

IN THE
Supreme Court of the United States

DAMIAN BUCK,

Petitioner,

v.

THE STATE OF MISSISSIPPI,

Respondent.

**On Petition for a Writ of Certiorari to the
Mississippi Court of Appeals**

BRIEF IN OPPOSITION

LYNN FITCH
Attorney General
BARBARA BYRD
Special Assistant
Attorney General
Counsel of Record
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205-0220
Barbara.Byrd@ago.ms.gov
(601) 359-3680
Counsel for Respondent

QUESTION PRESENTED

At petitioner's trial for first-degree murder, the State's evidence against him included testimony from a forensic pathologist. The pathologist did not perform the victim's autopsy but reviewed the autopsy photographs and related materials before offering his own opinions on the victim's cause of death (gunshot wounds) and manner of death (homicide). The jury convicted petitioner of manslaughter with a firearm enhancement. The Mississippi Court of Appeals affirmed. Petitioner did not contend on appeal that the pathologist's testimony violated the Confrontation Clause. Nevertheless, in a footnote, the court of appeals concluded *sua sponte* that the testimony did not violate the Clause and that, even if it did, any error was harmless. The question presented is whether that ruling warrants further review.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
TABLE OF AUTHORITIES	iii
OPINION BELOW.....	1
JURISDICTION.....	1
STATEMENT.....	1
REASONS FOR DENYING THE PETITION	4
CONCLUSION.....	14

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Bullcoming v. New Mexico</i> , 564 U.S. 647 (2011).....	1
<i>Busby v. Mississippi</i> , No. 25-6885, — S. Ct. —, 2026 WL 1780189 (U.S. June 22, 2026).....	10, 12
<i>Chapman v. California</i> , 386 U.S. 18 (1967).....	5
<i>Commonwealth v. Gordon</i> , 266 N.E.3d 369 (Mass. 2025).....	12
<i>Crawford v. Washington</i> , 541 U.S. 36 (2004).....	1
<i>Delaware v. Van Arsdall</i> , 475 U.S. 673 (1986).....	5
<i>Melendez-Diaz v. Massachusetts</i> , 557 U.S. 305 (2009).....	1
<i>Pitts v. Mississippi</i> , 607 U.S. 1 (2025).....	6, 7
<i>Pitts v. State</i> , 405 So. 3d 20 (Miss. Ct. App. 2023)	7
<i>Pitts v. State</i> , 405 So. 3d 1238 (Miss. 2025)	7
<i>Smith v. Arizona</i> , 602 U.S. 779 (2024).....	1, 2, 4, 5, 7-11
<i>State v. Hall-Haught</i> , 569 P.3d 315 (Wash. 2025)	12
<i>State v. Jaramillo</i> , 272 P.3d 682 (N.M. Ct. App. 2011).....	13

<i>State v. Thomas</i> , 334 A.3d 686 (Me. 2025)	12
<i>United States v. Seward</i> , 135 F.4th 161 (4th Cir. 2025)	12
<i>Watkins v. State</i> , 912 S.E.2d 574 (Ga. 2025)	12
Constitutional Provisions	
U.S. Const. amend. VI	1, 8
U.S. Const. amend. XIV	1
Statute	
28 U.S.C. § 1257	1

OPINION BELOW

The Mississippi Court of Appeals’ opinion affirming petitioner’s conviction and sentence (Petition Appendix (App.) A) is reported at 428 So. 3d 432.

JURISDICTION

The Mississippi Court of Appeals’ judgment was entered on September 2, 2025. *See* App. A. The Mississippi Supreme Court denied discretionary review on February 25, 2026. *See* App. C. The petition for a writ of certiorari was filed on May 22, 2026. This Court’s jurisdiction is invoked under 28 U.S.C. § 1257(a).

STATEMENT

1. The Confrontation Clause provides that “[i]n all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him.” U.S. Const. amend. VI; *see id.*, amend. XIV, § 1. Under this Court’s precedents, the Clause generally bars the admission of testimonial hearsay at a criminal trial unless the declarant is unavailable and the defendant had a prior opportunity to cross-examine the declarant. *See Crawford v. Washington*, 541 U.S. 36, 68 (2004).

