

No. 25A \_\_\_\_\_  
(CAPITAL CASE)

**In The  
Supreme Court of the United States**

CHARLES DON FLORES,

*Petitioner,*

v.

TEXAS,

*Respondent.*

---

**APPLICATION FOR EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE  
TEXAS COURT OF CRIMINAL APPEALS**

---

GRETCHEN SIMS SWEEN,  
*Counsel of Record*, Member of the Supreme Court Bar  
712 Upson Street  
Austin, TX 78703  
gsweenlaw@gmail.com  
Telephone: 214.557.5779

*Counsel for Applicant*

December 22, 2025

## APPLICATION

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

Under 28 U.S.C. § 2101(c) and this Court's Rule 13.5, Applicant Charles Don Flores hereby moves for an extension of time from January 7, 2026, to no later than **February 17, 2026**, for the filing of a petition for writ of certiorari. Mr. Flores seeks this one-time, 42-day extension for the following reasons:

1. This Court has jurisdiction to grant this application under 28 U.S.C. § 1257(a) and 28 U.S.C. § 2101(c).
2. Mr. Flores seeks review of a decision of the Texas Court of Criminal Appeals, Texas's criminal court of last resort. The decision, dated October 9, 2025, dismissed his habeas application in this death-penalty case without considering the merits of any claims. *See Exhibit A.*
3. Absent an extension, Mr. Flores's petition for writ of certiorari would be due on January 7, 2026. In accordance with Supreme Court Rule 13.5, this application is being filed more than 10 days before that date.
4. Mr. Flores was convicted of capital murder and sentenced to death in Dallas County, Texas in 1999 for the 1998 murder of Betty Black during a home invasion. He has consistently maintained his innocence. He has amassed significant evidence that his conviction was obtained through junk science and police and prosecutorial misconduct, evidence which no court has yet considered. That evidence includes the fact, never disclosed by the State, that the co-defendant and actual

shooter was the son of a local police officer whose department was involved in the underlying murder investigation and who, as a known drug dealer/addict, was, at the time of the murder, employed, along with his brother, as an informant with the narcotics unit with jurisdiction over the murder investigation. Due to deficient representation and the absence of any resources, investigation of the facts underlying this wrongful conviction was not even initiated until Mr. Flores's first execution warrant was signed in 2016. His execution date was then stayed by order of the Texas Court of Criminal Appeals to permit development of a narrow issue involving the State's reliance on an identification obtained from a witness 13 months after-the-fact and after that witness had been subjected to "investigative hypnosis" by police officers involved in the underlying murder investigation at the police station.

5. The State's reliance on "investigative hypnosis" to obtain inculpatory evidence mid-trial was, however, far from the only issue casting doubt on the integrity of the conviction. After Mr. Flores obtained new counsel, who commenced trying to uncover long-buried information largely missing from a heavily redacted and purged police file, Mr. Flores amassed voluminous evidence supporting his pursuit of a writ of habeas corpus. That new evidence includes a detailed report from a leading expert on the current consensus in the field of eyewitness memory and the limits and import of eyewitness identification testimony (Dr. John Wixted). This new evidence was amassed to demonstrate that Mr. Flores had established the right, pursuant to state law, to present to a state court his claims of changed science, actual innocence, official misconduct, and other federal and state law violations. This new evidence was

presented to Texas's highest criminal court, but to no avail. In multiple state court proceedings in which Mr. Flores has alleged substantive claims based on new, previously undiscoverable evidence and in which he has endeavored to rely on a state procedural law enacted expressly to address circumstances of this nature, he has been repeatedly barred, based on unexplained procedural grounds. *See, e.g.*, Exhibit A.

6. A petition for writ of certiorari is essential in this case because Mr. Flores is under a death sentence and his post-conviction case presents substantial, important, and recurring questions of systemic failure where a state judiciary declines to shoulder its burden to ensure vindication of federal constitutional rights in the most serious cases. The issues raised by this case are germane to the integrity of federalism itself and the limited role federal courts play in assessing the violation of federal constitutional rights in state criminal proceedings. The federal questions involved here include the issue of whether a habeas applicant is denied Due Process under the Fourteenth Amendment to the U.S. Constitution in a state habeas proceeding where state law creates a specific liberty interest and that right is arbitrarily ignored leaving the applicant with no means to prove his actual innocence, as that is not a right currently recognized under federal constitutional law.

