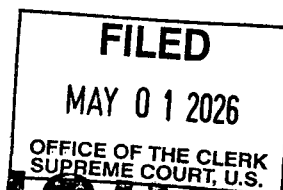


No. 26-5208



**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

STEVEN MICHAEL BACKSTROM — PETITIONER  
(Your Name)

vs.

THE STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Texas Court of Criminal Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

STEVEN MICHAEL BACKSTROM  
(Your Name)

9601 Spur 591, Amarillo, TX 79107  
(Address)

Amarillo, TX 79107  
(City, State, Zip Code)

(Phone Number)

## QUESTION(S) PRESENTED

### QUESTION ONE:

Is due process as defined by the Fourteenth Amendment violated where a habeas petitioner satisfies every legal habeas requirement set forth in state jurisprudence yet the state's highest criminal appellate court dismisses the application under procedural default?

### QUESTION TWO:

Where the dismissal of a habeas application by the state's highest criminal appellate court infers the applicant could have raised his new factual basis-claim in a previously submitted application, what is due diligence as it relates to reasonable ascertainability and the Due Process Clause of the Fourteenth Amendment?

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Office of the Attorney General For  
the State of Texas  
P.O. Box 12548  
Austin, TX 78711

Steven Michael Backstrom  
9601 Spur 591  
Amarillo, TX 79107

## RELATED CASES

Ex parte Mayhugh, 2016 Tex.Crim.App. LEXIS 1566

Ex parte Keller, 2015 Tex.Crim.App. Unpub. LEXIS 378

In re Lewis, 2025 Tex.Crim.App. Unpub. LEXIS 44(citing Ex parte  
Lewis, 2026 Tex.Crim.App.Unpub.LEXIS 86)

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Applicant no longer has copies of the additional exhibits; however, he has made reference to his State writ G's exhibits which coincide with those exhibits (Ex #s 14 and 13: P. 14; Exs 7, 8, 17, 18, and 19: P.15;Exs 2, and 13:P. 16; Ex 25:P. 17. See Motion to bring the Record Forward.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

~~xxx~~ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

~~xxx~~ reported at 2026 Tex.Crim.App.unpub. LEXIS 125; or,  
☐ has been designated for publication but is not yet reported; or,  
~~xxx~~ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was April 2, 2026  
A copy of that decision appears at Appendix <sup>A</sup>\_\_\_\_\_.

☒ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United State Constitution, Amendment V:

"In all criminal prosecutions, the accused shall enjoy the right  
... to have the [effective] assistance of counsel for his defense."

United States Constitution, Amendment XIV:

"No State shall deprive any person of life, liberty, or property  
without due process of law..."

Texas Code of Criminal Procedure, art. 11.07 §4(a)(1),(2):

(a) If a subsequent application for writ of habeas corpus is filed after final disposition of an initial application challenging the same conviction, a court may not consider the merits of or grant relief based on the subsequent application unless the application contains sufficient facts establishing that:

(1) the current claims and issues could not have been presented previously in an original application filed under this article because the factual or legal basis was unavailable on the date the applicant filed the previous application; or

(2) by a preponderance of the evidence, but for a violation of the United State Constitution no rational juror could have the applicant guilty beyond a reasonable doubt.

(c) For purposes of subsection (a)(1), a factual basis of a claim is unavailable before a date described by Subsection (a)(1) if the factual basis was not ascertainable through the exercise of reasonable diligence on or before that date.

Texas Code of Criminal Procedure, art. 11.073(a)(10),(2),(b)(1)

(A)(B),(2),(c):

(a) This article applies to relevant scientific evidence that:

(1) was not available to be offered by a convicted person at the convicted person's trial; or

(2) contradicts scientific evidence relied upon by the state at trial.

(b) A court may grant a convicted person relief on an application for a writ of habeas corpus if:

(1) the convicted person files an application, in the manner provided by Article 11.07, 11.071, or 11.072, containing specific facts indicating that:

(A) relevant scientific evidence is currently available and was not available at the time of the convicted person's trial because the evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of or during the convicted person's trial; and

(B) the scientific evidence would be admissible under the Texas Rules of Evidence at a trial held on the date of the application; and

(2) the court makes findings described by Subsection (1)(A) and (B) and also finds that, had the scientific evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted.