That prohibition applies to statements in forensic reports. In *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009), this Court held that “certificates of analysis”—affidavits stating the results of forensic tests performed on a substance—are testimonial and thus subject to the Confrontation Clause. *Id.* at 307, 308, 329. In *Bullcoming v. New Mexico*, 564 U.S. 647 (2011), this Court held that the Clause bars prosecutors from introducing forensic reports with “testimonial certification[s]” to prove facts at trial without presenting the testimony of the person who made the certifications. *Id.* at 651-52. And in *Smith v. Arizona*, 602 U.S. 779 (2024), this Court

held that prosecutors “cannot introduce an absent laboratory analyst’s testimonial out-of-court statements to prove the results of forensic testing” through a “surrogate analyst who did not participate in [the statements’] creation.” *Id.* at 783, 802.

2. In 2019 petitioner fatally shot Deaubrey Roscoe. App. A ¶¶ 3-24. Petitioner had confronted Roscoe for fighting with petitioner’s brother, petitioner and Roscoe exchanged words, petitioner shot Roscoe, Roscoe returned fire, petitioner shot at Roscoe again, and Roscoe soon died from his wounds. *See* App. A ¶¶ 3-14. Petitioner was indicted for first-degree murder. App. A ¶ 1.

At trial, petitioner testified that he shot at Roscoe but maintained that he acted to defend himself and his brother Samuel Barnes after Roscoe threatened Barnes and fired first. Tr. 655-59; App. A ¶¶ 20, 23. Petitioner claimed that he shot only twice. Tr. 657; App. A ¶ 20.

The State called Kimberly Hodges, an eyewitness who knew petitioner and Roscoe. Hodges’ account differed substantially from petitioner’s. She testified that petitioner arrived at the scene, entered a nearby residence, emerged holding a handgun, approached Roscoe, exchanged words with him, and then fired multiple shots. Tr. 492-504; App. A ¶¶ 7-8. Hodges testified that Roscoe returned fire only after petitioner had shot him. Tr. 501-03; App. A ¶ 8. She further testified that petitioner’s brother, Barnes—whom petitioner claimed to be defending—did not participate in the confrontation until after the shooting started. Tr. 499, 514-15, 522-23; App. A ¶ 8.

To further establish the victim’s injuries and cause of death, the State called Dr. Mark LeVaughn, a forensic pathologist. Dr. LeVaughn did not perform Roscoe’s autopsy. Dr. David Arboe did. *See* Tr. 400; App. A ¶ 12. Petitioner initially moved to

bar Dr. LeVaughn from testifying under the Confrontation Clause. *See* Tr. 98-111; App. A ¶ 12 n.3. The trial court denied the motion and qualified Dr. LeVaughn as an expert after ruling that Dr. LeVaughn’s testimony on the cause and manner of death would relay “his own independent expert opinion” and “conclusions.” Tr. 111; App. A ¶ 12 n.3; *see* Tr. 399; App. A ¶ 12. The State did not move to admit the autopsy report prepared by Dr. Arboe. During Dr. LeVaughn’s testimony the trial court admitted autopsy photographs depicting Roscoe’s injuries. *See* Exs. 2-4. Based on the photographs, Dr. LeVaughn testified that Roscoe sustained three gunshot wounds: one to his back (Tr. 401, 403; App. A ¶ 13); one to his shoulder (Tr. 404; App. A ¶ 13); and one to his thigh (Tr. 409; App. A ¶ 13). He concluded that Roscoe died from multiple gunshot wounds and that the manner of death was homicide. Tr. 412-13; App. A ¶ 12. Petitioner did not object to the photographs’ admission or to Dr. LeVaughn’s testimony on the cause and manner of death. *See* Tr. 401-13; App. A ¶¶ 12-14.

The jury found petitioner guilty of the lesser-included offense of manslaughter with a firearm enhancement. App. A ¶ 24; *contra* Pet. 2-4 (offering a factual account that the jury rejected). The trial court sentenced him to 20 years’ imprisonment. App. A ¶ 24.

3. Petitioner appealed. He argued that the verdict was against the weight of the evidence and that the prosecutor improperly commented on his constitutional rights. App. A ¶¶ 2, 25. He did not raise any Confrontation Clause issue.

