No. 25A899

In the
Supreme Court of the United States

JAMES GARFIELD BROADNAX,
Petitioner,

v.

TEXAS,
Respondent.

On Petition for a Writ of Certiorari
to the Court of Criminal Appeals of Texas, No. 25-938

RESPONDENT'S BRIEF IN OPPOSITION TO PETITIONER'S APPLICATION FOR STAY OF EXECUTION

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PARTIES TO THE PROCEEDING

James Garfield Broadnax is the **Petitioner** in this proceeding.

The State of Texas is the **Respondent** in this proceeding.

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RESPONDENT'S OPPOSITION TO
PETITIONER'S APPLICATION FOR STAY OF EXECUTION

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

In 2008, James Garfield Broadnax and his cousin Demarius Cummings brutally shot and killed Stephen Swan and Matthew Butler in the course of a robbery. In December 2025, the Criminal District Court No. 7 of Dallas County, Texas scheduled Broadnax's execution for April 30, 2026. Broadnax's application for a stay of execution is based on his petition for a writ of certiorari, No. 25-938, filed February 4, 2026.

Broadnax fails to demonstrate he is entitled to a stay of execution under this Court's precedent. Broadnax has the burden of persuasion on his stay request, and he is required to make "a clear showing" that he is entitled to one. *Hill v. McDonough*, 547 U.S. 573, 584 (2006). But Broadnax cannot show a likelihood of succeeding on the merits. Broadnax's petition for certiorari is his fourth attempt to obtain this Court's review of his *Batson* claims that the State used its peremptory challenges during voir dire in a racially discriminatory manner. Moreover, "[l]ast-minute stays should be the extreme exception, not the norm[.]" *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019); *see also Barr v. Lee*, 591 U.S. 979, 981 (2020). The delay in carrying out Broadnax's sentence should weigh heavily in the evaluation of this application for a stay. The State and public's interest in the timely enforcement of Broadnax's sentence is not outweighed by the unlikely possibility that certiorari will be granted. Accordingly, this Court should deny Broadnax's request for a stay.

I. The Application for a Stay of Execution Should Be Denied

A stay of execution "is not available as a matter of right, and equity must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Hill,* 547 U.S. at 584 (citing *Nelson v. Campbell*, 541 U.S. 637, 649–50 (2004)). Rather, the inmate must satisfy all the requirements for a stay, including a showing of a significant possibility of success on the merits. *Id.* (citing *Barefoot v. Estelle*, 463 U.S. 880, 895–96 (1983)). When the requested relief is a stay of execution, the court must consider four factors:

> (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Nken v. Holder, 556 U.S. 418, 434 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)); *see also Buxton v. Collins*, 925 F.2d 816, 819 (5th Cir. 1991). A court must consider "the State's strong interest in proceeding with its judgment" and "attempt[s] at manipulation." *Nelson*, 541 U.S. at 649–50 (citing *Gomez v. U.S. Dist. Court for Northern Dist. of California,* 503 U.S. 653, 654 (1992)).

A. Broadnax is Unlikely to Succeed on the Merits.

Broadnax fails to make a strong showing that he will succeed on this fourth attempt at this Court's review of his *Batson* claims. The state trial court, the Texas Court of Criminal Appeals (TCCA) on direct appeal, the federal courts on federal habeas (including this Court), and the TCCA on a subsequent state habeas application have all correctly rejected or dismissed Broadnax's *Batson* claims. Most

recently in 2024, this Court denied certiorari review of Broadnax's *Batson* claims from his first subsequent state habeas application, No. 23-248. *Broadnax v. Texas,* 144 S. Ct. 2700 (2024). Given the procedurally defective and meritless character of his claims, Broadnax fails to show there is a significant possibility the Court will grant certiorari.

