against Mr. Carruthers—that two brothers, Jerry and Terry Durham, hired Mr. Carruthers to commit the murders for $100,000 and a kilogram of cocaine. (DNA App'x, Ex. 6.) But before trial, Mr. Shaw recanted his grand jury testimony in a TV news statement where he confessed that the police paid him to testify against Mr. Carruthers. (DNA App'x, Ex. 7.) So the State changed its theory.

The State's new theory was that Mr. Carruthers, along with his co-defendants, James and Jonathan Montgomery, kidnapped Mr. Anderson to rob him and buried the victims alive. *Carruthers*, 35 S.W.3d at 524. Mr. Anderson was "heavily involved in the drug trade" and known to carry large amounts of cash and valuables. *Id.*

At trial, the prosecution's case rested almost entirely on the testimony of convicted felons and paid informants. Jimmy Lee Maze Jr., "a convicted felon," testified that he had received two letters from Mr. Carruthers about a "master plan" to "make those streets pay me." *Id.* Mr. Maze then recounted a conversation he purportedly had with Mr. Carruthers discussing plans for the kidnapping. *Id.* Charles Ray Smith testified that Mr. Carruthers commented to him, while working together on a prison work detail in a cemetery, that hiding a body under the grave of another would be a good way to dispose of a corpse. *Id.*

Finally, Mr. Shaw testified that Mr. Carruthers confessed to him. *Id.* at 528-29. Mr. Shaw's testimony was the only putative "confession" in this case. But the jury *never heard* that Mr. Shaw is a career snitch (as discussed more below).

The State's remaining evidence against Mr. Carruthers was circumstantial at best. For example, Nakeita Shaw testified that she witnessed Mr. Carruthers and James Montgomery at her home on the night of the kidnappings. *Id.* at 526. Without more, however, this testimony did little to inculpate Mr. Carruthers; it has never been asserted that Mr. Carruthers was unacquainted with the Montgomery brothers. Likewise, Chris Hines' testimony that Jonathan Montgomery beeped him and said "[m]an, a n——r got them folks," apparently meaning "Cello and them" (*id.*), also does not inculpate Mr. Carruthers but only shows that Jonathan Montgomery had knowledge of the murders, which is clear since he led police to the bodies.

Mr. Carruthers was forced to represent himself at trial. *See id.* at 533-34. The jury never heard any evidence about the fingerprints from Ms. Anderson's house—either that there were unidentified prints or that Mr. Carruthers and Mr. Montgomery were excluded from the prints.

At the penalty phase, the State emphasized its theory that the victims were buried alive in asking the jury to sentence Mr. Carruthers to death. (*See* DNA Mot., at 10-11; DNA App'x, Ex. 30.) Both James Montgomery and Mr.

Carruthers were convicted and sentenced to death. *See Carruthers*, 35 S.W.3d at 524.

II. Since trial, additional information and evidence have further undermined Mr. Carruthers' conviction and death sentence.

Since Mr. Carruthers' trial, additional information and evidence (which is undisputed) has further undermined Mr. Carruthers' conviction and death sentence. His codefendant, James Montgomery, was granted a new trial and ultimately released from prison. Prior to his release, Mr. Montgomery disavowed Mr. Carruthers' involvement in the crimes. The medical examiner who testified at Mr. Carruthers' trial disavowed his testimony that the victims were buried alive. And, after decades of evading its disclosure obligations, the State finally confirmed that Mr. Shaw was a paid informant.

A. After receiving a new trial, Mr. Carruthers' codefendant received an *Alford* plea due to forensic evidence and told federal investigators Mr. Carruthers did not commit these crimes and identified an alternative suspect. He has since been released from prison.

On direct appeal, this Court granted James Montgomery a new trial due to the prejudice caused by Mr. Carruthers' forced self-representation. *Id.* at 553-54. As part of his re-trial proceedings, Mr. Montgomery sought forensic

testing on multiple pieces of physical evidence collected from both crime scenes. The testing revealed critical information. (*See* Keel Aff., at Attachment 2.)[3]

First, the testing did not reveal any DNA matches to Mr. Montgomery or Mr. Carruthers. A majority of the samples were either too small to produce a profile under 2003 technology, were inconclusive, or matched the victims. However, there was one robust male profile on a white blanket that was buried with the victims. *Id*. Mr. Carruthers, Mr. Montgomery, and the male victims were excluded as a source of the DNA. The unknown male profile was suitable for upload into the Combined DNA Index System (CODIS) database. The last report Mr. Carruthers obtained, through a request under James Montgomery's case, was in 2019 and indicated that there were no hits in CODIS. (DNA App'x, Ex. 12.)[4] No additional DNA testing has occurred since 2003, and to the best of Mr. Carruthers' knowledge, the unknown male profile has not been analyzed or compared since 2019.

In the wake of the release of the DNA results, the State offered and Mr. Montgomery accepted an *Alford*[4] plea to a reduced charge of three counts of

[3] The Affidavit of Alan Keel is in the Appendix to the DNA Motion at Exhibit 11 and cited as "Keel Aff." Mr. Keel has conducted DNA testing in hundreds of cases in over 36 states and has reviewed the records related to the prior testing in this case conducted by the Tennessee Bureau of Investigation and Bode Technology Group. (Keel Aff., at 1-2.)

[4] *See North Carolina v. Alford*, 400 U.S. 25 (1970).

second-degree murder. (DNA App'x, Ex. 13.) Mr. Montgomery was sentenced to concurrent 27-year sentences on each count. *Id.*

In 2010 and 2011, while serving his reduced sentence, Mr. Montgomery gave a statement to an investigator with the Capital Habeas Unit that he kidnapped two of the victims and dispatched Ronnie "Eyeball" Irving to kidnap Ms. Anderson. He confirmed to the investigator that Mr. Carruthers was not involved in the kidnapping or the murders.

Mr. Irving was murdered in 2002, and his fingerprints and a DNA sample are on file at the medical examiner's office. To date, the unidentified physical evidence—the latent fingerprints or unknown male DNA profile—has not been compared to Mr. Irving.

Mr. Montgomery was released from prison in 2015. (DNA App'x, Ex. 13.)

B. The medical examiner disavowed his trial testimony that the victims were buried alive.

At Mr. Carruthers' trial, medical examiner Dr. O.C. Smith testified that the victims were buried alive. *Carruthers*, 35 S.W.3d at 527. As stated above, the State emphasized this narrative in its penalty phase arguments to emphasize the purported "wicked" and "atrocious" nature of the crime. (DNA App'x, Ex. 30.)

However, there was no scientific basis for the conclusion that the victims were buried alive. (*See* DNA App'x, Ex. 31 (post-conviction expert testimony

that there was no scientific basis for Dr. Smith's trial testimony).) Even Dr. Smith himself has subsequently disavowed his own testimony from Mr. Carruthers' trial. (DNA App'x, Ex. 32 (Aff. Dr. O.C. Smith (April 3, 2007) ("I will no longer sustain an opinion, as I did in my original testimony, that to a reasonable degree of medical certainty, the victims were in fact alive at the time they were buried beneath the coffin.")).)

Yet, to this day, the State perpetuates this false narrative—including in its DNA Response. (*See* DNA Resp., at 10.)[5] More significantly, as discussed below, the Criminal Court relied on this false narrative in denying the DNA Motion.

C. Decades after trial, the State confirmed Mr. Carruthers' suspicion that the State's primary witness was a paid informant.

For thirty years, the State withheld information from Mr. Carruthers and his defense team about Alfredo Shaw's status as a paid government informant. It did so despite repeated requests from Mr. Carruthers and his team for exculpatory and impeachment materials. The State's concealment of Mr. Shaw's status began as soon as Mr. Carruthers' prosecution commenced.

[5] The State also relied on this false narrative in recent briefing to the CCA in another case. *See* State's Br., *Carruthers v. State*, No. W2026-00226-CCA-R3-PD (Tenn. Crim. App. Mar. 23, 2026), at 9 ("[T]rial testimony established that they had all died of injuries associated with being buried alive.").

As stated above, before Mr. Carruthers' trial, Mr. Shaw went to the media and admitted that his grand jury testimony was false and given only as a result of pressure and payment from the State Attorney and law enforcement. (DNA App'x, Ex. 6.)