The Mississippi Court of Appeals rejected petitioner’s arguments and affirmed. App. A ¶¶ 25-44. Although “[n]either party addressed” any Confrontation Clause

issue with Dr. LeVaughn's testimony, the court of appeals did so in a footnote. App. A ¶ 12 n.3. First, the court "f[ou]nd no Confrontation Clause violation with regard to Dr. LeVaughn's testimony." *Ibid.* It explained that Dr. LeVaughn's testimony "did not 'convey[]' Dr. Arboe's statements 'in support of his opinion': rather, 'Dr. LeVaughn's testimony was based solely on his own observation of the autopsy photographs and report.'" *Ibid.* (quoting *Smith*, 602 U.S. at 783). The court continued: "Nothing in Dr. LeVaughn's testimony required the jury to accept the truth of Dr. Arboe's findings because only Dr. LeVaughn's findings were put before the jury." *Ibid.* So Dr. LeVaughn did not offer hearsay testimony and his testimony did not violate the Confrontation Clause. *See ibid.* Second, the court ruled that "[e]ven if Dr. LeVaughn's testimony violated the Confrontation Clause, any error would be harmless." *Ibid.* "[T]here was," the court found, "overwhelming evidence to convict Buck based on Hodges'[] testimony and Buck's admission that he shot Roscoe." *Ibid.*

The Mississippi Supreme Court denied discretionary review. App. C.

REASONS FOR DENYING THE PETITION

Petitioner seeks review of an intermediate-state-appellate-court decision on an issue that the court addressed sua sponte in a single footnote, that is backed by an express harmless-error ruling, that concerns testimony on issues (cause and manner of death) that petitioner has never disputed, and that has no bearing on the one issue that petitioner contested at trial (whether he shot in lawful self-defense). Further review is not warranted. This case is a poor vehicle, the court of appeals correctly resolved the Confrontation Clause issue it reached, and this case does not implicate any lower-court conflict. The petition should be denied.

1. Petitioner seeks review on the question whether the Confrontation Clause “permits a State to introduce forensic pathology results and an autopsy through a surrogate pathologist who neither performed nor observed the autopsy first-hand, and whose testimony depends on the truth of an absent pathologist’s statements.” Pet. i. This case is a poor vehicle for resolving that question or any other Confrontation Clause issue. The case has at least three vehicle problems.

a. To start, this case does not present the question that the petition asks this Court to decide. The case does not involve testimony that “depends on the truth of an absent pathologist’s statements.” Pet. i. As the court of appeals recognized, Dr. LeVaughn’s testimony “did not ‘convey[]’” and did not “require[] the jury to accept the truth of” an absent pathologist’s statements on the cause and manner of death. App. A ¶ 12 n.3 (quoting *Smith v. Arizona*, 602 U.S. 779, 783 (2024)). Rather, Dr. LeVaughn’s testimony “was based solely on his own observation of the autopsy photographs and report” and put only his own “findings ... before the jury.” *Ibid.* So the petition’s question presented is not presented.

b. Next, this Court’s intervention would not affect this case’s outcome. Any Confrontation Clause error was harmless, so any confrontation issue did not matter to the decision below.

Confrontation Clause violations trigger harmless-error review. *See Delaware v. Van Arsdall*, 475 U.S. 673, 684 (1986). Such violations do not require a new trial if the State can show “beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.” *Chapman v. California*, 386 U.S. 18, 24 (1967).

The court of appeals held that any confrontation error here was “harmless.” App. A ¶ 12 n.3. That ruling is correct. The evidence supporting the verdict was “overwhelming.” *Ibid.* Petitioner admitted that he shot at Roscoe. Tr. 657; App. A ¶¶ 12 n.3, 20, 23. And Hodges testified that petitioner armed himself, approached Roscoe, fired first, and then continued firing after Roscoe returned fire. Tr. 496-503; *see* App. A ¶¶ 7-8, 12 n.3. The jury heard and rejected petitioner’s competing self-defense account. Tr. 655-59, 819-20; *see* App. A ¶¶ 12 n.3, 31-32. It had a powerful basis to do so. And Dr. LeVaughn’s testimony did not bear on the only genuinely disputed issue at trial. *Contra* Pet. 5-6, 7 (claiming that the “autopsy” played a “central role ... in the State’s case”).

