

No.

In the Supreme Court of the United States

KER'SEAN O. RAMEY,

Petitioner,

v.

Texas,

Respondent,

On Petition for a Writ of Certiorari to the Court of Criminal Appeals of Texas

PETITION FOR A WRIT OF CERTIORARI

****CAPITAL CASE****

Jessica Frenkel
ASHURST PERKINS COIE US LLP
1900 16th Ste. 1400
Denver, CO 80202
(303) 291-2300

Torryn T. Rodgers
ASHURST PERKINS COIE US LLP
505 Howard St Ste. 1000
San Francisco, CA 94105
(415) 344-7000

September 21, 2026

(Additional counsel on signature page)

Ronald A. McIntire
Counsel of Record
Alisha C. Burgin
Maria Trubetskaya
ASHURST PERKINS COIE US LLP
1999 Avenue of the Stars, Ste. 1000
Los Angeles, CA 90067
(310) 788-9900
ronald.mcintire@ashurstperkins.com

Counsel for Petitioner

CAPITAL CASE QUESTIONS PRESENTED

1. Whether the Texas Court of Criminal Appeals unreasonably disregarded clearly established *Batson* precedent and this Court's recent emphatic clarification of the law in *Pitchford* by refusing merits review of a subsequent state habeas application alleging a constitutional violation that would have precluded any rational juror from imposing a death sentence.

2. Whether the Texas Criminal Court of Appeals unreasonably refused to review Petitioner's ineffective assistance of counsel claims where trial counsel failed to investigate and present readily available and substantial mitigating evidence during the sentencing phase of Petitioner's capital murder trial.

RELATED PROCEEDINGS

- *Texas v. Ramey*, No. 05-12-7342 (Jan. 23, 2007), Texas Court of Criminal Appeals:
- *Ramey v. Texas*, No. AP-75,678 (Feb. 11, 2009)
- *Ex parte Ramey*, No. AP-76,533 (Nov. 7, 2012) United States District Court (S.D. Tex.):
Ramey v. Davis, No. 6:13-CV-43, Docket No. 59 (July 11, 2018)
- *Ramey v. Davis*, No. 6:13-CV-43, Docket No. 65 (Nov. 16, 2018), United States Court of Appeals (5th Cir.): *Ramey v. Davis*, No. 18-70034 (Nov. 1, 2019)
- *Ramey v. Lumpkin*, No. 18-70034 (July 29, 2021)
- *Ramey v. Lumpkin*, No. 18-70034 (Aug. 25, 2021), United States Supreme Court: *Ramey v. Texas*, No. 08-10291 (Oct. 5, 2009).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Ker'Sean O. Ramey petitions this Court for a writ of certiorari to review the judgment of the Court of Criminal Appeals of Texas (hereinafter "TCCA"). On September 21, 2026, two days before Mr. Ramey's scheduled execution, the Texas Criminal Court of Appeals dismissed Mr. Ramey's subsequent application as an abuse of the writ without reviewing the merits of his claims under Art. 11.071 § 5(c) of the Texas Criminal Code of Procedure.

OPINIONS BELOW

The TCCA's September 21, 2026, order is unpublished and appears in the Appendix starting at 321a.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257(a). The TCCA's judgment was entered on September 21, 2026.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fourteenth Amendment to the U.S. Constitution provides, in relevant part:

No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Sixth Amendment to the U.S. Constitution provides, in relevant part:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . and to have the Assistance of Counsel for his defense.

Article 11.071 § 5(a) of the Texas Code of Criminal Procedure ("TCCP") provides in relevant part:

A court may not consider the merits of or grant relief based on the subsequent application [for a writ of habeas corpus] unless the application contains sufficient specific facts establishing that: (1) the current claims and

issues have not been and could not have been presented previously in a timely initial application or in a previously considered application . . . ; (2) by a preponderance of the evidence, but for a violation of the United States Constitution no rational juror could have found the applicant guilty beyond a reasonable doubt; or (3) by clear and convincing evidence, but for a violation of the United States Constitution no rational juror would have answered in the state's favor one or more of the special issues that were submitted to the jury in the applicant's trial under Article 37.071, 37.0711, or 37.072.

INTRODUCTION

On January 23, 2007, an almost exclusively white jury—devoid of a single Black juror—deliberated for a mere *14 minutes* before sentencing Petitioner Ker'Sean Olajuwa Ramey, a 21-year-old Black man, to death. Mr. Ramey stood trial for the death of three individuals that occurred during an attempted robbery. Not a single fingerprint, DNA, or other physical evidence tied him to the crime scene or to either of the alleged murder weapons.

The State instead built its entire case in reliance on a racially distorted jury selection and the catastrophic and repeated failures of Mr. Ramey's counsel, Dr. Joseph R. Willie, II—a full-time dentist, military reservist, and night-shift lawyer.

Dr. Willie—who was later disciplined for misconduct that included *failing to appear for trial*—had never tried a capital case to verdict, and it showed. He conducted no independent investigation into the State's case, interviewed none of the State's witnesses, and left the prosecution's far-fetched theories largely untested.

During the punishment phase, Dr. Willie's incompetence manifested into its most dangerous form. He conducted no mitigation investigation to support a life sentence for Mr. Ramey rather than death, leaving behind swaths of mitigation evidence that was never presented to or considered by the jury—including critical evidence of Mr. Ramey's upbringing marred by poverty, abuse, instability, abandonment, and cognitive incapacity.