At trial, Mr. Carruthers, forced to act as his own counsel, called Mr. Shaw to the stand to admit his recantation from the media interview. Before Mr. Shaw took the stand, the trial court called in Mr. Shaw's counsel and, in open court, cautioned that if Mr. Shaw repeated his recantation then the State "plan[ned] to seek indictments for aggravated perjury in both . . . instances." (DNA App'x, Ex. 18, at 2128.) After meeting with his client, Mr. Shaw's lawyer reported that Mr. Shaw would "testify that what he has testified before was all true and correct." *Id*. at 2136. Indeed, on the stand, Mr. Shaw repeated for the jury the "confession" that Mr. Carruthers purportedly gave him—which he had previously recanted to the media. (DNA App'x, Ex. 19, at 2174-78.) Mr. Carruthers attempted to ask if Mr. Shaw was a paid informant, but the prosecutor successfully objected and kept the jury from learning the truth. *Id*. at 2254. Not only would Mr. Shaw's position as an informant have gone to his bias, but his recantation directly undermines the State's case against Mr. Carruthers.

In the decades after Mr. Carruthers' trial, the State's evasion continued—as evidenced by the State's repeated failures to disclose any

information about Mr. Shaw's history as an informant. (*See* DNA Mot., at 8-9; DNA App'x, Exs. 14-17.) In post-conviction, through counsel, Mr. Carruthers continued his quest to prove that Mr. Shaw was a paid informant for the State. (*See* DNA App'x, Ex. 20 (three letters from Mr. Carruthers' post-conviction counsel, Charles R. Ray, to John W. Campbell, Assistant District Attorney in August 2002 requesting such information); DNA App'x, Ex. 21 (Mr. Carruthers' *Motion to Compel the State to Reveal All Agreements, Renumeration, Or Other Consideration Given To The State's Witnesses* filed September 12, 2002); DNA App'x, Ex. 22 (State's response denying giving Mr. Shaw a deal); DNA App'x, Ex. 23 (Mr. Carruthers' second motion to compel filed November 25, 2002).) Even after court-ordered to file a written response "divulging whether Alfredo Shaw was or was not a paid government agent for either the county, state, or federal government during the time period he had conversations with petitioner in the Shelby County Jail" (DNA App'x, Ex. 24, at 1), the State denied that Mr. Shaw was a "paid government agent." (DNA App'x, Ex. 25; *see also* DNA App'x, Ex. 26 (January 7, 2003, letter from Mr. Campbell to Mr. Ray again denying that Mr. Shaw was a paid informant).)

Alas, Mr. Carruthers' quest continued. (*See* DNA App'x, Ex. 27 (Mr. Carruthers' requests for information).) Finally, on May 9, 2024—almost three decades after Mr. Carruthers' trial—the Shelby County Criminal Court, Division V, ordered the Memphis Police Department to provide information

regarding Mr. Shaw's employment as a confidential informant to the Shelby County District Attorney's Justice Review Unit. (DNA App'x, Ex. 28.) On August 6, 2024, Assistant District Attorney Kevin Rardin provided Mr. Carruthers' counsel with more than 20 pages of information regarding Mr. Shaw's employment as a confidential informant. (DNA App'x, Ex. 29.) The documents included signed confidential agreements between Mr. Shaw and law enforcement dating back to mid-1980s and ledgers of payments to Mr. Shaw continuing until at least 2003. *See generally id.*

III. In the decades since his trial, Mr. Carruthers has continuously tried to obtain DNA testing to prove his innocence.

Throughout the three decades since his trial, Mr. Carruthers has tried to obtain DNA testing. In state post-conviction, Mr. Carruthers argued that his counsel was ineffective during pre-trial litigation for failing to retain a DNA expert, who would have testified: (1) DNA was available on blood found on "blanket-like cloth"; and (2) the DNA did not belong to the victim or any of the three co-defendants. *See generally Carruthers v. State*, No. W2006-00376-CCA-R3PD, 2007 WL 4355481 (Tenn. Crim. App. Dec. 12, 2007). At an evidentiary hearing, Mr. Carruthers presented the expert testimony of Todd Bille, who testified that he was hired by Mr. Montgomery in November 2002 and "was asked to examine evidence to determine if there could be potential biological fluids and whether DNA analysis could be performed." *Id.* at *33. "Bille

examined a total of nineteen items, including Marcellos Anderson's socks, pants, shirt, underwear and belt; Tucker's socks, jeans, belt, shirt, and boots; Delois Anderson's dress and underwear; an unidentified red sock; ties or bindings from Tucker; and a section of a white cloth blanket." *Id.* In his report from that testing, "Bille reported that samples from the white blanket did not match the DNA of any of the victims, the petitioner, or the codefendants." *Id.* He further "commented that the tests performed on the white blanket could not have been performed at the time of the trial, but similar tests could have been performed with the same results." *Id.*

The post-conviction court denied Mr. Carruthers' claim, concluding that Bille's testimony and the DNA results were "only very minimally helpful to the petition," the evidence did not "negate all other proof in the case," and "it is rank speculation to assume that this indicates that a third party might have committed this crime." *Id.* at *38. On appeal, the CCA affirmed the denial. *See generally id.*

Mr. Carruthers next moved *pro se* in 2011 to reopen state post-conviction proceedings under the DNA Act, seeking testing of the vaginal swab and blanket from trial, using a pre-printed form. *Carruthers v. State*, No. W2012–01473–CCA–R3–PD, 2013 WL 3968787, at *3 (Tenn. Crim. App. Aug. 1, 2013). Mr. Carruthers sought testing under only the mandatory provisions of the DNA Act. § 40-30-304. Tenn. Code Ann. The State opposed the testing, arguing

that "DNA testing had already been performed on the items, and the results did not give rise to a reasonable probability that Petitioner would not have been convicted of the crimes." *Carruthers*, 2013 WL 3968787, at *3.

The post-conviction court dismissed Mr. Carruthers' motion. *Id.* On appeal, the CCA affirmed. *Id.* at *5. The Court reasoned that "[a]ny results that identified a female individual would not in any way provide a reasonable probability that the female individual, rather than Petitioner, would have been convicted of murdering the victims." *Id.*

IV. In a continued effort to confirm his innocence ahead of his imminent execution, Mr. Carruthers sought testing under the DNA Act.

The DNA Act offers litigants two paths to testing—one discretionary and the other mandatory. Tenn. Code. Ann. § 40-30-304; Tenn. Code. Ann. § 40-30-305.

First, pursuant to Tenn. Code. Ann. § 40-30-304, the Court *shall* grant testing if the following four prongs are met:

> (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA analysis;
> (2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;
> (3) The evidence was never previously subjected to DNA analysis or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and

(4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Tenn. Code. Ann. § 40-30-304.

Second, pursuant to Tenn. Code. Ann. § 40-30-305, the Court *may* grant testing if the following four prongs are met:

(1) A reasonable probability exists that analysis of the evidence will produce DNA results that would have rendered the petitioner's verdict or sentence more favorable if the results had been available at the proceeding leading to the judgment of conviction;
(2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;
(3) The evidence was never previously subjected to DNA analysis, or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and
(4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Tenn. Code. Ann. § 40-30-305.

A. The requested DNA testing could confirm Mr. Carruthers' innocence and/or inculpate an alternative suspect.

In the DNA Motion, Mr. Carruthers sought (1) testing of items that have never been tested, and (2) further testing of items that were previously tested.[6]

[6] As stated in the DNA Motion, each of the items is in the custody of Shelby County government officials. (DNA Mot., at 13, 15.)

Criminalist and DNA expert Alan Keel advised that the testing should take only 14 days after the evidence is delivered to the DNA lab. (Keel Aff., ¶ 14.)

1. *Testing Items That Have Never Been Tested*

First, Mr. Carruthers sought testing of items that are directly related to the crimes and have never been subjected to DNA testing: (1) fingernail scrapings from all three victims; (2) the bindings used on Mr. Anderson; and (3) the bindings used on Ms. Anderson, which include knotted pantyhose around her hand and the red socks knotted around her neck. Mr. Keel concluded that it is likely each of these items "bear transfer biology from whomever bound the victims." (Keel Aff., at 6.) Assuming a profile is obtained from any or all of these items, Mr. Carruthers sought to compare that profile to the victims for exclusionary purposes, to himself, to co-defendant James Montgomery, to Ronnie Irving, and to upload any unmatched profile to CODIS. (DNA Mot., at 14.)