Dr. LeVaughn testified to the victim’s cause and manner of death. App. A ¶¶ 12-13. Those were not disputed issues. Petitioner admitted that he shot at Roscoe and did not dispute that Roscoe died from gunshot wounds and that the wounds were not self-inflicted. Nor did petitioner dispute the trajectories of the bullets. Indeed, petitioner relied on those trajectories in closing arguments, claiming that because “bullets shoot straight,” Pet. 4, the wound paths corroborated his account of how the men were positioned during the shooting. Tr. 760, 765-66, 769; App. A ¶ 22. The only contested issue was whether petitioner acted in self-defense. Dr. LeVaughn’s testimony on the cause and manner of death added little or nothing to the testimony and evidence on that issue.

Petitioner states that in *Pitts v. Mississippi*, 607 U.S. 1 (2025), this Court summarily reversed a Confrontation Clause ruling without first resolving harmlessness. Pet. 11-12. *Pitts* does not help petitioner. In *Pitts*, this Court rejected

a lower-court decision that upheld the use of a physical screen between a child witness and the defendant, even though the trial court had made none of the case-specific findings for the screen that this Court's precedents require. 607 U.S. at 2-4. *Pitts* is materially different from this case. In *Pitts* the lower-court decision conflicted with settled law, the confrontation issue was preserved and the lower court decided it, and the lower-court decision under review did not make a harmless-error determination. *Id.* at 3-6; *Pitts v. State*, 405 So. 3d 1238, 1245-55 (Miss. 2025); *see also Pitts v. State*, 405 So. 3d 20, 31 (Miss. Ct. App. 2023). Here, the lower-court decision is correct (*see infra* pp. 8-11); petitioner did not raise a confrontation claim on appeal; the court of appeals addressed the issue only sua sponte in a footnote; and that court expressly held that any assumed error was harmless beyond a reasonable doubt. *Pitts* supplies no basis for either summary or plenary review.

c. Last, petitioner has not developed a claim or a record that would enable sound review of any constitutional issue. Petitioner initially moved the trial court to bar Dr. LeVaughn from testifying on confrontation grounds. *See* Tr. 98-111; App. A ¶ 12 n.3. But he failed to identify any statements that, in his view, violate the Confrontation Clause. After the trial court rejected his motion, petitioner did not object to Dr. LeVaughn's actual testimony on the cause and manner of death or to the trial court's admission of autopsy photographs during that testimony. *See* Tr. 401-13. Nor did petitioner raise any confrontation issue before the court of appeals. He does not even try to make up for those shortfalls now.

To implicate the Clause, an out-of-court statement must be both hearsay and testimonial, and "those two issues are separate from each other." *Smith*, 602 U.S. at

800. Thus, although in *Smith* this Court held that a testifying witness's statements conveyed hearsay, it declined to decide whether those statements were testimonial because the question was not presented. *Id.* at 801. This Court emphasized that determining whether the Clause applies requires courts to “consider *exactly* which of [the non-testifying analyst's] statements are at issue.” *Ibid.* (emphasis added). Despite this call for precision, petitioner has never identified the out-of-court statements that he contends were testimonial hearsay. He now makes only wholesale claims that “[a]ll of Dr. LeVaughn's testimony relied on Dr. Arboe's methods and the assumed truth of his results” and that Dr. LeVaughn's testimony “violated the Sixth Amendment.” Pet. 5, 7. The court of appeals did not conduct a statement-specific analysis (justifiably so, given petitioner's failure to present it). Petitioner did not present a confrontation claim that was sufficiently precise at trial—or at all on appeal. This Court should not grant review when, due to petitioner's own failures, the record is so lacking.

2. The Mississippi Court of Appeals correctly resolved the Confrontation Clause issue that it reached. And this case is materially different from *Smith*.

The Confrontation Clause applies to “testimonial hearsay”: out-of-court statements made for the “primary purpose” of use in a criminal prosecution (testimonial) that are offered at trial “to prove the truth of the matter asserted” (hearsay). *Smith*, 602 U.S. at 784-85.