1. *Broadnax is unlikely to succeed on the merits because this Court has previously denied review of the vast majority of his* Batson *allegations.*

Two years ago, this Court denied Broadnax's petition for certiorari (No. 23-248) on his *Batson* claims in the appeal of his first subsequent state habeas application. *Broadnax,* 144 S. Ct. 2700. With the exception of two instances of alleged new evidence (involving a voir dire seating chart from Broadnax's co-defendant's trial and declarations by three prospective jurors from Broadnax's case), *every* assertion and argument Broadnax asserted before the lower court and in his underlying petition for certiorari has been previously raised and rejected for review. This includes (but may not be limited to) his allegations that: the State had a strategy to strike Black jurors; the State's race-neutral reasons for its strikes were pretextual; the State engaged in disparate treatment and questioning; the State invoked race in a discriminatory manner throughout trial and in its closing arguments; the questioning of, reasons for striking, and prosecutor's notes regarding prospective juror C.R. showed race discrimination; the State's summary of the voir dire data in an Excel spreadsheet showed pretext; the statistical disparity in the State's strikes showed pretext; and, the alleged history of *Batson* violations in Dallas County showed pretext. *All* of these

claims were previously raised and rejected in this Court's ruling on Broadnax's 2023 petition for certiorari in cause no. 23-248 (*see id.*); therefore, the State will not readdress those claims here.

2. *This Court lacks jurisdiction over an appeal from the TCCA's one-word denial of Broadnax's suggestion that the TCCA reconsider on its own initiative his prior habeas claims.*

Broadnax appeals the TCCA's denial of his "Suggestion to Reconsider on the Court's Own Motion" the TCCA's dismissal of his *Batson* claims from his first subsequent state habeas application (hereinafter "Suggestion to Reconsider"). *See Ex parte Broadnax*, No. WR-81,573-02 (Tex. Crim. App. Nov. 6, 2025) (postcard denying suggestion to reconsider on court's own motion). (Pet. at 1a–7a). Broadnax sought the TCCA's reconsideration of his *Batson* claims because (a) in his co-defendant's capital murder trial, where *half* the seated jurors were minority individuals, a member of the prosecution team notated, along with other information, the race and gender of each prospective juror on a voir-dire seating chart, and (b) he obtained three declarations of *Batson*-challenged jurors from his trial attesting, among other things, that they would have been fair and impartial jurors and were in favor of the death penalty.

This Court lacks jurisdiction because (1) no precedent suggests the TCCA's denial of Broadnax's Suggestion to Reconsider is an appealable final decision and (2) the TCCA's denial of reconsideration is purely a state-law matter, which deprives this Court of jurisdiction.

First, there is no mechanism in Texas for the TCCA to rehear, on Broadnax's motion, the dismissal of his subsequent habeas application. *See* Tex. R. App. P. 79.2(d) (explicitly barring a motion for rehearing on any order dismissing a habeas application or denying relief in state habeas proceedings under Texas Code of Criminal Procedure, Article 11.071). And there is no precedent that a petition for certiorari from an improper state-law vehicle instills jurisdiction in this Court.

In 2023, the TCCA dismissed Broadnax's first subsequent habeas application, holding he failed to satisfy the requirements of Texas Code of Criminal Procedure, Article 11.071, Section 5. *Ex parte Broadnax*, No. WR-81,573-02, 2023 WL 3855947, at *1 (Tex. Crim. App. June 7, 2023) (per curiam) (not designated for publication). Broadnax's Suggestion to Reconsider followed. Although the TCCA "may on its own initiative reconsider [a] case," *see* Tex. R. App. P. 79.2(d), a suggestion by a party that the TCCA reconsider is not a valid legal mechanism. Broadnax's non-conformity with state law deprives this Court of jurisdiction. And there is no precedent for holding that Supreme Court Rule 13's references to a lower state court judgment encompasses the TCCA's post-card denial of a motion for reconsideration. (*See* No. 25-938, Respondent's Brief in Opposition at 15–16).