As to the bindings used on the victims, Mr. Keel concludes that the bindings should be sampled for transfer or touch biology from the assailant in light of current technology, explaining that such testing "could . . . produce a DNA profile or profiles common to more than one item and common to more than one victim, and/or be redundant to the blood stain profile from the #16 blanket." (Keel Aff., at 7.) If such a finding were obtained, it "would produce additional investigative leads (e.g. CODIS/GG), or minimally, support the

relevance of the foreign blood previously discovered on the #16 blanket as originating from an assailant." *Id.* at 6. In other words, the analysis could provide a lead to the true perpetrator's profile. Additionally, if the male DNA profile on the bindings matched the unidentified profile from the blood on the blanket, it would support the inference that the blood was deposited at the time of the murders.

As to the victims' fingernail scrapings, Mr. Keel explained "[f]ingernails have long been recognized as likely bearing assailant biology in cases with violent/intimate contact, and with today's technology are now routinely tested." *Id.* at 7. Mr. Keel has "personally examined fingernail evidence in over 50 cases" and that, based on his experience and "the scientific literature," "most people sampled at random do not have foreign biology under their fingernails, and that foreign biology intentionally introduced to the fingernails of living subjects in controlled studies is short lived." *Id.* Therefore, "foreign biology associated with the fingernails of homicide victims is usually relevant to the crime." *Id.* And in this case, "[i]t is likely that one or more of the victims struggled with the perpetrator(s) during the assault." *Id.* Therefore, Mr. Keel concluded that "[a]ny available fingernail evidence specimens from any or all of the victims should be tested in a contemporary investigation." *Id.*

Mr. Keel explained that new advances in DNA testing and analysis create a likelihood that testing will provide investigative leads to answers far

beyond the unanswered question of whose blood was on the blanket. *Id.* at 2. Today's DNA analysis can lead to highly discriminating DNA profiles from common sources across different items of evidence, including sources not previously considered suitable for testing. *Id*.

2. Further Testing of Previously Tested Items

Mr. Carruthers also sought to compare the unknown male profile that was found on a white blanket in the grave with the victims. As noted above, this profile was already compared to Mr. Carruthers, co-defendant James Montgomery, and the victims and uploaded to CODIS. (DNA App'x, Ex. 8.) As stated above, Mr. Carruthers' counsel was provided an update in 2019 that there have been no hits. (DNA App'x, Ex. 12.) Counsel has not received an update in the seven years since. (DNA Mot., at 7.)

In other words, the testing of this evidence is incomplete. As such, Mr. Carruthers sought to have that unknown male profile re-run in CODIS and compared to Mr. Irving. (DNA Mot., at 15.)

B. Mr. Carruthers originally filed a request under the DNA Act in this Court.

Pursuant to Rule 12.4(E), because the motion and related litigation may "potentially affect" the timing of his execution, Mr. Carruthers originally filed a motion for DNA analysis under the DNA Act in this Court on April 9, 2026 (over a month before his scheduled execution and within days of the

undersigned being retained to represent Mr. Carruthers). (*See* DNA Mot., at 23, n.14.) However, on April 30, this Court denied Mr. Carruthers' motion, stating:

> Mr. Carruthers' motion is not well-taken. As the State asserts in its response in opposition to the motion, the December 2025 amendment to Rule 12(4)(E) neither created a new procedural avenue nor granted this Court original jurisdiction to adjudicate an eleventh-hour DNA claim that was not timely pursued via the existing DNA Act. *See* Tenn. S. Ct. R. 12(4)(E) (2025) (authorizing the appointment of a special master when deemed necessary by the Court to conduct fact-finding in pending state collateral litigation that "potentially affect[s] the method or timing" of an impending execution). Accordingly, the motion is DENIED.

(DNA App'x, Ex. 2.)[7]

C. After this Court's denial, Mr. Carruthers filed the DNA Motion in the Criminal Court.

After this Court's April 30 Order, Mr. Carruthers promptly filed the DNA Motion in the Criminal Court. (*See generally* DNA Mot.) The State responded the next day. (*See generally* DNA Resp.) Almost a week later, on May 11, without a hearing, the Criminal Court entered an *Order Denying Petitioner's Motion for DNA Testing Pursuant to the Tennessee Postconviction DNA Analysis Act of 2001* (the "**DNA Order**").[8]

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[7] Mr. Carruthers maintains that the filing of his request in this Court was appropriate under the plain language of Rule 12.4(E) and that, in doing so, he followed the appropriate and available state court remedy to seek this testing.

[8] Although the DNA Order is dated May 11, it was not received by Mr. Carruthers' counsel until May 12.

In the DNA Order, the Criminal Court conceded that Mr. Carruthers established prongs two and three of both the discretionary and mandatory provisions of the DNA Act—crediting his expert affidavit regarding suitability for testing (prong 2) and his assertions that the testing had not been previously conducted or requested (prong 3). (DNA Order, at 11.) However, the v denied the DNA Motion, finding that Mr. Carruthers did not establish prongs one and four of either the mandatory or discretionary provisions of the DNA Act. *See id.* at 10-12. As to prong one, the court concluded Mr. Carruthers failed to establish that he would not have been prosecuted, convicted, or received a more favorable sentence if there were exculpatory DNA results. *Id.* at 10-11. Finally, the court concluded that Mr. Carruthers failed to show that the DNA Motion was not filed for purposes of delay. *Id.* at 12.

D. In addition to the DNA Motion, the Criminal Court denied Mr. Carruthers' request to compel the State to disclose certain biological information for testing.

On May 10, while the DNA Motion was pending in the Criminal Court, Mr. Carruthers filed a *Motion for Order Compelling Disclosure* (the "**Motion to Compel**") requesting that the Criminal Court require the State to disclose biological standards of Ronnie Irving so that they can be compared to existing evidence. The state responded the next day.

On May 12, the *day after* it issued the DNA Order, the Criminal Court entered an *Order Denying Petitioner's Motion for Order Compelling Disclosure* (the "**Compel Order**"), writing:

> The Court finds that the motion is not well-taken. First, the Court notes that Mr. Carruthers does not cite any authority supporting his request. Second, the Court denied Mr. Carruthers' [DNA Motion] on May 11, 2026. As such, the Court does not have pending before it a matter in which the biological standard would be relevant. Finally, as referenced in his motion, Mr. Carruthers can seek to obtain the standard through the issuance of a subpoena.

(Compel Order, at 1.)[9]

The morning after receiving the Orders—on May 13, just eight days before his scheduled execution—Mr. Carruthers filed a Notice of Appeal to the CCA. Mr. Carruthers also requested expedited briefing, which the CCA granted on May 14.

On May 15, Mr. Carruthers filed a motion asking this Court to assume jurisdiction pursuant to Tenn. Code Ann. § 16-3-201(d), which this Court granted. This Court ordered that "both parties . . . file their briefs no later than Monday, May 18, 2026, at 4:30 p.m."

[9] The Criminal Court's DNA Order and the Compel Order are referenced collectively as the "**Orders**."

ARGUMENT

I. The Criminal Court erred by not holding a hearing on Mr. Carruthers' DNA Motion.[10]

This Court has held that post-conviction courts should hold an evidentiary hearing on claims raised under the DNA Act. *See Griffin v. State*, 182 S.W.3d 795, 800 (Tenn. 2006) ("[F]indings of fact upon which rights are granted or denied are best made following an evidentiary hearing."). Summary dismissal is only appropriate where the trial court *conclusively* finds, based on the entire contents of the petition, that petitioner is not entitled to relief. *Cole v. State*, No. M2012-01206-CCA-R3-PC, 2013 WL 4735471, at *5 (Tenn. Crim. App. Sept. 3, 2013).

Here, the Criminal Court denied Mr. Carruthers' DNA Motion in a matter of days without a hearing. In fact, as discussed below, the DNA Order indicates that a hearing would have been helpful to the Criminal Court's analysis and perhaps would have corrected some of the court's misunderstandings of the case. The Criminal Court even tacitly admits that a hearing would have been beneficial to ascertain additional information regarding the facts and circumstances surrounding the timeline of Mr. Carruthers' motion practice, writing: "There is no explanation provided or that

[10] Contrary to the Criminal Court's statement that Mr. Carruthers asked for a ruling without a hearing (DNA Order, at 2), Mr. Carruthers' DNA Motion *specifically* requested an evidentiary hearing. (DNA Mot., at 26.)

the Court can surmise as to why Mr. Carruthers waited." (*See* DNA Order, at 12.) This is precisely the type of information that could have been explored at an evidentiary hearing.