(d) In making a finding as to whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence on or before a specific date, the court shall consider whether the field of scientific knowledge, a testifying expert's scientific knowledge, or a scientific method on which the relevant scientific evidence is based has changed since:

(1) the applicable trial date or dates, for a determination made with respect to an original application; or

(2) the date on which the original application or a previously considered application, as applicable, was filed, for a determination made with respect to a subsequent application.

(c) For purposes of Section 4(a)(1), Article 11.07, Section 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim or issue could not have been previously presented in an original application or in a previously considered application if the claim or issue is based on relative scientific evidence that was not ascertainable through the exercise of reasonable diligence by the convicted person on or before the date on which the original application or a previously considered application, as applicable, was filed.

## STATEMENT OF THE CASE-

The issues before the Court stem from the finding of a new factual basis for a return to Texas state habeas corpus. Mr. Backstrom argued that he was the victim of false expert testimony, ineffective assistance of counsel for failing to consult or call an expert witness for the defense, pervasive complainant perjury, known to be such from the prosecution and actual innocence. The procedural issues justifying the dismissal of the application by the Texas Court of Criminal Appeals (C.C.A.) surround due diligence in that the new factual basis is a Texas case (the only one of its kind) published in 2016, thus, unreasonably ascertainable, a grain of salt in a salt mine given that there are almost 9,000 cases (since 1982) carrying the same charged offense as Mr. Backstrom. Nonetheless, given that this is a "junk science" case, perhaps the most evil of all junk sciences, even though Backstrom's case is virtually indistinguishable from the Texas case granting relief with respect to facts and circumstances, the C.C.A. dismissed the case, presumably because Mr. Backstrom had no affidavit from the offending expert witness nor an expert that disputed the trial testimony - Backstrom is indigent.

As part of Mr. Backstrom's litigation, he presented overwhelming evidence that he is also the victim of pervasive complainant perjury, known to be such from the prosecution; however, since Mr. Backstrom had previously advanced this claim (unripe at the initial filing) the claim was disregarded, irrespective of the proof of claim..

## REASONS FOR GRANTING THE PETITION

The compelling reasons for consideration can be measured in the thousands in that thousands upon thousands of inmates in Texas alone (8,926 since 1982) with untold numbers across the nation, will die in prison because a particular pernicious "junk science" was employed in trials where sexual assault charges involving children took place, (the number of potential persons convicted by "junk science" has been recognized by the Court).

In 2007 it was determined by significant peer review that hymenal abnormalities that were once considered caused by abuse are nothing more than normal variants in prepubertal and adolescent girls.

The C.C.A. has now acknowledged and embraced this science.

With that stated, Mr. Backstrom is entitled to consideration because the grounds asserted have been adjudicated by the State, involve federal law, and the dismissal of the grounds is unreasonable in light of the evidence presented to the state proceedings. Furthermore, as the facts unfurl, the Court will see that with respect to the claims, no reasonable factfinder would have voted for guilt in Backstrom's trial.

Where this Honorable Court has acknowledged "junk science" exists, it has yet to step into the matter, a matter the Court should decide, at least from an appellate law perspective with potential exceptions to certain strict rules currently in place.

Should the Court choose not to entertain this matter for a single litigant, then the Court may consider the case for the thousands if not hundreds of thousands of inmates currently in prison under this particular junk science. There is clearly a miscarriage of justice at bar.

## I. CONFINEMENT

Mr. Backstrom is illegally confined from his liberty at the Clements Unit, 9601 Spur 591, Amarillo, Potter County, Texas where he is serving his improperly cumulated sentences of life plus 99 years for aggravated sexual assault of a child and burglary of a habitation with intent to commit indecency with a child.

QUESTION ONE: is due process violated where a habeas applicant satisfies every legal requirement set forth in state jurisprudence yet the state's highest criminal appellate court dismisses the application under procedural default?

## II. FACTS MATERIAL TO RELIEF

### 1. New Factual Basis

While perusing 2025 cases in LEXISNEXIS, Mr. Backstrom happened upon a new factual basis in which to proceed in subsequent habeas corpus found within Ex parte Mayhugh, 2016 Tex.Crim.App. LEXIS 1566. As the matter at large surrounds "junk science," two statutes apply: Tex.C.Crim.P., arts 11.07 § 4(a)(1) and art. 11.073. See pages three and four this petition.