7. Undersigned counsel respectfully seeks this extension of time because of the importance of the issues in this case and counsel's obligations in other cases. Undersigned counsel is a solo practitioner appointed to represent Mr. Flores under the Criminal Justice Act (CJA), but she has been representing him in state habeas on a pro bono basis because the federal courts in the Fifth Circuit are not authorizing

compensation for work undertaken to develop previously unexhausted claims for habeas relief or to prepare and present petitions for writs of certiorari to this Court arising out of state habeas proceedings. Unfortunately, between the date of the instant application and the current deadline for filing a petition for writ of certiorari, Ms. Sween has substantial obligations in other capital cases as well as this one. These obligations include sole responsibility for proposed Findings of Fact and Conclusions of Law in a post-conviction proceeding involving a multi-week evidentiary hearing for a death-sentenced individual (due February 6, 2026), a Closing Argument following a post-conviction evidentiary hearing in a death-penalty case (on February 10, 2026), and a reply brief in a direct appeal in a death-penalty case (due January 31, 2026).

8. Counsel requires the additional time to prepare a well-reasoned and amply supported petition for writ of certiorari on a complex and extensive record. That is, good cause exists. Additionally, undersigned counsel hopes to spend some time with family during the forthcoming Christmas holiday.

9. Counsel for Mr. Flores has conferred with counsel for the State, who does not oppose the relief requested here.

10. Therefore, Applicant respectfully requests that an extension of time, up to and including **February 17, 2026**, be granted within which Applicant may file a petition for writ of certiorari.

Respectfully submitted,

/s/ Gretchen Sims Sween

GRETCHEN SIMS SWEEN,  
*Counsel of Record*, Member of the Supreme Court Bar  
712 Upson Street  
Austin, TX 78703  
gsweenlaw@gmail.com  
Telephone: 214.557.5779

*Counsel for Applicant*

December 22, 2025

# EXHIBIT A



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

---

---

**NO. WR-64,654-04**

---

---

**EX PARTE CHARLES DON FLORES, Applicant**

---

---

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. F-9802133 IN THE 195TH DISTRICT COURT  
DALLAS COUNTY**

---

---

*Per curiam.*

## **O R D E R**

This is a subsequent application for a writ of habeas corpus filed pursuant to Texas Code of Criminal Procedure Article 11.071, Section 5.<sup>1</sup> In April 1999, a jury found Applicant guilty of the 1998 murder of Elizabeth Black in the course of committing or attempting to commit robbery and burglary. *See* TEX. PENAL CODE § 19.03(a). Based on the jury's answers to the special issues submitted pursuant to Article 37.071, the trial court sentenced Applicant to death. *See* Art. 37.071, § 2(g). This Court affirmed Applicant's conviction and sentence on direct appeal. *Flores v. State*, No. AP-73,463 (Tex. Crim. App. Nov. 7, 2001) (not designated for publication).

---

<sup>1</sup> Unless otherwise indicated, all references and citations to Articles in this order refer to the Texas Code of Criminal Procedure.

Applicant filed his initial state habeas application in September 2000. This Court denied relief. *See Ex parte Flores*, No. WR-64,654-01 (Tex. Crim. App. Sept. 20, 2006) (not designated for publication). Applicant filed his first subsequent state habeas application in May 2016. This Court remanded one claim under Article 11.071, Section 5. *See Ex parte Flores*, No. WR-64,654-02 (Tex. Crim. App. May 27, 2016) (not designated for publication). The habeas court recommended denying relief, and this Court agreed. This Court denied the remanded claim and dismissed the rest as abuses of the writ. *See Ex parte Flores*, No. WR-64,654-02 (Tex. Crim. App. May 6, 2020) (not designated for publication). Applicant filed his second subsequent state habeas application in February 2021, raising ten claims. This Court dismissed the application as an abuse of the writ without merits review, as it failed to satisfy Article 11.071, Section 5. *See Ex parte Flores*, No. WR-64,654-03 (Tex. Crim. App. Oct. 6, 2021) (not designated for publication).

On June 10, 2025, Applicant filed the instant third subsequent state habeas application raising four claims for post-conviction relief: Applicant is entitled to habeas relief under Article 11.073 based on a new scientific consensus regarding eyewitness identification reliability; Applicant is entitled to habeas relief because he is actually innocent; Applicant is entitled to habeas relief because his conviction was obtained through official misconduct; and Applicant has been deprived of a state-created liberty interest embodied in Article 11.073 in violation of federal constitutional due process. Having reviewed Applicant's application, we conclude that it does not satisfy the requirements of Article 11.071, Section 5. Therefore, we dismiss the application as an abuse of the writ without reviewing the merits of the claims raised. Art. 11.071, § 5(c).

IT IS SO ORDERED THIS THE 9<sup>th</sup> DAY OF OCTOBER, 2025.

Do Not Publish