First, the Criminal Court denied Mr. Carruthers' Motion, in part, because it concluded that he had not met prong one under either provision of the DNA Act. (DNA Order, at 10, 13.) The Criminal Court reasoned that, when looking at the breadth of circumstantial evidence linking Mr. Carruthers to the crime, it did "not find a reasonable probability" that Mr. Carruthers "would not have been prosecuted or convicted if exculpatory results had been obtained through DNA analysis." *Id.* at 10. However, as discussed further below, this analysis entirely disregards Mr. Carruthers' evidence that the cited sources have either been outright discredited or doubts have been cast on their motives. (*See infra* Part II.A.)

Had Mr. Carruthers been afforded an evidentiary hearing, he would have been able to emphasize to the Criminal Court that exculpatory DNA evidence, when weighed against the entirely unreliable nature of the circumstantial evidence presented at trial, he has met prong one. Mr. Carruthers could have additionally presented the Criminal Court with evidence that Mr. Carruthers' jurors themselves have admitted that, if they had known that Mr. Shaw was a paid informant or that the DNA evidence shows Mr. Irving (and not Mr. Carruthers) were involved in the crimes, it

would have changed their analysis of Mr. Carruthers' case, therefore meeting the first prong of (at least) the discretionary testing statute. (*See* DNA Motion, at 21–22.)

Second, the Criminal Court found that "the number of victims and the opinion that the victims were buried alive would weigh heavily in favor of death sentences" and that Mr. Carruthers has therefore not met prong one of the discretionary testing statute. (DNA Order, at 13.) As outlined above, this is undisputedly false. At an evidentiary hearing, Mr. Carruthers could have addressed the Court's serious misconception of the victims' cause of death and introduced evidence that this theory has been proven false. (*See* DNA Motion, at 10–11 (citing the medical examiner's testimony in 2007 disavowing his finding that the victims were buried alive)); *see also infra* Part II.A.1.) The Court's grave misconceptions emphasize why the Tennessee Supreme Court has urged that such findings "are best made following an evidentiary hearing." *See Griffin*, 182 S.W.3d at 800.

Summary dismissal is only appropriate where the trial court *conclusively* finds, based on the entire contents of the petition, that petitioner is not entitled to relief. *Cole*, 2013 WL 4735471, at *5. As the DNA Order makes clear, the Criminal Court did not base its conclusion on the *entire* contents of the petition but, instead, ignored information disavowing the State's theory at trial and evidence that undermines confidence in Mr. Carruthers' conviction and

sentence. Therefore, summary dismissal was not appropriate. *Cf. Cole*, 2013 WL 4735471, at *5 (reversing the post-conviction court's summary dismissal of the petition filed under the DNA Act "[b]ecause there was an insufficient factual basis to support" the judgment).

On this basis alone, this Court should reverse the DNA Order and remand to the Criminal Court for an evidentiary hearing. *Cf. Griffin*, 182 S.W.3d at 800.

II. The Criminal Court erred in denying Mr. Carruthers' DNA Motion.

The DNA Act was created to serve two purposes—"first, to aid in the exoneration of those who are wrongfully convicted and second, to aid in identifying the true perpetrators of the crimes." *Powers v. State*, 343 S.W.3d 36, 51 (Tenn. 2010). This Court specifically concluded that the DNA Act granted more than just exclusionary testing. *See id.* "DNA analysis that only compares a petitioner's profile with a profile developed from biological material found at a crime scene cannot effectuate this second purpose." *Id.* "When, however, uploading the latter into a DNA database can potentially identify the person responsible for the crime, the Act also serves a 'law-enforcement,' or justice-finding, purpose: the apprehension of criminals who may still be at large." *Id.*

A postconviction court's order under the DNA Act is subject to reversal if "it is not supported by substantial evidence." *Allen v. State*, No. E2022-00373-CCA-R3-PC, 2022 WL 16780005, at *3 (Tenn. Ct. App. Nov. 8, 2022). Here, this Court should reverse the DNA Order because the Criminal Court's conclusion that Mr. Carruthers did not meet two prongs of the four-prong test "is not supported by substantial evidence." *Id.*[11]

A. The Criminal Court erred in concluding that Mr. Carruthers did not meet prong one under either provision of the DNA Act.

The Criminal Court's conclusion that Mr. Carruthers did not meet prong one under either provision of the DNA Act is inconsistent with Tennessee law, not supported by substantial evidence, and *directly* contradicted by the Criminal Court's *own finding* that "it is plausible that a DNA profile of a third party at the crime scene . . . *could cause residual doubt in the minds of the jurors* . . . ." (DNA Order, at 14 (emphasis added).) In reaching this errant conclusion, the Criminal Court relied on undisputedly false information, failed to apply the required presumption, and ignored critical evidence.

[11] Because the Criminal Court found that Mr. Carruthers established prongs two and three of the DNA Act standard, those prongs are not at issue.

1. The Criminal Court's DNA Order relied on undisputedly false information.

The DNA Order relies on information that is undisputedly false—namely, the State's disavowed theory that the victims were buried alive. (*See* DNA Mot., at 10-11 (explaining that this theory has been disproven); *see also* DNA Order, at 13 (relying on this false narrative).) Dr. O.C. Smith, the medical examiner who testified at Mr. Carruthers' trial *for the State*, has disavowed his trial testimony that the victims were buried alive. (DNA Mot., at 10; DNA App'x, Ex. 32.) Two additional expert pathologists, Dr. Cleland Blake and Dr. George Nichols, have likewise concluded there was no scientific basis for Dr. Smith's trial testimony. (DNA Mot., at 10; DNA App'x, Ex. 31.) Dr. Nichols testified that he found "no evidence, in [his] opinion, that any person was alive in the site in which their bodies were discovered" and that there was "no proof of the best evidence of conscious activity of any victim while alive in the grave site." (DNA App'x, Ex. 31.) This evidence is undisputed.

Despite this evidence, the Criminal Court inexplicably repeated this erroneous narrative in its DNA Order and used it as support for its conclusion that Mr. Carruthers did not meet prong one of the test under the DNA Act, stating: "The Court also finds that the number of victims and the opinion that the victims were buried alive would weigh heavily in favor of death sentences."

(DNA Order, at 13). This conclusion is not based on substantial evidence but, instead, is wholly unsupported.

The Criminal Court's reliance on this false premise to find that Mr. Carruthers did not meet prong one taints its entire analysis. As explained in the DNA Motion, a juror *from Mr. Carruthers' case* acknowledged the importance of the State's argument that the victims were buried alive, stating, "I recently learned that the victims were not buried alive . . . . Had I known the victims were not buried alive, I would not have voted for a death sentence." (DNA Mot., at 22.) Therefore, contrary to the Criminal Court's conclusion, the victims were *not* buried alive and there *is* a "reasonable probability" that Mr. Carruthers' case would have turned out differently had this DNA been tested.

Even if this Court were to conclude that it cannot consider evidence outside the trial record, the medical examiner's recantation must still be considered because it is undisputed. Dr. Smith's disavowal of his own testimony is not a contested factual matter, it is a stipulated and unchallenged fact. Under *Alley v. State*, No. W2004–01204–CCA–R3–PD, 2004 WL 1196095, at *3 (Tenn. Crim. App. May 26, 2004), this Court must consider "any stipulations of fact made by either party." The State has never contested Dr. Smith's recantation, nor has it offered any expert to support the now-abandoned opinion that the victims were buried alive. Accordingly, regardless

of how narrowly this Court defines the evidentiary record, the Criminal Court's reliance on the false "buried alive" narrative to deny prong one is indefensible.

Indeed, even looking only at the evidence presented at trial and what is undisputed in the record, the Criminal Court's conclusion cannot stand. At trial, no physical evidence linked Mr. Carruthers to these crimes. No forensic evidence, no DNA, no fingerprints, no ballistics, connected him to the murders. (DNA Mot., at 5.) The case rested entirely on the testimony of convicted felons and a paid informant. The State never argued that Mr. Carruthers was the primary actor or more culpable than Mr. Montgomery. James Montgomery's later statements, which the Criminal Court wholly failed to address, confirm that Mr. Carruthers was not involved in the kidnapping or the murders and that Montgomery dispatched Ronnie Irving to kidnap Ms. Anderson. (DNA Mot., at 10-11.) When this evidence is considered alongside the presumption of exculpatory DNA results, there is plainly a reasonable probability that Mr. Carruthers would not have been prosecuted, convicted, or sentenced to death.