Here, Dr. LeVaughn did not present hearsay on the cause and manner of death. His key testimony was based on his own observations and assessments of the admitted autopsy photographs. He testified that the photos documented Roscoe's

gunshot injuries. Tr. 401, 404, 409; App. A ¶ 13. He also explained, based on the photos, the trajectory of one of the wounds and opined that the fatal injury entered through Roscoe’s shoulder. Tr. 404-08, 412. That testimony principally rested on Dr. LeVaughn’s own observations of the admitted photos rather than any out-of-court assertions by Dr. Arboe. Because “only Dr. LeVaughn’s findings were put before the jury” and “[n]othing in Dr. LeVaughn’s testimony required the jury to accept the truth of Dr. Arboe’s findings,” he did not present hearsay testimony and so did not trigger the Clause’s prohibitions. App. A ¶ 12 n.3.

Petitioner contends that the decision below conflicts with this Court’s decision in *Smith*. Pet. 5-7. It does not. *Smith* reiterated that “[a] State may not introduce the testimonial out-of-court statements of a forensic analyst at trial”—including statements in forensic reports—“unless” the analyst “is unavailable and the defendant has had a prior chance to cross-examine her.” 602 U.S. at 802-03. A State also may not introduce such statements “through a surrogate analyst who did not participate in their creation.” *Id.* at 803. And a State may not introduce such statements by having a surrogate “present[]” them “as the basis for [her] expert opinion.” *Ibid.* In that last scenario, the out-of-court statements “come into evidence for their truth”—and thus are hearsay—“because only if true can they provide a reason to credit the substitute expert.” *Ibid.* And if the out-of-court statements of the absent analyst are also “testimonial,” then “the Confrontation Clause will bar their admission.” *Id.* at 783.

The decision below comports with *Smith*. As the court of appeals recognized, App. A ¶ 12 n.3, Dr. LeVaughn did not introduce at trial any of Dr. Arboe’s “out-of-

court statements,” nor did he present any such statements “as the basis for his expert opinion” on the cause and manner of death. *See Smith*, 602 U.S. at 802-03. Because Dr. LeVaughn did not offer hearsay—out-of-court statements that “c[a]me into evidence for their truth,” *id.* at 803—the Confrontation Clause posed no barrier to his testimony. *Id.* at 784-85; *see* App. A ¶ 12 n.3.

Petitioner argues that “[a]ll of Dr. LeVaughn’s testimony relied on Dr. Arboe’s methods and the assumed truth of his results.” Pet. 7. The record does not support that claim. Dr. LeVaughn formed his own opinions on the cause and manner of death. He testified that those opinions were “absolutely” independent of Dr. Arboe’s. Tr. 401. He then explained the location, trajectory, and effect of Roscoe’s gunshot wounds by referring to the admitted autopsy photographs and his own review of the medical evidence. Tr. 401-12; App. A ¶¶ 12-14. Although no photograph depicted the shoulder entry wound itself, Tr. 420; App. A ¶ 14, Dr. LeVaughn explained that the admitted photographs depicted the exit wound and reentry wound from that same bullet path and he relied on those photographs in describing the bullet’s trajectory and resulting injuries. Tr. 405-07. Nothing in Dr. LeVaughn’s testimony required the jury to accept the truth of any factual assertion made by Dr. Arboe before crediting Dr. LeVaughn’s opinions.

In a plea for summary reversal, petitioner cites *Busby v. Mississippi*, No. 25-6885. Pet. 5 & n.2. *Busby* does not help him. In *Busby*, the petitioner argued in his petition for certiorari that a lower-court Confrontation Clause ruling conflicted with *Smith*, the State filed a response agreeing with that point and urging this Court to vacate the lower-court decision, and this Court summarily vacated in light of the

State's position. *Busby v. Mississippi*, No. 25-6885, — S. Ct. —, 2026 WL 1780189, at *1 (U.S. June 22, 2026); see Brief in Response 5-9, *Busby v. Mississippi*, No. 25-6885 (filed May 14, 2026).