The Mayhugh case predicated relief based on the prior expert witness, Dr. Nancy (Kellogg) who testified that the hymenal abnormalities she discovered were indicative of abuse. Based on a 2007 study conducted by Dr. McCann and others, it was determined that in the majority of cases abnormalities were actually normal variants in prepubertal and adolescent girls. Ex C. See also Ex D: Kellogg affidavit.

Although Mr. Backstrom could formulate that there was a change in

scientific knowledge that was directly related to his case, Mayhugh lacked specific facts to overcome Texas' "plead and prove" doctrine: the name and web address to the 2007 study. That information was found in the federal case United States V. Wills, 2026 U.S. Dist. LEXIS 23146 fn.3.

As all of this relates to Mr. Backstrom, in his 2010 trial the State's sexual assault nurse examination (SANE) witness, Ms. Debbie (Coats), when solicited by the prosecutor to discuss a "notch," responded that during her examination of the complainant, she discovered a "full thickness notch" that was caused by trauma. Based on the 2007 study, that particular testimony, with nothing further of import, was discredited and thus false on its face and had been false for three years. Based on Coats' ongoing training, it is reasonable to believe that she knew it was false when she said it. Coats' testimony was designed to do two things: prove the "penetration" element of the larger charged offense which spilled over into the lesser charge and two, bolster the complainant's allegations.

Equally important, it is clear from the trial record that Coats' testimony was the deciding factor as to guilt. See Exs E and F, RRV:5:P.29 and RRV:9:P.57. See St.Memo at Pp, 9-13.

## 2. Due Diligence

Because the new factual basis here, for all intents and purposes, was formulated from a 2016 Texas case, reasonable diligence is at bar. While perusing 2025 cases, he stumbled upon Ex parte Hinojo, 2025 Tex-App. LEXIS 3942, dismissed on other grounds thus useless to Backstrom. Searching other like cases, Backstrom found Ex parte

Keller, 2015 Tex.Crim.App.Unpub. LEXIS 375. Although unpublished and of no material use, relief had been granted <sup>1</sup>. Several dates are of import here: the 2007 study was published April 2007; Ex parte Mayhugh was discovered November 1, 2025; United States V. Wills published February 10, 2026; Mr. Backstrom's state habeas application was filed on December 23, 2025; the C.C.A. handed down its dispositive order on April 1, 2026; on April 06, 2026 Mr. Backstrom mailed his motion for en banc rehearing, dismissed on April 21, 2026, the C.C.A. dismissed the en banc rehearing; and on May 1, 2026, Mr. Backstrom mailed from the Clements Unit mailroom (via the law library) his writ of certiorari.

QUESTION TWO: where the dismissal by the state's highest criminal appellate court infers the applicant could have raised his new factual basis in a previous application, what is due diligence as it relates to reasonable ascertainability?

The C.C.A. issued an order in this case, see Ex A:P. 2. After referring to Tex.C.Crim.P., art. 11.07 §4 (subsequent writ statute) the court stated "[i]t is obvious from the record that Applicant continues to raise grounds that have been previously rejected on the merits or should have been raised in a previous application.

As to previously submitted issues, the court means Mr. Backstrom's attorney fraud-on-the-court in habeas tribunal causing a judgment obtained by fraud and his complainant-perjury claims. see 2024 U.S.

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<sup>1</sup> See Scarberry V. State, 2022 Tex.App. LEXIS 3855 \*25-26 (unpublished opinions handed down by the C.C.A. "have no precedential value and must not be cited as authority..."; Tex.R.App.P. §§ 47.7 and 77.3.

LEXIS 2398. With respect to claims that should have been filed in an earlier application, the court means the fraud claim and the most recent habeas application; thus, questioning Mr. Backstrom's due diligence.

### 3. Federal Reasonable Diligence

As to reasonable diligence from a federal perspective, in Starnes V. Andrews, 2008 U.S. App. LEXIS 7751, quoting Wilson V. Beard, 2005 U.S. App. LEXIS 22065, the court held that an applicant need not "continuously monitor [] public sources for years in the unlikely chance he might learn something which would be useful to his case." -Id at \*18. See also Moore V. Knight, 368 F3d 936,940 (7th Cir. 2004) (the defendant's decision not to investigate until he learned facts giving him "reason to suspect a harmful error" did not constitute a lack of due diligence). The Supreme Court weighed in on this subject citing as to "how to impliment the statutory mandate that a petitioner act with due diligence," the answer depends on when he "is in a position to realize he has an interest" in pursuing further action. Johnson V. United States, 544 U.S. 295,308 (2005).