The intent of the DNA Act cannot possibly be to permit a court to rely on a demonstrably false fact to deny a petitioner's request for testing. The DNA Act was enacted to serve two purposes: "first, to aid in the exoneration of those who are wrongfully convicted and second, to aid in identifying the true perpetrators of the crimes." *Powers*, 343 S.W.3d at 51. Those purposes would be defeated if courts could deny testing based on conclusions that rest on

evidence that has been conclusively disproven. The Criminal Court's conclusion that "the number of victims and the opinion that the victims were buried alive would weigh heavily in favor of death sentences" does precisely that. (DNA Order, at 13.) It uses a fact that every qualified expert to examine the issue has rejected to deny Mr. Carruthers' request for DNA testing that could exonerate him. Such a result is antithetical to the purpose of the DNA Act and renders the Criminal Court's prong one analysis unsupported by substantial evidence.

2. The Criminal Court did not apply the required presumption that the requested DNA testing would be favorable to Mr. Carruthers.

In reviewing a motion under the DNA Act, Tennessee courts must presume that the requested testing would be favorable to the movant. *See Powers*, 343 S.W.3d at 58 ("For purposes of determining whether testing is warranted under section 40–30–304 of the Act, however, we must presume that testing results would prove exculpatory to the petitioner."). While the Criminal Court recognized this standard (DNA Order, at 12-13), the DNA Order indicates that the Criminal Court did not correctly apply it.

On its face, the DNA Order fails to properly apply this presumption—reasoning that a "DNA 'hit' may be related to another individual who participated in the crime *or an individual who touched one or more of the items at another time* (i.e. someone living with one of the victims or perpetrators, a

retailer, or the actual owner of the items)." (DNA Order, at 13.) Assuming that a third-party "hit" could be a completely unrelated person is wholly inconsistent with Tennessee law, which requires the court to "postulate whatever *realistically possible* test results would be *the most favorable to [the] defendant*." *Powers*, 343 S.W.3d at 55 (emphasis added). Under Tennessee law, the Criminal Court had to "presume that the DNA analysis at issue is exculpatory or favorable to the defense." *McBee v. State*, No. E2025-00053-CCA-R3-PC, 2026 WL 230074, at *7 (Tenn. Crim. App. Jan. 28, 2026). The Criminal Court's consideration of any potential uninterested third party is wholly inconsistent with Tennessee law—and the evidence.

As described above, the record establishes that the evidence Mr. Carruthers seeks to test——the bindings used on the victims and scrapings from the victims' fingernails—is *directly* related to the crimes and almost certainly would contain the true perpetrators' DNA. As DNA expert Mr. Keel testified, foreign DNA under a victim's fingernails is usually relevant to a crime and is evidence of an individual's violent/intimate contact with the victim's body. (DNA Mot., at 13–14.)

In reality, contrary to the Criminal Court's conclusion, the requested DNA testing could produce several favorable results that would affect the outcome in Mr. Carruthers' case. One realistically possible test result, which would be most favorable to Mr. Carruthers, would be that Mr. Irving's DNA is

present in the victims' fingernail scrapings and that Mr. Carruthers' is not. This finding would corroborate James Montgomery's 2010 and 2011 statements to investigators that he and Irving were the ones who kidnapped the victims and *that Mr. Carruthers was not involved in either the kidnapping or murders*. (*See* DNA Mot., at 11.) This, especially when coupled with Mr. Montgomery's later statement implicating Mr. Irving, would give police a basis to name Mr. Irving a suspect for these crimes—and certainly a strong basis to change the outcome in Mr. Carruthers' case. At the very least, such a finding would have rendered Mr. Carruthers' verdict or sentence more favorable if the DNA evidence corroborated testimony that Mr. Carruthers was not involved in the crime, thus meeting prong one of the discretionary provision of the DNA Act. *See* Tenn. Code Ann. § 40-30-305; *see also McBee*, 2026 WL 230074, at *7 (finding a court "must focus the strength of the DNA evidence as compared to the evidence presented at trial").

Another possibility is that the testing could reveal the same unknown male profile that was found on a blanket buried with the victims (from which Mr. Carruthers has already been excluded)—offering further support of an alternative suspect.

As this Court has said, "DNA [has] changed the nature of criminal investigations . . . by making it possible to exculpate or inculpate suspects." *Powers*, 343 S.W.3d at 58 (citation omitted). That is exactly what could happen

here and, in reviewing the DNA Motion, the Criminal Court had to presume these outcomes. *See id.*

Critically, the importance of a third-party DNA match in this case cannot be overstated because the State never argued at trial that Mr. Carruthers was more culpable than his codefendant or that he was the mastermind behind these crimes. The State's theory of prosecution was the same for both Mr. Carruthers and Mr. Montgomery. (DNA Mot., at 4.) It prosecuted them as equally liable participants. *Id.* Nothing in the evidence presented at trial established that Mr. Carruthers masterminded these crimes.

To the contrary, the only putative "confession" in this case, Mr. Shaw's testimony, placed Mr. Carruthers at the scene of the kidnapping at Ms. Anderson's home, which is precisely why the unidentified fingerprints recovered from that home are so significant. Six fingerprints from Ms. Anderson's house remain unidentified to this day, and Mr. Carruthers was excluded from all of them. *Id.* at 5. If DNA testing reveals the involvement of a third party such as Ronnie Irving, whom Mr. Montgomery identified as having been dispatched to kidnap Ms. Anderson, the State's entire theory of prosecution collapses.

3. The Criminal Court did not consider all of the available evidence.

In reviewing a request under the DNA Act, this Court has held that the court must "consider all the available evidence, including the evidence presented at trial and any stipulations of fact made by either party." *Alley*, 2004 WL 1196095, at *3; *see also McBee*, 2026 WL 230074, at *7 (holding that the court "must focus on the strength of the DNA evidence as compared to the evidence presented at trial"). In denying the DNA Motion, the Criminal Court either ignored critical evidence altogether or relied on facts that are undisputedly false.

The Criminal Court also wholly failed to account for James Montgomery's 2010 and 2011 statements exonerating Mr. Carruthers. In 2010 and 2011, Mr. Montgomery—Mr. Carruthers' codefendant who was convicted and sentenced to death at the same trial and under the same theory of prosecution—told investigators that he kidnapped two of the victims and dispatched Irving to kidnap Ms. Anderson. (DNA Mot., at 10-11.) Significantly, Mr. Montgomery confirmed to the investigator that Mr. Carruthers was not involved in the kidnapping or the murders. *Id.* at 11. Mr. Irving was murdered in 2002, and his fingerprints and a DNA sample are on file at the medical examiner's office. *Id.* Yet, to date, the unidentified physical evidence, including

the unknown male DNA profile found on the blanket buried with the victims, has never been compared to Mr. Irving.

Had the Criminal Court properly considered Mr. Montgomery's exculpatory statements alongside the presumption of favorable DNA results, the court would have no option but to conclude that Mr. Carruthers established prong one under both provisions of the DNA Act. A DNA match to Mr. Irving or an unknown profile on the victims' bindings or fingernail scrapings—especially combined with Mr. Montgomery's statements implicating Irving and exonerating Mr. Carruthers—would not merely undermine confidence in the outcome, it would fundamentally dismantle the State's theory of prosecution. In fact, the Criminal Court *acknowledged* this, writing:

> [I]t is plausible that a DNA profile of a third party at the crime scene (especially of the ligatures) *could cause residual doubt in the minds of the jurors* due to another participant possibly being involved and not prosecuted and *could produce questions about Mr. Carruthers' specific role in the offenses*.

(DNA Order, at 14 (emphasis added).) This finding by the Criminal Court simply cannot be reconciled with the conclusion that Mr. Carruthers did not establish prong one.

In fact, concluding that the outcome of Mr. Carruthers' case would be different with favorable DNA does not require guesswork. The State's own treatment of earlier DNA results in Mr. Montgomery's case illustrates the strength of Mr. Carruthers' case on prong one. Mr. Montgomery was originally

charged, convicted, and sentenced to death in the same trial and under the same theory of prosecution as Mr. Carruthers. The State never argued that Mr. Carruthers was more culpable than Mr. Montgomery. Yet, when limited DNA testing conducted in 2003 for Mr. Montgomery's retrial excluded both Mr. Carruthers and Mr. Montgomery from the evidence and revealed the presence of an unknown male profile on a blanket buried with the victims, the State itself determined that those results were significant enough to offer Mr. Montgomery an *Alford* plea to a reduced charge of three counts of second-degree murder. (DNA Mot., at 7, n.4.) Mr. Montgomery was sentenced to concurrent 27-year sentences and was released from custody in 2015. *Id.* In other words, the DNA results were so powerful that they led the State to reduce the charges against Mr. Carruthers' codefendant who was convicted and sentenced to death under the *same* theory and *same* evidence, and that codefendant has been free for nearly a decade.