Busby involved three critical features that are absent here. First, the lower-court decision in *Busby* squarely conflicted with *Smith*. The court in *Busby* allowed a non-testing drug analyst to testify to the results of forensic drug testing when the non-testing analyst could do that only by accepting the truth of what the testing analyst had reported about her work. So that testimony contained hearsay statements that—to the extent that the statements were testimonial—implicated the Confrontation Clause. The State said all this in *Busby* and thus urged vacatur. See *Busby* Brief in Response 5-9. The decision here, by contrast, is correct and comports with *Smith*. *Supra* pp. 8-11. Second, *Busby* involved forensic drug testing of a controlled substance and not (as is at issue here) forensic pathology. Forensic pathology frequently involves an expert's evaluation of objective medical evidence—including wounds, trajectories, and autopsy photographs—from which another qualified pathologist may independently draw medical conclusions. By contrast, forensic drug testing involves machine-based testing of a substance, so an analyst who lacks access to the substance and who did not perform the relevant testing can form conclusions about the substance only by accepting the truth of the testing analyst's conclusions. Third, in *Busby* the lower-court decision did not address whether any error was harmless. See *Busby* Brief in Response 9. Here the court below expressly ruled that any error was harmless. App. A ¶ 12 n.3.

3. Last, the decision below implicates no lower-court conflict.

In claiming otherwise, petitioner cites (Pet. 7-11) cases that mainly involve drug testing (rather than forensic pathology) and that forbid a practice that did not occur in this case: an in-court witness conveying at trial a non-testifying analyst's testimonial hearsay. *See State v. Thomas*, 334 A.3d 686, 690, 702-04 (Me. 2025) (a chemist who did not perform lab testing on substances seized from the defendant relied on an out-of-court chemist's notes, and with "no further calculation or analysis" accepted the substances' weight "as determined by [the out-of-court chemist]" and "testified to that weight for the truth of the matter asserted"); *Commonwealth v. Gordon*, 266 N.E.3d 369, 374, 382, 385, 392-93 (Mass. 2025) (testifying analyst's "opinion as to the identity of the controlled substance" depended on the truth of an out-of-court analyst's statements and "merely replicate[d]" that analyst's "conclusions"); *Watkins v. State*, 912 S.E.2d 574, 587 (Ga. 2025) (lab analyst's testimony merely "relay[ed] the factual assertions and conclusions" from an out-of-court analyst's report stating that a substance seized from the defendant "was in fact cocaine"); *State v. Hall-Haught*, 569 P.3d 315, 322 (Wash. 2025) (analyst relied on out-of-court colleague's toxicology report, which was "admitted for its truth"); *United States v. Seward*, 135 F.4th 161, 168 (4th Cir. 2025) (testifying DNA expert "relied" "exclusively on the work produced by another analyst" and conveyed the "non-testifying analyst[s] statements" "for their truth"). This case does not involve an in-court witness conveying a non-testifying analyst's testimonial hearsay. Here, Dr. LeVaughn testified to his own opinion, based on materials that included non-hearsay photos, of Roscoe's cause and manner of death. *Supra* pp. 8-11. Nothing in that

testimony required the jury to accept as true any testimonial assertion by the non-testifying pathologist.

The only autopsy-related case that petitioner invokes is *State v. Jaramillo*, 272 P.3d 682 (N.M. Ct. App. 2011). There, the New Mexico Court of Appeals held that a trial court's admitting an autopsy report generated by a pathologist who did not testify at trial violated the defendant's confrontation rights. *Id.* at 684. *Jaramillo* is materially different from this case. In *Jaramillo* a witness who did not conduct the victim's autopsy "read directly from the autopsy report" when discussing facts about the young victim's age and cause of death, and the "entire report was thereafter admitted as evidence." *Ibid.* Unlike Dr. LeVaughn, the witness in *Jaramillo* did not convey his own opinion: he simply read from and conveyed the absent pathologist's conclusions, and the autopsy report itself was presented to the jury. The court in *Jaramillo* also held that the error of admitting the report into evidence was not harmless because the testimony on whether the victim's death was "human caused, rather than accidental," was crucial to the case and the "wrongfully admitted report" bolstered testimony on that "critical" issue. *Id.* at 689. No such errors occurred here: Dr. LeVaughn's testimony was not relevant to the key disputed issue—whether petitioner acted in self-defense. And again, any error here was harmless. *Supra* pp. 5-7. Further, the "multiple gunshot wounds" that caused death here were discernable from the photos themselves and did not require any further analysis from out-of-court statements in the report. *Jaramillo* turns on facts that are absent here.

CONCLUSION

The petition should be denied.

Respectfully submitted.

LYNN FITCH
Attorney General
BARBARA BYRD
Special Assistant Attorney General
Counsel of Record
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205-0220
Barbara.Byrd@ago.ms.gov
(601) 359-3680
Counsel for Respondent

August 10, 2026