Perhaps most egregious, however, was the pervasive racial bias that compounded Dr. Willie’s failures and infected every stage of the proceedings against Mr. Ramey.¹ Prejudice against Mr. Ramey in the small town of Edna, Texas was so entrenched that the trial court was forced to move the case to larger, nearby Victoria. Relocation was not enough. During the approximately six weeks of jury selection, the State systematically purged every Black veniremember from the panel. It deployed targeted race-specific questioning reserved exclusively for Black prospective jurors, requested a jury shuffle when several Black veniremembers appeared in the queue,² and used a peremptory strike against the last remaining eligible Black candidate—whose questionnaire answers mirrored those of seated white jurors.

Despite the rampant constitutional violations and prosecutorial misconduct that defined the course of Mr. Ramey’s case, he is set to be executed on September 23, 2026— less than two days away. This Court’s review is his last remaining chance at a fair trial. The Court should therefore grant certiorari to vindicate due process and ensure that no death sentence rests on a trial corrupted by constitutional error and racial bias.

Mr. Ramey calls on this Court to review his case and correct decades of injustice and safeguard the Constitution’s guarantees of Due Process and a fair trial for all. *See Atkins v. Virginia*, 536 U.S. 304, 319 (2002) (“[O]nly the most deserving of execution are put to death.”); *California v. Ramos*, 463 U.S. 992, 998–99 (1983) (“The Court . . . has recognized that the qualitative difference of death from all other punishments requires a correspondingly greater degree of scrutiny of the capital sentencing determination.”).

¹ Indeed, racial animus has continued to infect Mr. Ramey’s post-conviction proceedings. As recently as September 15, 2026, the State argued in its motion to dismiss Mr. Ramey’s subsequent state habeas petition, that the trial venue could not foster racial bias because “Victoria County . . . was the colony of Empresario Martín De León’s founded in 1824 whose economy was cattle, not cotton[.]” *Ramey v. Jackson County Criminal District Attorney*, Cause No. 26-120-DCCV-17623 (State’s Motion to Dismiss Subsequent Application for Writ of Habeas Corpus at 93).

² In *Miller-El*, this Court recognized a jury shuffle—whereby the order the members of the venire panel are seated is rearranged—as a factor courts may consider in assessing whether proffered race-neutral explanations for peremptory strikes are pretextual. *Miller-El v. Dretke*, 545 U.S. 231, 253–54 (2005).

This Court should address the issues arising from the TCCA's application of the abuse-of-the-writ doctrine, and remand this case with instructions to consider the merits of Petitioner's claims.

Mr. Ramey's life itself hangs in the balance.

STATEMENT OF THE CASE

Like most cases involving capital punishment, this case begins with early childhood trauma and poverty.³ In 1985, Ker'Sean ("Sean") Ramey was born into poverty in small-town Edna, Texas—a place whose long history of racial violence and segregation has shaped generations of Black families.

Sean's hardships began before birth, as his mother regularly smoked marijuana and cigarettes and likely drank alcohol while pregnant. App. 203a. Violence and abandonment defined his childhood. Sean's father figure, Lonny Lyte, sold and cooked drugs in the home, and routinely beat him from age two or three, sometimes while he was naked, leaving him curled in a fetal position and covered in welts. *Id.* at 204a. Anthony Stevens, Sr., later beat and verbally abused him while intoxicated, and Sean's uncle Raymond Neal Ramey would force him to undress from the waist down before beating him bloody with a belt or tree branch. *Id.* at 205a.

The adults meant to protect Sean failed him at every turn. His mother frequently sided with his abusers, while his abusers and father figures continually abandoned or rejected him. *Id.* at 205a–206a. Following the death of his grandmother, Sean had no one “to turn to for love and protection.” *Id.*

Sean also showed early developmental difficulties and lower cognitive capacity. At age four, he was diagnosed with ADHD, and later diagnosed with dyslexia after repeatedly

³ It is well established that the relationship between poverty, early life trauma, and the imposition of capital punishment is inextricably intertwined. *See generally* Stephen B. Bright, *The Role of Race, Poverty, Intellectual Disability, and Mental Illness in the Decline of the Death Penalty*, 49 Univ. Richmond L. Rev. 671 (2015); *see also Furman v. Georgia*, 408 U.S. 238, 365–66 (1972) (Marshall, J. concurring) (“It also is evident that the burden of capital punishment falls upon the poor, the ignorant, and the under privileged members of society.”).

testing below average in core academic and language skills. Sean never graduated from high school or earned a GED. *Id.* at 206a. His stunted emotional growth, inadequately treated neurodivergence, and limited intelligence made him vulnerable to negative influence. That vulnerability, paired with Sean's impoverished circumstances and the pressures of teenage parenthood to three children, led him to fall in with admitted shooter LeJames Norman. Yet, the jury heard none of this; instead, the defense's own expert incorrectly told jurors that Sean's family was socioeconomically stable and that his childhood was free from abuse. *Id.* at 206a.

A. The investigation of the crime produced no physical evidence linking Mr. Ramey to the murders.

On August 25, 2005, Celso Lopez, Tiffani Peacock, and Samuel Roberts were found dead in Roberts's residence. Police initially investigated Roberts's drug dealing and gang associations. *Id.* at 207a. The focus of the investigation changed in November 2005 after an anonymous tip implicated LeJames Norman, Mr. Ramey, and two others. *Id.*

Investigators interrogated Mr. Ramey on December 12, 2005, while he was being held on unrelated charges. He denied involvement and was arrested for capital murder. *Id.* A grand jury indicted him on December 17, 2005. *Id.* He pleaded not guilty on January 4, 2006. *Id.*

No fingerprint, DNA, blood, or hair evidence ever connected Mr. Ramey to the scene of the crime or to the alleged murder weapons. *Id.* Searches of Mr. Ramey's home and possessions found none of the property thought taken from the residence. *Id.* at 208a. And the State's firearms examiner could not conclusively connect the recovered bullets to either alleged weapon. *Id.* The prosecution accordingly assembled a hodgepodge of statements collected from alleged accomplices and incarcerated witnesses, many of whom had powerful reasons to satisfy the State.