If those limited DNA results were sufficient to cause the State to abandon its case against Mr. Montgomery, then surely the far more comprehensive testing Mr. Carruthers now seeks—including on evidence that has never been tested—establishes a reasonable probability that the outcome of Mr. Carruthers' case would have been different. (*Cf.* DNA Order, at 14.) The Criminal Court's failure to address this dispositive comparison renders its prong one analysis unsupported by substantial evidence.

Further, the Criminal Court wholly ignored evidence that *confirms* the impact that exculpatory DNA would have had on Mr. Carruthers' jury—as the court suspected. One of Mr. Carruthers' jurors expressly concluded that "[a] DNA match with a different person would make [her] doubt Mr. Carruthers' guilt." (DNA Mot., at 21.) Another juror stated that he does not support Mr. Carruthers' death sentence after learning new information about the case. *Id.* at 22. One less vote for guilt or one less vote for death would, of course, change the entire outcome of Mr. Carruthers' trial—establishing the first prong of § 40-30-304 and § 40-30-305. (*See* DNA Mot., at 14.)

Contrary to the trial court's conclusion, Mr. Carruthers has shown a reasonable probability that he would not have been prosecuted, convicted, or sentenced to death if he had exculpatory DNA results. *Cf. Powers*, 343 S.W.3d at 58 (finding that "a reasonable probability exists not only that a jury would not have convicted the petitioner, but also that the State would have chosen not to prosecute him"). In other words, the Criminal Court's conclusion that Mr. Carruthers did not establish prong one of the test under the DNA Act was not based on substantial evidence. Therefore, the DNA Order must be reversed. *Cf. id.*

B. The Criminal Court's conclusion that Mr. Carruthers has not established that his Motion was not filed for purposes of delay is not supported by substantial evidence.

Prong (4) of Tenn. Code Ann. § 40-30-304 and § 40-30-305 requires the Court to find that the application for DNA analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of the sentence or administration of justice. The Criminal Court's finding in the DNA Order that Mr. Carruthers did not meet this prong is unsupported by substantial evidence.

Significantly, this Court has established there is no statutory time limitation for filing a petition for DNA analysis under the DNA Act. *Griffin*, 182 S.W.3d at 799 (confirming that the DNA Act "gives petitioners the opportunity to request analysis at 'any time'"). And a petitioner cannot waive the right to DNA analysis under the Act by implication. *See id.*; *see also* Tenn. Code. Ann. § 40-30-305 (2024) (third prong expressly permits retesting when the evidence was not subjected "to the analysis that is now requested").

First, the Criminal Court's Order acknowledges that Mr. Carruthers filed his first request for testing under the DNA Act on April 9, 2026, in the Tennessee Supreme Court. (DNA Order, at 12, n.4.) However, the court stated that prior motion did not "impact" its analysis as to prong four. *Id.* It should.

The timeline is clear. Mr. Carruthers filed his initial DNA motion within days of the undersigned counsel being retained. (*See* DNA Mot., at 23, n.14.)

From there, the Tennessee Supreme Court took three weeks to deny the motion and send Mr. Carruthers to the Criminal Court. Within two business days, Mr. Carruthers filed the DNA Motion in the Criminal Court and requested expedited resolution. It took the Criminal Court a week to resolve the DNA Motion. The Criminal Court's finding that "[t]here is no explanation provided or that the Court can surmise as to why Mr. Carruthers waited until April, 2026, to bring this" issue "if not for the purpose of unreasonably delaying the execution of the sentence or administration of justice" is wholly unfounded. (DNA Order, at 12.)

The record is undisputed that the DNA testing Mr. Carruthers requests could be completed in approximately two weeks. (Keel Aff., ¶ 17.) Mr. Carruthers' April 2026 motion was filed with *plenty* of time for the DNA testing to be completed *before* his execution. *See id.* Had the State agreed to the testing at the outset, it would have been complete sometime in late April. *See id.* Indeed, in his April 9, 2026 request for DNA testing, Mr. Carruthers did not request a stay of execution because the testing could be completed in time without delaying his scheduled execution date.[12]

[12] Mr. Carruthers filed the April 9, 2026 request in this Court pursuant to the plain language of Rule 12.4(E) because the motion and related litigation may "potentially affect" the timing of his execution, understanding that subsequent litigation may become necessary based on the results of the testing.

Even after this Court waited until April 30 to deny his original motion and send him to the Criminal Court, Mr. Carruthers *still* did not ask for a stay. When he filed the DNA Motion in the Criminal Court on May 4, there was still time to complete the testing before the execution date. *See id.*

It was only after the Criminal Court denied the DNA Motion a week later and he filed his Notice of Appeal to the CCA on May 13 (eight days before his scheduled execution) that Mr. Carruthers filed a motion to stay his execution. *See* Mot. Stay Execution, *Carruthers v. State*, No. W1997-00097-SC-DDT-DD (Tenn. May 13, 2026).

The DNA Motion could not be filed for the purpose of delay where the requested relief could have been achieved prior to Mr. Carruthers' execution date and there was no request to stay or postpone that execution date. Therefore, the Criminal Court wrongly dismissed the fact that Mr. Carruthers' original motion was filed on April 9. (*See* DNA Order, at 12, n.4.)

Also, the Criminal Court acknowledged that the purpose of Mr. Carruthers' request is "an attempt to demonstrate that Mr. Carruthers is innocent of the offenses for which he has been convicted." (DNA Order, at 11.) And yet, somehow, the Criminal Court subsequently concludes that the DNA Motion is for the purpose of unreasonable delay. It is logically untenable for the Criminal Court to simultaneously hold these diametrically opposed conclusions. If Mr. Carruthers had waited until there was not enough time to

test the DNA without a stay—*i.e.*, less than two weeks prior to his execution date—before filing his first request for DNA testing, that could be interpreted as for the purpose of delay. But those are not the facts here.

Mr. Carruthers did not delay filing his DNA Motion in the Criminal Court (or in this Court). Instead, Mr. Carruthers continued to diligently seek forensic testing *that has never been done* to prove his innocence before he is executed.

Mr. Carruthers, through counsel, has been diligently seeking DNA testing for nearly five weeks now, being bounced around between the Tennessee courts in search of his statutory rights and answers. *Cf. Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429-30 (1982) ("[T]he Fourteenth Amendment's Due Process Clause has been interpreted as preventing the States from denying potential litigants use of established adjudicatory procedures, when such an action would be 'the equivalent of denying them an opportunity to be heard upon their claimed right[s].'" (quoting *Boddie v. Connecticut*, 401 U.S. 371, 380 (1971))). Rather than Mr. Carruthers, it is the State and the Tennessee courts that have caused unreasonable delay in this litigation by punting Mr. Carruthers' requests. As Justice Sonya Sotomayor bluntly opined in a similar case involving a request for DNA testing in Texas:

> It is inexplicable why [the State] refuses to allow DNA testing . . . despite the very substantial possibility that such testing could exculpate [petitioner] and identify the real killer. It is also

> inexplicable why the courts below did not proceed with more caution and carefully consider each of [petitioner's] arguments . . . . Because the Court refuses to do so, the State will likely execute [petitioner] without the world ever knowing whether [petitioner's or the alleged alternative suspect's] DNA is on the murder weapon, even though a simple DNA test could reveal that information.

Reed v. Goertz, 146 S. Ct. 936 (2026) (Sotomayor, J., dissenting from the denial of certiorari).

The same is true here. The State and Tennessee courts are racing toward Mr. Carruthers' execution without ever testing evidence that is *in its possession* and has *never been tested*, as the Criminal Court found. (DNA Order, at 10-11.) The results of such testing which could very well corroborate what Mr. Carruthers' has maintained for thirty years and prevent the execution of an innocent man. Rather than spending two weeks testing the DNA, the State and Tennessee courts have spent more than double that time opposing and denying Mr. Carruthers' requests. *See Logan*, 455 U.S. at 429-30.