With respect to questions one and two, its difficult to imagine exactly how Mr. Backstrom could have been more diligent under his circumstances. In short, he was diligent and the C.C.A.'s dismissal was unreasonable in light of the evidence pointing to his reasonable diligence,

As to any unreasonability with respect to the balance of Mr. Backstrom's claims, the following represents those claims and legal authority as well as his evidence supporting those claims.

False evidence St.Memo at Pp. 9-13

Mr. Backstrom's first ground for relief discussed false forensic testimony known to be such by the expert and should have been known to the prosecutor, thus his new factual basis. As evidenced by the trial record, there is no question of false expert testimony and that the testimony could have influenced the jury's verdict. See Glossip v. Oklahoma, 604 U.S. 226 (2025) -Id at 229.

The question here is who knew or should have known what?

The prosecutor

Under Napue, a conviction obtained through the knowing use of false evidence violates due process. To show this, Mr. Backstrom must show that the prosecution knowingly solicited false testimony. Equally, the false testimony must "in any reasonable likelihood have affected the jury's judgment. Glossip at 229; United States V. Bagley, 473 U.S. 667,680, n.9

RRV:5:P.29:

Q: Now, you mentioned something about a notch? (solicitation)

A: Yes ma'am. On the noted genital examine [sic] she had a full thickness notch noted at the ten o'clock position..which is caused by trauma. (false testimony)

RRV9:P.57: the jury's return to the courtroom:

THE COURT: Be seated. Members of the Jury, the way this works, you have identified a portion of the testimony that will be read back to you. The reporter has identified that, and what will happen is she will read that, and then I will simply return you to continue your deliberations...

(Volume 5 of 12, Page 29, line 9 through  
Page 30, line 5 read back).

At trial Coats attested to her vast knowledge during counsel-requested voir dire - director of Surgical Services at some point, Escamilla V. State, 2006 Tex.App. LEXIS 762 \*\*12,13, and began her SANE career eleven years earlier (1995) -Id. It's reasonable to believe that between 2007 (study publishing) and 2010 (Mr. Backstrom's trial), Coats learned that her "trauma" opinion was contrary to her medical community's opinions.

To further this assertion, in Escamilla V. State, 2010 Tex.App. LEXIS 8227 (no relationship to Escamilla 2006), the SANE witness in that case, Ms. America Garza, who started her SANE journey in 2007, -Id at \*\*18, explained where her knowledge was acquired citing opinion or literature from Dr. Nancy Kellogg and an article or study from Dr. McCann (2007 study) -Ibid \*\*14, 17,18.

The knowing use of false testimony must result in the "reasonable likelihood that the false testimony affected the outcome," United States V. Agurs, 427 U.S. 97,103 (1976).

As we learned from the Jury's desire Coats' false testimony and the jury's verdict some twenty minutes later, there exists a reasonable likelihood that the false testimony did in fact affect the verdict.

This claim was also presented in original state and federal petition, and likewise, with no evidence it failed. In this claim there exists the reason for Coats' false testimony and evidence that there was never any crime to begin with. Moreover, the prosecutor knew the testimony was false and material.

The second of two trial props for the State was the complainant's testimony, rife with material misrepresentations of fact, known to the prosecutor and the complainant <sup>2</sup>.

Pretrial, police Detective (Dillard) interviewed the complainant where she told him that she had been raped in the local park at some point, telling three versions of events, Writ G's Ex #14; SC Attachment 18. Over time she told many others of her "rape": CPS, CASA, the CAC, Kris Backstrom (Backstrom's son) and her foster mother, Melissa (Castillo). Writ G's Ex #13; SC Attachment 20.

The prosecutor initiated the police-rape-lie and the complainant told the jury that Mr. Backstrom told her to lie. RRV8:Pp. 163, 164. However, the complainant told Kris about this "rape" in 2006, 1½ years before the alleged assault. Writ G's Ex #13; SC Attachment 20.