Second, the TCCA's election whether to rehear a habeas case on its own accord is wholly a matter of state law. *See Ex parte Moreno*, 245 S.W.3d 419, 427–28 (Tex. Crim. App. 2008) (noting the TCCA's discretion to reopen a habeas proceeding is exercised only "under the most extraordinary" or "compelling circumstances"). There

is no federal law involved in the TCCA's decision to reconsider a habeas case—which precludes this Court exercising its jurisdiction.

The TCCA may have denied Broadnax's Suggestion to Reconsider for the same purely state-law reasons that it dismissed his first subsequent habeas application without considering the merits, *see Broadnax*, 2023 WL 3855947, at *1, such as that Broadnax's *Batson* claims were procedurally barred on habeas because the core claims were raised and rejected on direct appeal, or he failed to show reasonable diligence to ascertain the factual basis for his claims earlier and raise them in his initial state habeas application. (*See* No. 25-938, Respondent's Brief in Opposition at 19–20).

Moreover, the single-word ruling—"denied"—does not support a reasonable conclusion that the TCCA considered Broadnax's federal constitutional claims. The decision below must fairly appear to rest on or be interwoven with federal law for this Court to exercise its jurisdiction—which is not the case from the face of the denial here. *See Coleman v. Thompson*, 501 U.S. 722, 735 (1991). And this Court has already rejected Broadnax's misinterpretation of *Ex parte Campbell*, 226 S.W.3d 418 (Tex. Crim. App. 2007)—that the TCCA reaches the merits in every subsequent habeas analysis by examining both (a) the prior factual and/or legal availability of a claim and (b) whether the facts alleged establish a prima face showing of a constitutional violation—when it denied his petition for certiorari in No. 23-248. *See Broadnax,* 144 S. Ct. 2700.

Because this Court lacks jurisdiction, Broadnax cannot show a likelihood of succeeding on the merits.

3. *Broadnax is unlikely to succeed on the merits because his alleged new evidence is not persuasive.*

Broadnax's *Batson* claims are still meritless, and there is no compelling reason for this Court to review them further. Broadnax's alleged new evidence does not overcome the valid, non-discriminatory reasons for the State's peremptory strikes or show pretext. *See Broadnax v. Lumpkin,* 987 F.3d 400, 411–12 (5th Cir. 2021) (noting that, with the exception of one juror who was struck for a unique answer about an offender's drug use, every *Batson*-challenged venireperson indicated they opposed the death penalty or it should not be invoked, and the State struck every juror, regardless of race, who answered this way).

First, Broadnax contends a courtroom seating chart from his co-defendant's voir dire with an unknown prosecutor's handwritten marginalia identifying the race and gender of the prospective jurors proves race-discrimination during jury selection in Broadnax's case. Broadnax's co-defendant and cousin, Demarius Cummings, was convicted of capital murder. Because the State did not seek a death sentence, the trial court automatically sentenced Cummings to life in prison without parole. *See* Tex. Penal Code § 12.31(a)(2).

On the whole, the circumstances of Cummings's jury selection disprove the State engaged in race discrimination: Cummings's jury was composed of six White, four Black, and two Hispanic individuals. Thus, there was no prima facie case of race-discrimination in Cummings's trial.

Broadnax contends the voir dire seating chart from Cummings's trial refutes the State's explanation in his case regarding its use of an Excel spreadsheet summarizing the jury data for the qualified panel of 47 prospective jurors—listing the name, gender, race, qualified panel juror number, original juror number, and each juror's response to a particular question on the written jury questionnaire regarding their feelings on the death penalty. But the Fifth Circuit has already determined the spreadsheet does not render the State's race-neutral reasons for its strikes pretextual and the District Attorney's Office would have been remiss not to prepare thoroughly to defend its peremptory challenges, including by identifying the jurors in a protected class. *Broadnax,* 987 F.3d at 409–10. The Fifth Circuit's analysis particularly applies because the State faced the monumental task of compiling information for 130 jurors who were questioned over a seven-week period and completed 2,340 pages of questionnaires.