Despite his diligence, the Criminal Court makes the illogical and unsupported leap from acknowledging that the purpose of Mr. Carruthers' request is "an attempt to demonstrate that Mr. Carruthers is innocent of the offenses for which he has been convicted," to its premise that the DNA Motion "*could very well be* an attempt to unreasonably delay," to concluding that the DNA Motion "*is* an attempt to unreasonably delay." (DNA Order, at 12 (emphasis added).) The only support for this conclusion is that Mr. Carruthers

could have filed the DNA Motion on an earlier date.[13] This is exactly the type of threadbare analysis that *Griffin* cautions will result without an evidentiary hearing. *See* 182 S.W.3d at 800 (noting that the conclusion that the application failed to demonstrate it was not to unreasonably delay was puzzling in light of the fact that there was no evidentiary hearing and there was no evidence in the record to support this conclusion); *see also supra* Part I.

Ultimately, the Criminal Court's conclusion that Mr. Carruthers did not meet prong four is wholly unsupported. Accordingly, the DNA Order must be reversed.

III. The Criminal Court's denial of the Motion to Compel violated Mr. Carruthers' right to due process.

The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and the "Law of the Land" Clause of Article I, Section 8 of the Tennessee Constitution both guarantee every criminal defendant the right to due process. U.S. Const. amend. XIV, § 1; Tenn. Const. art. I, § 8; *see also Logan*, 455 U.S. at 429-30, 433-34; *State v. Rimmer*, 623 S.W.3d 235 (Tenn. 2021). As the U.S. Supreme Court has "emphasized time and again, the Due

[13] Admittedly, there is tension between the lack of a statute of limitations and Prong (4)'s requirement to show that a motion is not made for the purpose of unreasonable delay. However, when a court's sole reason for finding an unreasonable delay is that the motion could have been filed earlier, it is creating a de facto statute of limitations with no clearly defined boundaries.

Process Clause grants the aggrieved party the opportunity to present his case and have its merits fairly judged. Thus it has become a truism that '*some* form of hearing' is required before the owner is finally deprived of a protected property interest." *Logan*, 455 U.S. at 433.

"To facilitate this right, a defendant has a constitutionally protected privilege to request and obtain from the prosecution evidence that is either material to guilt or relevant to punishment." *Johnson v. State*, 38 S.W.3d 52, 55-56 (Tenn. 2001) (citing *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). This fundamental right "imposes a duty on the State to produce all evidence that raises reasonable doubt as to the guilt of the defendant." *Rimmer*, 623 S.W.3d at 257 (citing *State v. Ferguson*, 2 S.W.3d 912, 915 (Tenn. 1999)). Moreover, state laws "may indeed create a liberty interest in accessing biological evidence for testing." *Estate of Alley v. State*, 648 S.W.3d 201, 227 (Tenn. Crim. App. 2021). Indeed, that is what the State of Tennessee did with the DNA Act.

With the DNA Act, Tennessee created a statutory procedure through which convicted persons can obtain post-conviction DNA and fingerprint testing—and then use exculpatory results from that testing to secure relief from their convictions, including post-conviction relief, a new trial, or executive clemency. Tenn. Code Ann. § 40-30-303; Tenn. Code Ann. § 40-30-304; Tenn. Code Ann. § 40-30-305; Tenn. Code Ann. § 40-30-117 (Reopen Post-Conviction Proceedings); Tenn. Code Ann. § 40-27-101 (Governor's Clemency Authority).

Critically, the Act also "allows a post-conviction court, 'in its discretion, [to] make such other orders as may be appropriate.'" *Powers*, 343 S.W.3d at 48-49 (quoting Tenn. Code Ann. § 40-30-311). This broad discretionary authority plainly encompasses orders compelling the disclosure of biological evidence necessary to effectuate the purposes of the DNA Act. And Mr. Carruthers' right to due process ensures him the right to reasonably access the DNA Act. *See Logan*, 455 U.S. at 429-30, 433-34.

The Criminal Court's denial of the Motion to Compel violated Mr. Carruthers' right to due process in accessing the biological evidence both procedurally and substantively.

A. This Court has jurisdiction and should review the Compel Order as an extraordinary appeal under Tennessee Rule of Appellate Procedure 10.

The CCA's May 14, 2026 Order expediting this appeal noted that "it is unclear at this point if the Petitioner has an appeal as of right from this order pursuant to Tennessee Rule of Appellate Procedure 3(b)" and invited the parties to "address this order in their pleadings." (Order, at 1, n.1.) To the extent this Court has similar doubt and/or determines that the Compel Order is not immediately appealable as of right under Rule 3, Mr. Carruthers respectfully submits that this Court should exercise its discretion to review the Compel Order as an extraordinary appeal pursuant to Rule 10. Specifically, Rule 10(a) provides:

> An extraordinary appeal may be sought on application and in the discretion of the appellate court alone of interlocutory orders of a lower court . . . (1) if the lower court has so far departed from the accepted and usual course of judicial proceedings as to require immediate review, or (2) if necessary for complete determination of the action on appeal.

Tenn. R. App. P. 10(a).

A Rule 10 extraordinary appeal "will lie whenever . . . either party has lost a right or interest that may never be recaptured." *State v. McKim*, 215 S.W.3d 781 (Tenn. 2007) (citing *State v. Willoughby*, 594 S.W.2d 388, 392 (Tenn. 1980)). "[T]his court may treat an improperly filed Rule 3 appeal as a Rule 10 extraordinary appeal." *State v. Norris*, 47 S.W.3d 457, 463 (Tenn. Crim. App. 2000).

The Criminal Court's Compel Order satisfies the criteria for extraordinary appeal under multiple independent grounds. First, the Criminal Court "so far departed from the accepted and usual course of judicial proceedings as to require immediate review." Tenn. R. App. P. 10(a). The Criminal Court denied the Motion to Compel without a hearing, without recognizing the broad statutory authority the DNA Act confers upon post-conviction courts to "make such other orders as may be appropriate," Tenn. Code Ann. § 40-30-311; *see Powers*, 343 S.W.3d at 48-49, and on the circular basis that it had already denied the DNA Motion—a denial that is itself the subject of this appeal. This procedural maneuvering—first denying the DNA

Motion and then using that denial as a basis to deny the Motion to Compel—constitutes a departure from the accepted and usual course of judicial proceedings that warrants immediate review.[14] *See Logan*, 455 U.S. at 433-34.

Second, Mr. Carruthers has "lost a right or interest that may never be recaptured." *Willoughby*, 594 S.W.2d at 392. Mr. Carruthers is scheduled for execution on May 21—just days from the filing of this Brief. If this Court does not review the Compel Order, Mr. Carruthers will be permanently deprived of all rights, including access to biological evidence that could confirm his innocence of the very crimes for which he is set to be executed. Unlike the defendant in *Willoughby*, who had "not lost a right or interest that may not be recaptured" because the requested discovery materials would "come to light" through other procedures (*id.*), Mr. Carruthers faces the ultimate and irreversible deprivation: execution. Once carried out, no future proceeding can restore his right to access evidence that may establish his innocence. The urgency and finality of Mr. Carruthers' circumstances make this precisely the type of case for which Rule 10 relief was designed.

Third, review of the Compel Order is "necessary for complete determination of the action on appeal." Tenn. R. App. P. 10(a). The Motion to Compel and the DNA Motion are inextricably linked. The biological standards

[14] Indeed, the DNA Order recognizes that the Motion to Compel was pending in front of the Criminal Court. (*See* DNA Order, at 1-2.)

of Ronnie Irving that Mr. Carruthers sought through the Motion to Compel are directly relevant to the DNA testing he seeks under the DNA Act. Should this Court reverse the DNA Order—as it should (*see supra* Parts I-II)—the DNA Motion will again be pending, and the Irving biological standards will be critical to effectuating the relief. Reviewing only the DNA Order without also reviewing the Compel Order would leave Mr. Carruthers unable to obtain some of the very evidence necessary to vindicate his rights under the DNA Act. *See Logan*, 455 U.S. at 429-30, 433-34.

Accordingly, this Court can and should review the Compel Order.

B. The Criminal Court's denial of the Motion to Compel unconstitutionally deprived Mr. Carruthers of his right to DNA testing.

Mr. Carruthers has a constitutionally protected liberty interest in using state-created procedures to demonstrate his innocence. *See Gutierrez v. Saenz*, 606 U.S. 305, 314 (2025); *Estate of Alley*, 648 S.W.3d at 201. Where, as here, the State has created a statutory liberty interest in post-conviction DNA testing, its actions restricting that interest must, at a minimum, satisfy this substantive due process threshold. *See Estate of Alley*, 648 S.W.3d at 210. A substantive due process violation is established where the government acts in a manner that is "(1) arbitrary, irrational or improperly motivated or (2) so egregious that it shocks the conscience." *State v. Broadrick*, 648 S.W.3d 158, 173 (Tenn. Crim. App. 2018) (citing *Cnty. of Sacramento v. Lewis*, 523 U.S. 833,

840 (1998)); *see also Abdur'Rahman v. Bredesen*, 181 S.W.3d 292, 309 (Tenn. 2005).