The complainant also told the jury that Mr. Backstrom had assaulted her in December of '07, RRV8:P.164; SC Attachment 22, and from that point forward she and Mr. Backstrom no longer had a good

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<sup>2</sup> Mr. Backstrom no longer has copies of his exhibits due to numerous pleadings and his indigency. See Motion to Forward the record. These exhibits are located within state writ 35498-G (WR-76,283-16) and some are within 144 S.Ct. 2624 (SC Attachment).

relationship, RRV8:P.164, See Writ G's Ex #18 a picture drawn by the complainant dated 2/2/2008: note the heading: "That's My Best Friend." See also Writ G's Ex #19: 911 Call For Service dated 2/24/2008; bottom two lines compared to Writ G's Ex #17: Police Timeline for that date. The night Mr. Backstrom was arrested for harboring a runaway, the complainant was in possession of a letter written to Mr. Backstrom which clearly demonstrates that she and Backstrom had a great relationship, SC Attachment 24. All of this occurred in February of '08.

Its not just Mr. Backstrom questioning the complainant's veracity, in her police interview Castillo outlined an "underlying question of the complainant's obsession with Backstrom and a concern that "she might try to get back to him." Dillard told Castillo that on the night she ran away "she was working very,very hard at manipulation him, the other officers and CPS into going home with Lori (Lori Halbert; friend of Backstrom's) or Mr. Backstrom." "to say she is a compulsive liar, that's not correct, but when she found herself in a situation, she will try anything." See Writ G's Ex #38; SC Attachment 13. Castillo told Dillard that the complainant was a "liar," "manipulative," "dramatic," and "playing people and situations against each other." This information came from Ms. Pemberton (CASA and attorney) and Tiffany (CPS), Writ G's Ex #37:P.3; SC Attachment 14, and in the back of Castillo's mind, she is a liar and devious. Writ G's ex #38:P.4.

The complainant's Pastors

In opening statements, counsel promised the jury they would hear from the complainant's pastor (Judy tull) RRV3:P. 24, this never

happened. NOTE: in habeas corpus Mr. Backstrom accused counsel of ineffectiveness for failing to bring this witness forward. In response he told the habeas tribunal via affidavit that his office attempted to interview the pastors but they were not cooperative. Writ G's Ex #2; SC Attachment 6, which raises the question as to whether counsel was prepared to put a non-cooperative witness on the stand or was he just lying? Nonetheless, it was the pastors that proved to police that the complainant was never raped as she had averred. Moreover, there is no way the complainant could have known, without inside information, that police had investigated her "fake rape" lie because there was no follow-up interview by Dillard. When asked about this in trial, he said he didn't follow-up because the prosecutor asked him not to. The complainant's "Mr. Backstrom told me to lie" story was concocted by the State to mitigate the complainant's terrible veracity.

Complainant told the jury that Mr. Backstrom had indignified her in December of '07; however, 1½ years after Mr. Backstrom's indictment, the complainant told a disinterested witness, Ms. Susan Untermeyer that Backstrom had not harmed her in any way. See Writ G's Ex #25; SC Attachment 21. Defense counsel knew all of this and told the habeas tribunal that he didn't present Susan because she was impeachable due to her plea bargain to felony prescription forgery seven years earlier (sentenced to seven years probation). See Writ G's Ex #2.

Ineffective assistance of counsel (IAC) St.Memo at Pp. 13-18

Ultimately this claims amounts to a Wiggins claim because of

counsel's failure to investigate this case pretrial, his performance can be said to have fallen below any objective standard of reasonableness especially given the harm that was produced. See Strickland V. Washington, 466 U.S. 668 (1984); Wiggins V. Smith, 539 U.S. 510 (2003). "Strategic choices made after a thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after a less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigations." -Id at 522.

As this claim relates to the reason we're here today, Backstrom asserts, as evidenced by counsel's silence towards Coats' false testimony, he had no clue as to its falsity where had counsel, at minimum, consulted with a sexual assault expert, he would have been equipped to adequately impeach the integrity of the State's case in the eyes of the jury. Counsel missed a prime opportunity to destroy the State's case, instead, his ignorance was fatal to the defense. To further support this claim, State's discovery contained Coats' non-inculpatory interview with the complainant and the hospital's diagnostic check-list and a drawing of the female anatomy with the drawing of a vagina and hymen with a "notch" drawn into it - no photographs - just a drawing (unseen by the jury) and unimpeached by counsel as to its specious nature. What is more, LEXISNEXIS contains thousands upon thousands of Texas cases explaining that the State would employ her SANE witness and how her testimony would prove any "penetration" element, and in this case, spillover into the lesser charged **offense of "obscenity."**

