

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

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IN THE  
**Supreme Court of the United States**

CEDRIC RICKS,

*Petitioner,*

v.

TEXAS,

*Respondent.*

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

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**APPLICATION FOR STAY OF EXECUTION**

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

Petitioner Cedric Ricks is scheduled for execution on March 11, 2026. Ricks requests that this Court stay his execution pending the disposition of his petition for writ of certiorari. That petition has a powerful and potentially meritorious claim that the State struck jurors based on their race in violation of *Batson v. Kentucky*, 476 U.S. 79 (1986). Ricks has long suspected that the State discriminated because of jurors' race during jury selection. Indeed, he raised a *Batson* objection at

the time of trial and specifically asked to see the State's notes. The State refused to provide their notes. The trial court denied Ricks's request as well and held that he did not establish a prima facie case of discrimination, ending the *Batson* inquiry. Based on the "limited information" in the record regarding the *Batson* challenge, Ricks's direct appeal counsel investigated but did not present that claim. App. B at 1. The Texas Court of Criminal Appeals (TCCA) endorsed this as an objectively reasonable strategic decision by direct appeal counsel. *Ex parte Ricks*, 2020 WL 6777958, \*1 (Tex. Crim. App. Nov. 18, 2020).

Ricks continued to pursue the notes. Before filing his initial state habeas application, Ricks's counsel requested access to "the State's complete file." App. C at 1. Although the State reluctantly complied, they did not provide their jury selection notes. *Id.* It was not until 2021, during federal habeas proceedings, that the State finally disclosed their jury selection notes (likely inadvertently) showing that they tracked the race of minority jurors not only in the broad venire pool but more specifically those jurors who fell within the strike zone. Yet, the federal district court denied Ricks permission to return to state court and present his unexhausted *Batson* claim. *Ricks v. Lumpkin*, 2023 WL 8224931, \*13 (N.D. Tex. Sept. 26, 2023). Thus, his first opportunity to use the State's racially coded jury selection notes in state court was not until this Court denied Ricks's petition for writ of certiorari last fall. *Ricks v. Guerrero*, 146 S. Ct. 124 (Oct. 6, 2025) (Mem).

Finally in possession of the State's racially coded jury selection notes and able to present them to the state court, Ricks was barred from doing so. Ricks alleged that he met the requirements for proceeding on a subsequent state habeas application. Such a filing can be authorized for merits consideration when "the factual basis for the claim was unavailable on the date the applicant filed the previous application," which occurs when "the factual basis was not ascertainable through the

exercise of reasonable diligence.” *See* Tex. Code Crim. Proc. art. 11.071, §§ 5(a)(1), (e). Despite Ricks’s diligent attempts to previously obtain the State’s jury section notes, the TCCA found that Ricks “failed to show that he satisfies the requirements of Article 11.071 § 5” and “dismiss[ed] the application as an abuse of the writ without reviewing the merits of the claims raised.” App. A at 2–3.

That was fundamentally unfair and violated Ricks’s right to due process. *See Medina v. California*, 505 U.S. 437, 445–46 (1992). As applied to Ricks, allowing Article 11.071 § 5 to bar him from presenting his *Batson* claim violated due process. This Court should intervene and stay Ricks’s execution to remedy this injustice.

#### **I. Requirements for a stay of execution.**

A stay of execution is justified pending the disposition of a petition for writ of certiorari. *See Barefoot v. Estelle*, 463 U.S. 880, 889 (1983) (“Approving the execution of a defendant before his appeal is decided on the merits would clearly be improper.”). The standards governing when a stay should issue are well-settled. A stay of execution “is an equitable remedy” and “is not available as a matter of right.” *Hill v. McDonough*, 547 U.S. 573, 584 (2006). Courts consider:

- (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)).

Whether the applicant unnecessarily delayed in bringing his claim is also considered. *Hill*, 547 U.S. at 584.

**II. Ricks’s petition is likely to succeed on the merits.**

Ricks has shown a likelihood of success on the merits for the reasons explained in his petition for writ of certiorari. That petition explains why the application of Article 11.071 § 5 to Ricks violated his due process rights, which presents a significant question of constitutional importance. That claim is tied to a weighty *Batson* allegation, highlighted by the State’s racially coded jury selection notes and that a white juror who the State did not strike showed the same allegedly objectionable characteristics of two Black prospective jurors that the State did strike.

**III. Executing Ricks is an irreparable injury.**

Ricks’s upcoming execution is an irreparable injury. In a capital case, this factor “weighs heavily in the movant’s favor” based on the “irreversible nature of the death penalty.” *O’Bryan v. Estelle*, 691 F.2d 706, 708 (5th Cir. 1982). Once an execution occurs the harm can never be undone.

**IV. Any harm to other parties or the public is minimized.**

Ricks recognizes that “the State and the victims of crime have an important interest in the timely enforcement of a sentence.” *Hill*, 547 U.S. at 584. However, any injury to other parties by staying Ricks’s execution is minimized for two reasons. First, any harm to other parties is mitigated by the temporary nature of the requested relief. The requested stay does not invalidate Ricks’s conviction or sentence, but instead is only a temporary measure to allow him an opportunity to litigate this potentially meritorious *Batson* claim. Second, Texas is responsible for the need for a stay. Ricks has sought the jury selection notes since his 2014 trial. Had the State turned them over when requested then, or during Ricks’s later requests, this claim could have been litigated earlier.

This Court should grant Ricks’s application and stay his execution pending the disposition of his petition for writ of certiorari.

Respectfully submitted,

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