Even under the least stringent standard of review, the Criminal Court's categorical denial of Mr. Carruthers' Motion to Compel cannot withstand scrutiny. Mr. Carruthers unquestionably has a compelling interest in ensuring he is not executed for a crime he did not commit,[15] and the Criminal Court's refusal to facilitate access to biological evidence that could confirm Mr. Carruthers' innocence—while he faces imminent execution—was arbitrary, irrational, and fundamentally at odds with that interest. Indeed, the Criminal Court's reasoning in denying the Motion to Compel was flawed in every respect and, therefore, deprived Mr. Carruthers of a fair opportunity to obtain evidence material to defending his imminent execution.

First, the Criminal Court stated that "Mr. Carruthers does not cite any authority supporting his request." (Compel Order, at 1.) But, as set forth above, the DNA Act itself provides the authority under which the Court could have granted the Motion to Compel, granting post-conviction courts broad discretion to "make such other orders as may be appropriate." Tenn. Code Ann. § 40-30-311; *Powers*, 343 S.W.3d at 48-49. An order compelling the State (vis-à-vis the Medical Examiner) to release biological standards of an alternative suspect so

[15] Arguably, the State has a similar interest in ensuring it does not execute an innocent person.

that they can be compared to existing evidence is precisely the type of ancillary relief contemplated by the DNA Act. The Criminal Court's apparent failure to recognize this statutory authority does not defeat Mr. Carruthers' right to invoke it.

Second, the Criminal Court denied the Motion to Compel on the ground that the Court had already denied the DNA Motion and, therefore, "the Court does not have pending before it a matter in which the biological standard would be relevant." (Compel Order, at 1.) This reasoning is circular and fundamentally unfair. The Criminal Court denied the DNA Motion on May 11, 2026, just one day before denying the Motion to Compel. When Mr. Carruthers filed the Motion to Compel on May 10, the DNA Motion was pending before the Court, and the biological standards were unquestionably relevant and available.

Indeed, the Criminal Court's denial of the DNA Motion itself is the subject of this appeal. Should this Court reverse the DNA Order—as it should—the DNA Motion will again be pending, and the biological standards will be directly relevant. The Criminal Court's refusal to permit Mr. Carruthers to obtain the Irving biological standards while this litigation proceeds effectively ensures that Mr. Carruthers cannot develop the very evidence he needs to vindicate his rights under the DNA Act. Due process

cannot countenance such a result, particularly where a man's life hangs in the balance.

Finally, the equities overwhelmingly favor Mr. Carruthers. He is a prisoner under sentence of death, scheduled for execution in less than a week. He was convicted based entirely on circumstantial evidence. No physical evidence has ever linked him to the crimes. Mr. Montgomery told federal investigators that Mr. Carruthers did not commit these crimes. The State's own medical examiner has disavowed his trial testimony. And a juror from Mr. Carruthers' case has stated that exculpatory DNA evidence would cause her to doubt his guilt. Against this backdrop, the Criminal Court's refusal to order the Medical Examiner to release biological standards of an alternative suspect—standards that could confirm Mr. Carruthers' innocence or identify the true perpetrator—is fundamentally inconsistent with due process.

For these reasons, this Court should reverse the Criminal Court's Order denying Mr. Carruthers' Motion to Compel and remand with instructions to enter an order directing the Shelby County Medical Examiner to release the biological standards of Ronnie Irving to a qualified laboratory designated by Mr. Carruthers' counsel for comparison to existing evidence. In the alternative, this Court should remand with instructions to conduct a hearing on the Motion to Compel at which Mr. Carruthers may be heard regarding the necessity and relevance of the requested biological standards.

C. The Criminal Court's denial of the Motion to Compel was without adequate procedure.

A prisoner may "have a liberty interest in demonstrating his innocence with new evidence under state law" and "the state's procedures must afford adequate access to information to vindicate that state's right to post-conviction relief." *Estate of Alley*, 648 S.W.3d at 227 (citing *Osborne*, 557 U.S. at 68-69, 72). Thus, "a defendant may challenge a state's procedures for post-conviction access to evidence on due process grounds by showing the procedures are 'fundamentally inadequate to vindicate the substantive rights provided.'" *Id.* (quoting *Osborne*, 557 U.S. at 69); *see also Logan*, 455 U.S. at 433. The U.S. Supreme Court recently reaffirmed this principle in *Gutierrez*, holding that a capital defendant has standing to bring a due process challenge where the denial of a DNA testing request "deprived him of his liberty interests in utilizing state procedures to obtain an acquittal or sentence reduction." 606 U.S. at 306.

The Criminal Court's denial of Mr. Carruthers' Motion to Compel violated his due process rights by rendering the DNA Act's procedures fundamentally inadequate to vindicate his substantive rights. *See Osborne*, 557 U.S. at 69 (requiring that state procedures not be "fundamentally inadequate to vindicate the substantive rights provided"); *see also Griffin*, 182 S.W.3d at 800 ("[F]indings of fact upon which rights are granted or denied are

best made following an evidentiary hearing."); *Logan*, 455 U.S. at 433 ("[T]he Due Process Clause grants the aggrieved party the opportunity to present his case and have its merits fairly judged. . . . '[*S*]*ome* form of hearing' is required before the owner is finally deprived of a protected property interest." (citation omitted)). Before denying Mr. Carruthers access to evidence that could save his life, the Criminal Court should have, at minimum, afforded him a meaningful opportunity to be heard. *See Logan*, 455 U.S. at 433. But it did not.

The Court's tactic of first denying the DNA Motion and then using that denial as a basis to deny the Motion to Compel effectively placed Mr. Carruthers in an impossible "Catch-22." *Cf. Trotter v. Florida*, 146 S. Ct. 755, 756 (2026) (Sotomayor, J., respecting denial of application for stay of execution and denial of certiorari) (criticizing the Florida Supreme Court for "placing prisoners in a Catch-22" by denying requests for records because prisoners lack information to raise a colorable claim, "[t]he very reason the prisoners are seeking the records, however, is to gather enough information to raise a colorable . . . claim"). Prisoners trying to prove their innocence ahead of a scheduled execution should not be subjected to this type of procedural maneuvering, intentional or not, by the very courts that hold the power to assist in their final days. *See Logan*, 455 U.S. at 433. This is *especially* true when such power is *granted by statute*. *See id.*

Further, while the Criminal Court suggested that Mr. Carruthers "can seek to obtain the standard through the issuance of a subpoena" (Compel Order, at 1), this ignores the reality of Mr. Carruthers' situation. The Medical Examiner's office itself informed Mr. Carruthers' investigator that it requires either a court order or a subpoena to release the biological standards. (Compel Mot., Ex. A, ¶ 6.) Mr. Carruthers' best chance to obtain the necessary authorization was through the Criminal Court. The Criminal Court's suggestion that Mr. Carruthers pursue a subpoena—while simultaneously refusing to grant the Motion to Compel and accomplish the same result—is illusory and does not satisfy due process. Instead, it sent Mr. Carruthers on another expedition in search of biological evidence in the State's possession. A right of access that exists only in theory but cannot be exercised in practice is no right at all. *See Gutierrez*, 606 U.S. at 314 (recognizing standing to challenge procedures that effectively deny access to DNA evidence); *see also Logan*, 455 U.S. at 433-34.

Accordingly, this Court should reverse the Compel Order because it violates Mr. Carruthers' right to due process.

CONCLUSION

For these reasons, this Court should reverse the Criminal Court's Orders and remand for further litigation.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lucas Cameron-Vaughn, Esq., certify that I have forwarded a true and exact copy of this motion by electronic mail to all parties and/or their attorneys in this case in accordance with Rule 20 of the Tennessee Rules of Appellate Procedure on May 16, 2026.

/s/ *Lucas Cameron-Vaughn*
Lucas Cameron-Vaughn, Esq.

CERTIFICATE OF COMPLIANCE

I, Lucas Cameron-Vaughn, Esq., certify that this brief complies with the word limitation requirements of Rule 30 of the Tennessee Rules of Appellate Procedure. Excluding the parts of the document exempted by Rule 30(c), this brief contains 13,075 words

/s/ *Lucas Cameron-Vaughn*
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