## Future Harm

28 U.S.C. § 2244(b)(1) dictates that a previously argued claim presented in a second or successive petition must be dismissed,--thus, the assertion of any new factual basis for that claim is not excluded. Because Mr. Backstrom initially filed an IAC claim charging counsel with a failure to present an expert witness (unripe), the Fifth Circuit will dismiss any claims associated with Mr. Backstrom's new factual basis. See Babbitt V. Woodford, 177 F3d 774,746 (1999); Bowe v. United States, 2026 U.S. LEXIS 4, irrespective of ripeness when it was first presented to the federal court. See Panetti v. Quarterman, 551 U.S. 930,945 (2007). This legal perspective appears to be in contrast to Albrecht V. Horn, 485 F3d 103,124 n.7 (3rd Cir. 2007)(the Circuit Court allows petitioners to seek relief from conviction based on flawed science provided a showing the evidence "infected the entire trial with error of constitutional dimension.") However, 28 U.S.C. § 2244(b)(2)(B)(ii)'s language "no reasonable juror 'would' have voted for guilt..." is just broad enough to preclude any relief in the Fifth Circuit. In sum, This Court stated that there was no science more 'junky' than mental telepathy, Diaz V. United States, 601 U S. 526,552 (2024), this sounds true enough, however, it can be fairly stated that no science has contributed to more convictions than hymenal-abnormality testimony, now debunked and embraced by the C.C.A., (Texas' LEXISNEXIS holds 8,926 appeals under keywording "aggravated sexual assault of a child"). Thousands upon thousands of prisoners nationwide have been subjected to some form of this "junk science" that was considered correct pre-2007 but nonetheless false.

Texas' 11.073 jurisprudence states that where one files an 11.07-type application, for relief the applicant need only present sufficient facts that "indicate"... he was a victim of invalidated science, Article 11.073(1). Mr. Backstrom argues that the word "indicate" does not mean "plead and prove." He would urge that the Texas Legislature chose their words in such a manner as to allow indigent petitioners access to the courts, language the C.C.A. refuses to acknowledge. This is further extended to 11.073 (c)'s "reasonable ascertainable" language. Due process is lost upon the C.C.A.'s interpretation of the statute. Because the C.C.A. misinterprets the statute's language, any petitioner raising a flawed-science claim, a sworn affidavit is required, a factor indigent petitioners may well miss out on.

By the preponderance of the evidence, no rational juror could have voted for guilt in this case.

#### Punishment phase confession

In initial federal habeas corpus, Backstrom V. Davis, 2016 U.S. District LEXIS 112841 Unpubl., the Magistrate stated that a "Glaring flaw" took place in that during Mr. Backstrom's punishment phase, he confessed to the crimes and failed to address it in his application, -Id at \*8; thus denying relief with prejudice as time-barred without addressing the merits. Mr. Backstrom submitted affidavits from persons privy to this "confession" as a counsel-driven strategy to elicit probation from the jury, SC Attachment 3. That evidence arrived at the courthouse on the fifth and ninth day after Backstrom's rejoinder but the judge denied relief on the fourth day, never seeing the evidence.

60(b) motion was filed to no avail. The judgment in that case was unreasonable and its been addressed several times, also to no avail.

### III. INMATE DECLARATION

My name is STEVEN MICHAEL BACKSTROM, TDCJ #01657938 and I currently reside at the Clements Unit, 9601 Spur 591<sup>st</sup>, Amarillo, Potter County, Texas 79107 and I aver under penalty of perjury that the facts stated herein are of my personal knowledge and are true and correct.

### IV. PRAYER AND RELIEF SOUGHT

WHEREFORE, applicant prays this Honorable Court will grant this writ and remand the matter for the appropriate disposition, or, in the alternative, move this matter into the Western District Court of Texas for a hearing to expand the record.

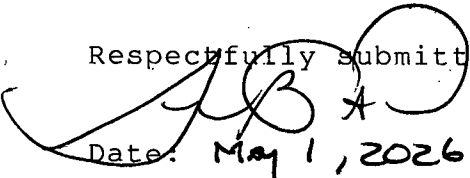
### V. CERTIFICATE OF COMPLIANCE

Applicant avers that this application complies with Supreme Court Rule 33.2(b) in that the application contains less than 40 pages.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
Date: May 1, 2026