No. _____

In the Supreme Court of the United States

MICHAEL DEAN GONZALES,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

On Petition for Writ of Certiorari
To the Texas Court of Criminal Appeals

UNOPPOSED APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR A WRIT OF CERTIORARI

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UNOPPOSED APPLICATION FOR AN EXTENSION OF TIME TO PETITION FOR A WRIT OF CERTIORARI

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

1. Michael Dean Gonzales is a death-sentenced inmate in Texas who sought state postconviction relief. Gonzales is represented by the Office of the Federal Public Defender for the Western District of Texas, Capital Habeas Unit (CHU), in Austin, Texas, and co-counsel Richard H. Burr. The United States District Court for the Western District of Texas has appointed Mr. Burr and the Federal Public Defender to represent Gonzales pursuant to 18 U.S.C. § 3599. Undersigned counsel is an attorney with the CHU and a member of this Court's Bar.

2. On August 20, 2026, the Texas Court of Criminal Appeals (TCCA) issued an opinion denying Gonzales's claim that his death sentence violated the Eighth Amendment prohibition on the execution of individuals with intellectual disability. Exhibit A, *Ex Parte Gonzales*, No. WR-40,541-07, 2026 WL 2482916, at *1 (Tex. Crim. App. Aug. 20, 2026) (set for publication); *see Atkins v. Virginia*, 536

U.S. 304 (2002). Two judges dissented from the decision to deny relief. *Id.*

3. This Court has jurisdiction over the case under 28 U.S.C. § 1257.

4. Gonzales's petition for certiorari is due November 18, 2026. *See* Sup. Ct. R. 13.1.

5. Counsel are engaged in the process of researching and preparing a petition for writ of certiorari. Given their obligations in other capital cases, however, counsel requests additional time.

6. Pursuant to Rule 13.5 and Rule 30.3, Gonzales requests an extension of 30 days, up to and including December 18, 2026, in which to file his petition for writ of certiorari. Gonzales makes this request 19 days before the due date.

7. Gonzales's counsel has contacted counsel for the Respondent, who has stated that the Respondent is not opposed to the requested extension of time.

8. An extension is necessary because the issues Gonzales will present relating to the Eighth Amendment prohibition on the execution of persons with intellectual disability are complex and significant.

9. On March 3, 2022, the TCCA stayed Gonzales's impending execution and authorized the trial court to review the merits of his claim of intellectual disability. *Gonzales*, 2026 WL 2482916, at *1. On remand, the State initially opposed relief. But after obtaining the evaluation and report of its own expert, the State conceded that the uncontroverted evidence showed that Gonzales was entitled to relief because of his intellectual disability. *Id.* at *2. The parties jointly submitted proposed findings of fact and conclusions of law recommending reformation of the sentence to life in prison, which the trial court adopted. *Id*.

10. The TCCA rejected the trial court's findings and conclusions and denied relief. *Id.* at *3-12. The court concluded that a petitioner in Gonzales's circumstances was required to show by clear and convincing evidence that "no rational fact finder would fail to find him intellectually disabled." *Id.* at *4, *6. The court declined to remand the case to the trial court to apply the correct standard. *Id.* at *4. Applying the standard itself, the court did not find that Gonzales was *not* intellectually disabled. Instead, the court opined that a "rational factfinder, duly informed by the medical

community's diagnostic framework, could still quite reasonably reject Applicant's claim of intellectual disability." *Id.* at *9. The court concluded that a rational juror could discredit the valid IQ testing performed by the defense and State experts and the documentary evidence showing Gonzales's serious deficits during his childhood based on factors (*id.* at *9-12) that, Gonzales will show, deviated from this Court's holdings in *Moore v. Texas (Moore I)*, 581 U.S. 1 (2017); *Moore v. Texas (Moore II)*, 586 U.S. 133 (2019).

11. Thus, the case presents the issue whether, in examining how a rational juror would consider evidence of intellectual disability, the TCCA could impute reasons to jurors that this Court prohibited the court from considering outright. That is, the question is whether the TCCA could do indirectly what this Court proscribed directly.

12. Moreover, counsel have obligations in other capital habeas cases which necessitate an extension of time:

    a. CHU Counsel are preparing petitions for writs of certiorari in two additional cases, *Ex Parte Speer*, No. WR-59, 101-06 (Tex. Crim. App.), and *Ex Parte Lucio*, No. WR-72,702-05 (Tex.

Crim. App.)—respectively due November 18, 2026 (application for extension of time of 30 days sought contemporaneous to this application), and December 23, 2026.

b. CHU Counsel are assisting with the representation of Reinaldo Dennes, who is scheduled for execution on November 19, 2026. *State of Texas v. Dennes*, No. 750,313 (263d Dist. Ct., Harris Cnty.).

c. CHU Counsel are preparing a reply to Respondent's lengthy answer in the federal habeas case of *Broxton v. Guerrero*, No. 4:11-CV-00315 (S.D. Tex.) (answer filed October 21, 2026; reply due December 21, 2026).

d. CHU Counsel are developing complex innocence-related and forensic evidence in three other matters in which the parties have set a strict timeline to file postconviction applications, *Allen v. Guerrero,* No. 4:10-mc-00202 (S.D. Tex.), *Gobert v. Guerrero*, No. 1:15-CV-042 (W.D. Tex.), and *Raby v. Guerrero*, 4:02-CV-00349 (S.D. Tex.).

e. Counsel Richard Burr, who has represented Gonzales since 2013 and previously acted as lead counsel, is solely

responsible for intensive caregiving for a close family member with Alzheimer's disease, severely affecting the time he is able to devote to his legal practice and to preparation of Gonzales' petition.

CONCLUSION

For these reasons, Gonzales respectfully requests that the time to file a petition for writ of certiorari be extended 30 days, up to and including December 18, 2026.

Respectfully submitted, this 30th day of October 2026.

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PROOF OF SERVICE

I, Joshua Freiman, counsel of record for Petitioner Michael Dean Gonzales, certify that on October 30, 2026, I have served a copy of this application for extension of time to the following counsel for Respondent, via Federal Express overnight delivery and by email:

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All parties have been served.

/s/ Joshua Freiman
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Counsel for Petitioner