B. The State systematically removed every eligible Black veniremember, and the trial court prematurely stopped the *Batson* inquiry.

The parties selected twelve jurors and two alternates from two panels totaling 156 veniremembers. The first panel contained 135 members, seven of whom were Black. *See* App. 212a. Six self-identified as Black: Donyale L. Tyrone, Rhonda G. Davis, Joyce Bell, Cynthia J. Williams, Tommie Youngblood, and Carolyn McGrew. The seventh, Kenneth D. Mumphord, was later identified in post-conviction investigation. *Id.* The State challenged five of these Black candidates purportedly for cause; two were excused as distantly related to Mr. Ramey. *Id.*

The prosecutor selectively questioned Black veniremembers to fabricate “cause” strikes. For example, when a Black candidate’s questionnaire suggested hesitation to capital punishment, the prosecutor used leading questions to secure a commitment that the prospective juror could not impose death.⁴ And when a Black candidate stated they were not opposed to the death penalty, he asked racially charged questions about whether Black people, including their family members, were treated unfairly.⁵

A second venire panel was called after it became apparent that the first panel would be exhausted. *Id.* at 213a. The new panel’s racial composition was visually apparent as soon as the members entered the courtroom and were seated by juror number. The second panel had 49 members, six of them Black. Four of those six appeared among the first ten

⁴ *See* App. 214a. During the voir dire of Joyce Bell, the prosecutor asked, “And just from having read your questionnaire, it’s obvious that you have some very strong feelings or oppositions to the death penalty . . .” *Id.* Similarly, the State’s first question to prospective juror Cynthia Williams includes: “I’m not unmindful of how you feel about the death penalty. You made it clear, okay?” Upon hearing that veniremember Carolyn McGrew’s husband is a church deacon, the prosecutor said, “I know all of the deacons real well in [my] church . . . I don’t think a single one of them could ever sit on a jury and give the death penalty . . . [H]as any of that rubbed off on you?. At the beginning of veniremember Quaahshanea Barnett Ring’s voir dire, the prosecutor asked, “When I read your questionnaire it seems like that you have some strong feelings against the death penalty . . . [and] you just don’t believe you could participate with eleven others and sentence somebody to die . . .?”

⁵ *See id.* at 214a–215a. The prosecutor asked veniremember Kenneth Mumphord whether he believed his son was treated fairly during his criminal prosecution. *Id.* at 215a. The prosecutor questioned veniremember Tommie Youngblood extensively about race, including asking her: “Please don’t jump on me too much. Do you think there’s anything about the fact that they were African American that may have caused that?” *Id.*

seated. *Id.* Before questionnaires were distributed, and based only on the panel's visual appearance, the State requested a jury shuffle. *Id.* (discussing 21 RR 12:3–8; *id.* 12–19). The shuffle cut Black representation near the front from 25% to 10%: post-shuffle, only two of the first twenty were Black.

Cheryl Steadham-Scott, a Black woman, was the first member of the second panel to complete voir dire. She repeatedly said she could apply the law fairly. *Id.* at 214a, 225a. The prosecutor nevertheless subjected her to more than 30 transcript pages of interrogation. When she mentioned work transfers, he asked: “Do you think it’s because you were black?” *Id.* at 214a. He asked whether “the criminal justice system treats African Americans unfairly,” *id.*, and sought her views on the guilt or innocence of famous Black people, *id.* The State passed her for cause and then struck her peremptorily. *Id.* at 215a.

Mr. Ramey’s defense counsel, Dr. Willie, to his limited credit, raised *Batson* on the next court day. The State offered three reasons for striking Steadham-Scott: further questioning “would have most likely” produced cause; her questionnaire “clearly indicated that she could not impose the death penalty”; and “there were other many racially-neutral reasons”—this last of which, is indeed, no reason at all. *Id.* at 215a–216a. Before counsel could rebut those assertions as pretext, the court ended the matter: “I’m comfortable with the record reflecting what it did with respect to that juror at this time.” *Id.* at 216a. The final jury had eleven white members, one Hispanic member, and no Black members.

C. Dr. Willie provided catastrophically incompetent representation on behalf of Mr. Ramey.

Dr. Willie, a full-time dentist, marine reservist, and woefully inexperienced part-time lawyer, was retained for a flat fee of \$17,500 after assuring Mr. Ramey’s mother that her son would not “fry.” *Id.* at 208a. Dr. Willie had never tried a capital case to verdict and had never conducted or supervised a mitigation investigation. *Id.* at 209a.

It quickly became apparent that Dr. Willie was overextended in every respect. Because he saw dental patients during the day, his law practice was largely confined to

outside business hours. *Id.* at 208a. Additionally, as a Marine Corps reservist, he was on active duty for 12 days in September 2006, one month before Mr. Ramey's trial. *Id.*

At Mr. Ramey's arraignment, Dr. Willie signed an Open File Agreement waiving the defense's right to advance notice of the State's witnesses and extraneous-offense evidence. *Id.* at 209a. He then treated the prosecutor's file as a complete and total substitute for investigation. Dr. Willie's files contain no timesheets, investigator reports, witness interviews, or independent photographs.