Broadnax further contends there would have been no need for the State to note the prospective jurors' race during Cummings's voir dire because there were no challenges to peremptory strikes and no *Batson* hearing was held, but Broadnax fails to recognize the distinctions between a death penalty and non-death penalty voir dire. Of course, the State could not have known Cummings would not raise any *Batson* challenges until the time the State asserted its strikes, and the trial court would have required the State to provide its explanations and comparative juror analysis immediately. There would have been no delay or opportunity for the State to prepare for a later or separate *Batson* hearing.

Second, Broadnax contends that declarations he obtained 16 years after his trial from three excluded Black venire members support his *Baston* claims. However, the State is not aware of and Broadnax does not cite *any* cases that have considered post-trial juror statements in analyzing a *Batson* claim. Consideration of the declarations will usurp the Court's role in interpreting the evidence from trial, including the jurors' questionnaires and responses during individual voir dire. In fact, the jurors' declarations directly contradict some of their responses during voir dire and thus are wholly unhelpful and irrelevant today. This Court should disregard the declarations.

Broadnax has not shown this Court has jurisdiction over his *Batson* claims or that there are compelling grounds to issue a writ of certiorari. His failure to offer a sound basis for relief supports the denial of a stay of execution.

B. Broadnax Will Not be Irreparably Injured Absent a Stay.

Broadnax is unlikely to suffer irreparable harm. In a capital case, a court may properly consider the nature of the penalty in deciding whether to grant a stay, but "the severity of the penalty does not in itself suffice." *Barefoot*, 463 U.S. at 893. Broadnax's stay application points to the severity of penalty in attempting to show harm (Application for Stay at 7), which is insufficient in and of itself.

Broadnax also contends this Court does not have time to give due consideration to whether his claims meet this Court's standards for review. (Application for Stay at 7). However, the Court has docketed Broadnax's petition for certiorari for its April

24, 2026 conference, and the State trusts that schedule allows the Court sufficient time and full consideration of its decision on Broadnax's petition.

C. The State and the Public Have a Strong Interest in Seeing the State Court Judgment Carried Out.

The State and crime victims have a "powerful and legitimate interest in punishing the guilty." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998) (citation omitted). And "[b]oth the State and the victims of crime have an important interest in the timely enforcement of a [death] sentence." *Bucklew*, 587 U.S. at 149 (quotation omitted); *see Nelson*, 541 U.S. at 650 ("a State retains a significant interest in meting out a sentence of death in a timely fashion"); *Gomez v. United States Dist. Court*, 503 U.S. 653, 654 (1992) (per curiam) ("[e]quity must take into consideration the State's strong interest in proceeding with its judgment"). Once post-conviction proceedings "have run their course . . . finality acquires an added moral dimension." *Calderon*, 523 U.S. at 556. "Only with an assurance of real finality can the State execute its moral judgment in a case" and "the victims of crime move forward knowing the moral judgment will be carried out." *Id*. The State should be allowed to pursue its "strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Crutsinger v. Davis*, 936 F.3d 265, 273 (5th Cir. 2019) (citations and internal quotations omitted). Broadnax's case has already received full state and federal collateral review. The petition for certiorari behind this application for a stay is an appeal from the TCCA's refusal to reconsider its dismissal of Broadnax's first subsequent state habeas application. This is Broadnax's fourth attempt to obtain this Court's review of his *Batson* claims. The public's interest is not advanced by

postponing Broadnax's execution, and this Court should not undertake action that would cause further delay. *See Martel v. Clair*, 565 U.S. 648, 662 (2012) ("Protecting against abusive delay *is* an interest of justice.") (emphasis in original).

CONCLUSION

Respondent respectfully asks this Court to deny Broadnax's application for a stay of execution based on his petition for certiorari in No. 25-938.

Respectfully submitted,

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