The trial court convened repeated *ex parte* "Ake" conferences, understandably concerned by the absence of preparation that was so apparent. *Id.* at 209a–210a. Notably, every State witness later contacted by post-conviction investigators reported that no one representing Mr. Ramey had ever interviewed them before trial. *Id.* at 240a.

Unfortunately, Dr. Willie's gross mishandling of Mr. Ramey's case was not an isolated deviation from an otherwise stellar record. Dr. Willie has a striking record of professional incompetence and misconduct, if not total indifference to his ethical and moral obligations to his clients and the bar. On August 20, 2026, Judge Finley of the TCCA forcefully dissented from the TCCA's refusal to reconsider its denial of an initial habeas petition where Dr. Willie was counsel. *Ex parte Marceaux*, No. WR-97,305-01, 2026 WL 2436060 (Tex. Crim. App. Aug. 20, 2026) (Finley, J., dissenting). There, applicant Marceaux alleged that Dr. Wille filed the petition—a copy paste of Marceaux's direct appeal brief—*without his knowledge or consent*.

Judge Finley identified several critical failures in Dr. Willie's representation of Marceaux that closely resembled Mr. Ramey's experience, including the failure to communicate with his client, making unauthorized and uninvestigated filings, and otherwise attempting to insulate himself from liability. *Id.* at *1–3, 6; *see* App. 211a (Dr. Willie did not return calls, respond to correspondence, or otherwise communicate with Mr. Ramey or his representative).

Judge Finley's *Marceaux* dissent crystallizes Dr. Willie's broader pattern of professional misconduct, including around the time of Mr. Ramey's trial, which led to multiple license suspensions and grave harm to his clients. In 2012, Dr. Willie unsuccessfully challenged professional discipline imposed on him after his 2007 representation of a criminal defendant. There, Dr. Willie failed to abide by his client's decision, keep him reasonably informed, comply with requests for information, and surrender the client's papers and property. *Marceaux*, 2026 WL 2436060 at 3; *see also Willie v. Comm'n for Law. Discipline*, No. 01-11-00428- CV, 2012 WL 761241, at 1 (Tex. App. Mar. 8, 2012).

In 2014, Dr. Willie's license was suspended for six months after he neglected a civil client by *failing to appear at trial*. *Marceaux*, 2026 WL 2436060, at 3; *see also Willie v. Comm'n of Law. Discipline*, No. 01-11-00433-CV, 2014 WL 586226 (Tex. App. Feb. 13, 2014). In 2015, Dr. Willie's license was again suspended—this time for a full year—relating to a 2008 proceeding in which he falsely represented the State's actions in a criminal appeal concerning a plea hearing he attended. *Marceaux*, 2026 WL 2436060, at 3–5.

It is clear that Dr. Willie has established a pattern and practice of professional misconduct. His record underscores the serious concerns about the quality of his representation of Mr. Ramey.

D. The guilt phase depended on false and misleading testimony and overstated ballistics.

The guilt phase began January 4, 2007. The State promised testimony from nine people to whom Mr. Ramey supposedly confessed, as well as evidence linking him to the murder weapons. *Id.* Dr. Willie, by contrast, opened only with the burden of proof. *Id.*

The State's witnesses were not disinterested nor was their testimony reliable. Co-defendant Norman faced pending aggravated-assault and escape charges, and the prosecutor had threatened to send Norman's mother to prison if Norman did not cooperate. *Id.* at 94a, 244a. Otis Santellana was provided with the prosecution's account of events to study in advance and was correspondingly directed in his questioning; he also later admitted that

Mr. Ramey never told him the order of the shootings or who shot whom. *Id.* at 250a. Myron Hardaway later admitted that Mr. Ramey never actually confessed and that Norman was his sole source. *Id.* at 251a. Kevin Childs believed he had to cooperate because of escape charges. *Id.* at 253a. Jonathan Snyder denied any “real” conversation with Ramey about the murders and faced probation revocation. *Id.* at 254a. Christopher Times stated that he was uninvolved in the Nairn burglary and fabricated testimony from investigators’ information. *Id.* at 255a–256a. Gerald Manzanalez testified under an undisclosed plea arrangement. *Id.* at 257a. Bradford Butler supplied a gun and scanner but was never charged. *Id.* at 248a–249a.

None of this was developed before the jury. In fact, for example, when the State introduced the alleged Nairn burglary through Manzanalez and Times, Dr. Willie barely questioned Times, and elected not to cross-examine Manzanalez at all. *Id.* at 216a.

Neither did the State’s ballistics evidence fill the evidentiary void. Texas Department of Public Safety Investigator Ronald Crumley could not identify *any* of twelve recovered bullets as fired from either revolver in evidence. *Id.* at 300a. Crumley’s examination was limited to class characteristics only. Despite this, the prosecutor converted exclusions into affirmative attributions through hypotheticals. *Id.* at 300a–301a. The revolvers lacked their original cylinders and were test-fired with cylinders borrowed from unrelated weapons, yet Crumley nonetheless drew categorical conclusions based on what has since been established as scientifically unreliable testing. *Id.* at 305a.⁶

E. At the punishment phase, the State offered pseudoscientific “future dangerousness” evidence while the defense offered no mitigation.

The State called Dr. Richard Coons to predict Mr. Ramey’s “future dangerousness.” Coons—who himself never interviewed Mr. Ramey—based this prediction entirely on a hypothetical supplied by the prosecution. *Id.* at 296a. He opined to “a reasonable medical

⁶ A 2023 peer-reviewed survey observed that toolmarks on fired bullets “were distinctly different from traditional rifling marks” and investigation showed they “originated from the chamber of the cylinder.” See Mattijssen et al., *Interpol Review of Forensic Firearm Examination 2019–2022*, 6 Forensic Sci. Int’l: Synergy (2023).

certainty,” that Mr. Ramey would probably commit future criminal acts of violence. *Id.* Outside the jury’s presence, however, the *Daubert/Kelly* reliability hearing revealed no supporting literature, no error rate, no empirical validation, and Coons’ general unfamiliarity with actuarial research. *Id.* at 297a. The State nevertheless argued in hyperbole: “Coons said this guy is a killing machine and he’s going to kill again and he is going to be dangerous.” *Id.* at 298a.

The State also used a shank found in the jail to portray Mr. Ramey as an ongoing danger in custody—despite having no evidence connecting him to its creation. The State’s primary “witness,” Childs, admitted that he never saw Mr. Ramey make a shank. *Id.* at 293a. Yet on redirect, the prosecutor drew an unsubstantiated line between Childs’s observation that Mr. Ramey wrapped something around a pen and the finished weapon. *Id.*

Meanwhile, Dr. Willie presented no mitigation evidence. His sole witnesses included Mr. Ramey’s mother and Dr. Mark Kunik. Kunik—called as the defense’s rebuttal witness to Coons—was a geriatrics psychiatrist who had never previously encountered the concept of future dangerousness. *Id.* at 272a. Dr. Willie found Kunik through his wife and met with him only once for one to two hours. *Id.* He did not give Kunik the police report, the jury instructions, or an explanation of the future-dangerousness issue. *Id.* Because Dr. Willie had not investigated Mr. Ramey’s life, Kunik—having not been informed otherwise—mistakenly told the jury that Mr. Ramey came from a stable upbringing with no physical violence at home, a misstatement the prosecutor found so helpful that he quoted it twice in closing argument. *Id.* at 218a, 273a.

Dr. Willie also failed to investigate the State’s presentation of an unadjudicated allegation of sexual assault when Mr. Ramey was approximately 15. Available witnesses said Mr. Ramey was not the perpetrator. *Id.* at 277a–278a. Dr. Willie not only failed to present that evidence, he *implied that Mr. Ramey was guilty.* *Id.* at 278a–280a

Less than fourteen minutes later, the jury returned a sentence of death. *Id.* at 218a.

F. Post-conviction proceedings did not cure the constitutional errors.

The Texas Court of Criminal Appeals affirmed Mr. Ramey's conviction and sentence on direct review. *Ramey v. State*, No. AP-75,678, 2009 WL 335276 (Tex. Crim. App. Feb. 11, 2009), *cert. denied*, *Ramey v. Texas*, 558 U.S. 836 (2009) (App. 1a–30a).

Appointed state post-conviction counsel filed a state application for writ of habeas corpus on May 16, 2008. In late 2010, the trial court issued findings of fact and conclusions of law recommending relief be denied. The TCCA thereafter filed and set the case for submission on a single issue: whether, considering its then-recent decision in *Coble v. State*, 330 S.W.3d 253 (Tex. Crim. App. 2010), the trial court had erred in admitting Dr. Richard Coons' future dangerousness testimony. Order, *Ex parte Ramey*, No. AP- 76,533, 2011 WL 1288284 (Tex. Crim. App. Apr. 6, 2011) (per curiam) (App. 31a–39a). After receiving briefing, the TCCA denied Mr. Ramey's habeas application in November 2012. *Ex parte Ramey*, 382 S.W.3d 396, 398 (Tex. Crim. App. 2012) (holding that any error in admitting Coons's testimony was not cognizable on habeas and summarily denying Mr. Ramey's remaining claims). Judge Meyers dissented. *Id.* at 398.

Mr. Ramey proceeded to federal court, where after obtaining new counsel, he filed an amended federal habeas petition. *Ramey v. Davis*, No. 6:13-cv-00043 (S.D. Tex. Dec. 15, 2015), ECF No. 30. In July 2018, the district court denied the petition and denied a certificate of appealability ("COA") on all of the claims. *Ramey v. Davis*, 314 F. Supp. 3d 785, 831 (S.D. Tex. 2018), *aff'd sub nom. Ramey v. Lumpkin*, 7 F.4th 271 (5th Cir. 2021) (App. 40a–116a). The Fifth Circuit granted a COA on the *Batson* and guilt-phase ineffective assistance claims but not on Mr. Ramey's punishment-phase ineffective assistance claim. *Ramey v. Davis*, 942 F.3d 241 (5th Cir. 2019). It later affirmed the district court's denial of habeas relief. *Ramey v. Lumpkin*, 7 F.4th 271 (5th Cir. 2021), *cert. denied*, 142 S. Ct. 1442 (2022).

On May 7, 2026, Mr. Ramey's execution was scheduled for September 23, 2026. Mr. Ramey filed his first subsequent application for habeas review on September 9, 2026, invoking *Pitchford's* new *Batson* rule, new scientific evidence, and the post-conviction witness

investigation. On September 21, 2026, the TCCA dismissed that application under article 11.071, § 5. This petition follows.

REASONS FOR GRANTING THE WRIT

A. This case exemplifies systemic inequality in capital proceedings and on-going due-process violations in the imposition of capital punishment.

1. The TCCA's dismissal is contrary to this Court's precedent.

This case concerns more than one man's life or the facts of a single trial. It is an archetypal representation of systematic inequality and a derogation of this Court's longstanding precedent. It reflects the same due-process failures that continue to fuel death sentences nationwide. "[A] state-court decision is contrary to this Court's precedent if the state court arrives at a conclusion opposite to that reached by this Court on a question of law." *Williams v. Taylor*, 529 U.S. 362, 405 (2000). It is further contrary to this Court's precedent "if the state court confronts facts that are materially indistinguishable from a relevant Supreme Court precedent and arrives at a result opposite." *Id.*

Here, the TCCA's ruling is diametrically opposed to this Court's longstanding precedent. *First*, the TCCA dismissal of the petition as an abuse of the writ contradicts this Court's ruling in *Pitchford* and allows a *Batson* challenge to end at the precise point this Court has now held constitutionally indispensable: the defense's opportunity to prove pretext. *Second*, the TCCA has effectively permitted a death sentence to rest on expert assurances of scientific certainty that the relevant disciplines and courts have since rejected. *Third*, the TCCA refused relief despite a total breakdown of the adversarial system at both phases of trial—the very failure *Strickland*, *Williams*, and *Wiggins* identify as constitutionally intolerable.

B. The TCCA allowed a *Batson* challenge to go unremedied where the record compels an inference of discrimination.

The Sixth Amendment guarantees the right to a fair and impartial jury. *Irvin v. Dowd*, 366 U.S. 717, 722 (1961) (recognizing the right to trial by jury as "the most priceless" among constitutional safeguards). This Court has long insisted that nobody should be

punished for a crime without “a charge fairly made and fairly tried in a public tribunal free of prejudice, passion, excitement, and tyrannical power.” *Chambers v. Florida*, 309 U.S. 227, 236–37 (1940). And because jury verdicts are rarely disturbed once entered, strict compliance with constitutional limits is essential. *See Furman v. Georgia*, 408 U.S. 238, 367 (1972) (Marshall, J. concurring) (“While reviewing courts are willing to entertain all kinds of collateral attacks where a sentence of death is involved, they very rarely dispute the jury’s interpretation of the evidence.”)

Discriminatory jury practices violate the Constitution. *See Swain v. Alabama*, 380 U.S. 202 (1965), *overruled by Batson v. Kentucky*, 476 U.S. 79 (1986); *Miller-El v. Dretke*, 545 U.S. 231 (2005) (“*Miller-El II*”), *modified by Powers v. Ohio*, 499 U.S. 400 (1991). “The Constitution forbids striking even a single prospective juror for a discriminatory purpose.” *Id.* As such, this Court has refused to uphold a death sentence imposed by a jury where even *one* veniremember had been improperly excluded. *Davis v. Georgia*, 429 U.S. 122, 123 (1976) (“[I]f a venireman is improperly excluded . . . any subsequently imposed death penalty cannot stand.”); *see also Snyder*, 552 U.S. 472 (setting aside conviction and death sentence for race-based peremptory strike).

Batson sought to remedy racial bias in jury selection. It establishes a three-step inquiry: (1) the challenger must establish a *prima facie* case of discrimination; (2) the proponent must offer a race neutral explanation for the challenged strike; and (3) after the challenger has an opportunity to rebut the proffered reason as pretextual, the trial court must assess all relevant circumstances to decide if purposeful racial discrimination occurred. 476 U.S. at 96–97; *see also Pitchford v. Cain*, 608 U.S. 391, 394 (2026); *Miller-El II*, 545 U.S. at 240; *Snyder v. Louisiana*, 552 U.S. 472, 478 (2008).

In *Pitchford*, this Court held that the Mississippi Supreme Court had unreasonably applied *Batson* in determining that Pitchford had waived his opportunity to rebut the race-neutral reasons the prosecutor offered at *Batson*’s second step, as the defense was not afforded a genuine opportunity to show that those reasons were pretextual. *Id.* at 1353. In so

concluding, this Court determined that the trial court “never conducted the essential third step of the *Batson* inquiry.” *Id.* at 1349 (emphasis supplied). A defendant must “at least have an opportunity to argue that the asserted race-neutral reasons were not the actual reasons” before the court rules. *Id.* at 1353.

Here, the TCCA’s failure to address the trial court’s bypass of the “essential” third step of *Batson* is directly contrary to *Pitchford*. This is especially so where, as here, extraordinary evidence of discrimination is present. Remember, counsel objected to the State’s strike of Black veniremember Steadham-Scott. The prosecutor offered three ostensible reasons, the last of which was really no reason at all (stating only that “there were many other” reasons). App. 237a. Then, before defense counsel could object or demonstrate pretext, the trial court declared: “I’m comfortable with the record reflecting what it did with respect to that juror at this time.” *Id.* The full record citation confirms this abrupt termination. *Id.* at 215a–216a. As in *Pitchford*, the trial court accepted advocacy at step two as adjudication at step three.

That failure was not harmless formality. *Batson*’s third step is where implausibility, comparative juror evidence, statistics, disparate questioning, and the jury shuffle had to be weighed together. *Miller-El v. Dretke*, 545 U.S. 231, 239–41, 252–55, 265 (2005). By ending the inquiry before counsel could marshal those circumstances for its consideration, the trial court insulated the prosecutor’s explanations from the adversarial testing that makes *Batson*’s constitutional rule meaningful. The TCCA was presented with all of these facts in light of this Court’s new ruling in *Pitchford*, yet chose to decline review.

The decision below therefore directly departs from *Pitchford*’s newly articulated command. It also presents an important recurring question for courts reviewing older *Batson* records: whether an unexplained acceptance of step-two reasons can be treated as a completed step-three adjudication when the defense is never provided a genuine opportunity to answer. *Pitchford* says no. Review is warranted to enforce that rule before Texas carries out an irreversible sentence.

C. The TCCA's denial of relief from Dr. Willie's total investigative default grossly departs from *Strickland*, *Williams*, and *Wiggins*.

Strickland requires counsel to make reasonable investigations or, at the very least, a reasonable decision that further investigation is unnecessary. *Strickland v. Washington*, 466 U.S. 668, 690–91 (1984). In a capital murder trial, counsel's failure to investigate and present substantial mitigation evidence at the sentencing phase plainly violates the Sixth Amendment right to effective assistance of counsel. *Williams v. Taylor*, 529 U.S. 362 (2000).

Courts may not justify a complete failure to investigate as an objectively reasonable tactical choice. *Richards*, 566 F.3d 553, 564 (5th Cir. 2009); *U.S. v. Mohammed*, 863 F.3d 885, 890 (D.C. Cir. 2017); *Trevino v. Davis*, 829 F.3d 328, 348 (5th Cir. 2016). *Wiggins* holds that a purported strategy is reasonable only to the extent it rests on a professionally adequate investigation, and prejudice requires reweighing the omitted evidence against the aggravation actually presented. *Wiggins v. Smith*, 539 U.S. 510, 521–23, 527–38 (2003). The record here does not present a debatable investigative choice.

Dr. Willie prejudicially and unreasonably failed to investigate, develop, and present compelling mitigation at the penalty phase, in violation of Mr. Ramey's constitutional right to effective assistance of counsel. *Taylor*, 529 U.S. at 396; *Canales v. Stephens*, 765 F.3d 551, 569 (5th Cir. 2014) (reversing dismissal of habeas petition and remanding on ineffective assistance at the punishment phase where counsel failed to conduct an independent mitigation investigation and uncover "an extensive history of physical abuse, emotional abuse, and neglect"). He made no strategic decision not to pursue potential avenues of mitigation, and his total failure to investigate cannot be construed as a reasonable tactical choice. *Wiggins*, 539 U.S. at 532; *Mohammed*, 863 F.3d at 890; *Trevino*, 829 F.3d at 348. Dr. Willie simply failed to perform his basic duties.

The TCCA's dismissal as abuse of the writ cannot be reconciled with this Court's Sixth Amendment precedents. The TCCA's refusal to consider the resulting claims on the merits rewards precisely the kind of total investigative default that *Strickland*, *Williams*, and *Wiggins* condemn.

By treating the procedural bar of article 11.071, § 5 as dispositive without engaging the substance of the constitutional violations, the TCCA effectively immunized the most extreme form of attorney abandonment from judicial review, a result incompatible with the minimum guarantees of the Sixth Amendment. Dr. Willie's misconduct exemplifies a recurring structural problem in capital litigation: under-resourced, under-qualified counsel who lack the training, time, or commitment to mount a constitutionally adequate defense. Granting certiorari here would send a necessary signal that a total investigative default cannot withstand constitutional scrutiny, let alone the imposition of death.

D. This Court has jurisdiction to reach and correct these serious constitutional violations because no adequate and independent state-law ground for decision underlies the TCCA's judgment.

Where a state-law ground of decision "is so interwoven with" a federal-law ground of decision "as not to be an independent matter," this Court's "jurisdiction is plain." *Enter. Irrigation Dist. v. Farmers Mut. Canal Co.*, 243 U.S. 157, 164 (1917). In that situation, this Court has "jurisdiction and should decide the federal issue," because "if the state court erred in its understanding of [this Court's] cases," then the Court "should so declare." *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562, 568 (1977). Thus, if the ruling on the state-court ground is even "influenced by" a question of federal law, it is not independent. *See Foster v. Chatman*, 578 U.S. 488, 499 n. 4 (2016) (citation omitted).

Here, there can be no adequate and independent state law ground where the TCCA has refused to entertain the merits. If the state court denied the writ based on a failure by Mr. Ramey to satisfy the prima-facie-showing prong of section 5(a)(1), its decision was not based on an independent state ground. Under this prong, the TCCA must determine whether the applicant has made a *prima facie* showing of a federal constitutional violation. *See* Article 11.071, § 5(a)(1).

The Fifth Circuit has frequently recognized that such review, purportedly for purposes of deciding whether there was an abuse of the writ, is not independent of federal law. *See, e.g., Rivera v. Quarterman*, 505 F.3d 349, 359 (5th Cir. 2007) (resolution of antecedent

federal question was implicit in TCCA’s evaluation of “sufficient specific facts” for section 5(a) review for intellectual disability claim and decision that the claim “does not make a *prima facie* showing – and is, therefore, an abuse of the writ – is not an independent state law ground”); *accord Busby v. Davis*, 925 F.3d 699, 706–07 (5th Cir. 2019).

The TCCA’s statement that it did not review the merits of Mr. Ramey’s claims does not mean that it did not review or rely on the *prima-facie*-showing prong. Indeed, the TCCA has made clear that when it examines a claim and finds no *prima facie* showing, it does not consider itself to have reviewed “the merits” of the claim. *See, e.g., Ex parte Davila*, No. WR-75,356-03, 2018 WL 1738210, at *1 (Tex. Crim. App. Apr. 9, 2018) (“Applicant has failed to make a *prima facie* showing of a *Brady* violation . . . and he has failed to show that the law he claims renders the Texas scheme unconstitutional applies to the Texas scheme Accordingly, we dismiss this application as an abuse of the writ without reviewing the merits of the claims raised.”); *Ex parte Shore*, No. WR-78,133-02, 2017 WL 4534734, at *1 (Tex. Crim. App. Oct. 10, 2017) (“After reviewing this application, we find that applicant has failed to make a *prima facie* showing that a person with brain damage . . . should be categorically exempt from execution Accordingly, we dismiss this application as an abuse of the writ without reviewing the merits of the claim raised.”).

The TCCA was presented with a compelling record with a litany of constitutional violations, yet chose to remain silent and implicated no adequate state law to support its assertions. The unavailability prong may also be interwoven with federal questions. Under Texas law, the unavailability prong requires a showing that the “factual or legal basis for the claim was unavailable on the date the applicant filed the previous application.” Article 11.071, § 5(a)(1). Section 5(d) defines legal unavailability of a claim as follows:

[The] legal basis of a claim is unavailable on or before a date described by Subsection (a)(1) if the legal basis was not recognized by or could not have been reasonably formulated from a final decision of the United States Supreme Court, a court of appeals of the United States, or a court of appellate jurisdiction of this state on or before that date.

Id., § 5(d).

The unavailability prong thus requires the TCCA to review the state of federal law in order to determine if the legal basis of the claim was recognized by, or reasonably flowed from, a final decision of this Court or a federal court of appeals. To reach such a conclusion, the TCCA must review federal law as it existed both at the time of the filing of a prior petition as well as at the time of the successor filing. The unavailability prong is inherently dependent on the TCCA's analysis of the requirements of federal law as of a given date. And where a state court decision fails to "follow the dictates of federal law" it cannot be defended "as resting on adequate and independent state law grounds." *Espinoza v. Mont. Dep't of Revenue*, 140 S. Ct. 2246, 2262 (2020).

E. This case is an important vehicle to remedy systemic due process violations and has broad general applicability.

This case is a quintessential manifestation of wrongful convictions that continuously emerge in capital punishment cases. The most common drivers of wrongful convictions include (1) official misconduct by the State; (2) perjury or false testimony; (3) unreliable expert witnesses; and (4) non-diverse juries.⁷ All factors are present here. That combination makes this case a particularly clean vehicle for reform. The Court would not have to isolate a single doubtful ruling from an otherwise reliable capital proceeding; it can assess how a variety of constitutional violations interacted to produce a death sentence after the adversarial safeguards failed at every critical point. Each ground independently supports review, and the complete record shows why the constitutional questions cannot be dismissed as harmless in the aggregate.

As this case exemplifies, racial discrimination in jury selection remains an endemic feature of the justice system. This Court's sustained attention from *Batson* to *Pitchford*, while commendable, reflects the profound persistence of this problem, and the stakes in

⁷ See ACLU, *Fatal Flaws: Innocence, Race, and Wrongful Convictions*, (Nov. 19, 2025), accessible at <https://www.aclu.org/publications/fatal-flaws-innocence-race-and-wrongful-convictions> (compiling a wide variety of academic and case studies describing the common drivers for wrongful convictions).

the present case call for the Court yet again to intervene. Mr. Ramey's case supplies a clean vehicle to enforce *Pitchford's* newly clarified rule in a jurisdiction that produces a disproportionate share of the Nation's executions. Review would reaffirm that *Batson's* constitutional inquiry cannot end before the defendant has had an affirmative opportunity to expose pretext.

The ineffective-assistance question is no less general and recurring. Defense counsel's duty to investigate remains the most frequently litigated aspect of *Strickland's* performance prong. But a total investigative default is not a limited investigation. Here, where counsel conducted literally no investigation, no court should defer to a strategic choice that Dr. Willie, hopelessly out of his depth, never made. Granting certiorari would reaffirm the minimum constitutional floor set by the Sixth Amendment and give lower courts guidance for distinguishing claims of total investigative default from limited-investigation claims governed by *Strickland's* ordinary reasonableness standard.

The false-evidence question is equally national. The continued use of since-discredited forensic methodologies to support capital convictions is not a local concern. This case presents a recurring due-process question: when the methodological foundation of expert testimony has been authoritatively repudiated, must courts reassess convictions and death sentences obtained through that testimony? The question applies in every jurisdiction that admits similar evidence. This Court's intervention would provide a rule capable of governing the many capital judgments that rest on legacy forensic claims of certainty that science can no longer support.

Finally, the irreversibility of execution demands this Court's intervention. Mr. Ramey is set to die in less than 36 hours. The errors identified in this petition are not harmless technical errors on the margins of an otherwise reliable proceeding. They go instead to the fundamental question of whether a fair trial occurred and whether fair trials can be conducted going forward. Execution would make the constitutional injuries irrevocable and endorse constitutional infirmities as a matter of course.

CONCLUSION

The petition for a writ of certiorari should be granted.

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Respectfully submitted,

Jessica Frenkel
ASHURST PERKINS COIE US LLP
1900 16th Ste. 1400
Denver, CO 80202
(303) 291-2300

Torryn T. Rodgers
ASHURST PERKINS COIE US LLP
505 Howard St Ste. 1000
San Francisco, CA 94105
(415) 344-7000

Lara Owen
ASHURST PERKINS COIE US LLP
3150 Porter Dr.
Palo Alto, CA 94304
(650) 838-4300

/s/ Ronald A. McIntire
Ronald A. McIntire
Counsel of Record
Alisha C. Burgin
Maria Trubetskaya
Jesenia Nunez-Lopez
Julia Martin
ASHURST PERKINS COIE US LLP
1999 Avenue of the Stars, Ste. 1000
Los Angeles, CA 90067
(310) 788-9900
ronald.mcintire@ashurstperkins.com

Emily Dowling
ASHURST PERKINS COIE US LLP
1120 NW Couch St.
Portland, OR 97209
(503) 727-2000

Counsel for Petitioner