WR-85,278-02
COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS
Transmitted 3/2/2026 4:56 PM
Accepted 3/3/2026 8:13 AM
DEANA WILLIAMSON
CLERK

NO. WR-85,278-02

IN THE COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS

Ex Parte
Cedric Ricks

ON APPLICATION FOR WRIT OF HABEAS CORPUS
IN CAUSE NO. 1361004R
IN THE 371ST JUDICIAL DISTRICT COURT
OF TARRANT COUNTY, TEXAS

BRIEF OF *AMICI CURIAE*

FAIR AND JUST PROSECUTION

Kristin Swain
Senior Attorney
Phillips Black, Inc.
Texas Bar No. 24138995
PO Box 271723
Flower Mound, TX 75027
(888) 532-0897 (tel.)
k.swain@phillipsblack.org

Counsel for Amici

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

INTEREST OF AMICI CURIAE

Amicus curiae is Fair and Just Prosecution (FJP), a project of the Tides Center.[1] FJP brings together elected prosecutors from around the nation as part of a network of leaders committed to a justice system grounded in fairness, equity, compassion, and fiscal responsibility. FJP's network includes prosecutors from both rural and urban communities who collectively represent nearly 20% of Americans.

FJP is committed to protecting the integrity of our justice system, advancing accountability and fairness, and ensuring the safety of everyone in our communities. FJP believes that prosecutorial power carries profound responsibility. The prosecutor's role is not merely to secure convictions, but to achieve justice and remain impartial. That obligation extends to every stage of the criminal justice process, from jury selection to habeas proceedings.

FJP has a deep understanding of the crucial role that prosecutors play in upholding the integrity of the jury selection process and the critical importance of prosecutors' acknowledging when constitutional errors have infected that process. FJP recognizes that discriminatory jury selection practices undermine the integrity of the result in individual cases and public confidence in the system as a whole. The

[1] No counsel for a party authored this brief in whole or in part, and no person or entity other than the amici and their counsel made any monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for both parties have been served with a copy of this brief.

rights and procedures enshrined in *Batson v. Kentucky*, 476 U.S. 79 (1986), represent an important avenue for defendants to vindicate their rights to be free from a trial infected with racial discrimination. Additionally, *Batson* represents the only realistic opportunity to vindicate the rights of the jurors who are being discriminated against and excluded from participation in one of the pillars of our democracy. FJP believes that this Court must step in to prevent a miscarriage of justice and to effectuate *Batson* in rare situations like this one, where newly discovered evidence demonstrates that jurors in Mr. Cedric Ricks's case were improperly discriminated against due to race.

SUMMARY OF ARGUMENT

Forty years ago, the U.S. Supreme Court determined in *Batson v. Kentucky* that, to ensure defendants receive a fair trial and equal protection under the law, no litigant may exclude a prospective juror because of their race. *Id.* The ruling was intended to protect against the systematic exclusion of Black and other jurors of color.

Now, four decades later, the racially discriminatory practices that *Batson* sought to eliminate persist. Applicant Cedric Ricks sits on death row after trial prosecutors used peremptory strikes against two Black prospective jurors under circumstances that strongly suggested racial discrimination. Beginning at trial and for nearly a decade afterwards, prosecutors resisted defense counsel's diligent efforts to obtain prosecutors' jury selection notes to seek meaningful judicial review of Applicant's

Batson claim. When prosecutors finally turned over the notes, *after* Applicant's first application for a writ of habeas, those notes revealed powerful evidence that the challenged strikes were indeed racially motivated. This new evidence is properly before this Court under 11.071 § 5(a)(1), *see* TEX. CODE CRIM. PROC. Art 11.071 § 5(a)(1), and with Applicant's pending execution on March 11, 2026, provides the last chance for this Court to correct an egregious violation of *Batson*.

Every instance of racially discriminatory jury selection inflicts a constitutional triple harm: it harms defendants by depriving them of their right to a fair trial free from racial animus; it harms Black citizens by excluding them from participating in their fundamental civic duty of jury service—"the most substantial opportunity that most citizens have to participate in the democratic process" other than voting, *Flowers v. Mississippi* (*"Flowers VI"*), 588 U.S. 284, 293 (2019); and it harms the community as a whole by undermining the integrity of a justice system that promises equal treatment under the law and erodes public trust in that system. Those harms are most acute when the stakes are highest in capital cases like this one.

Given their unique roles as ministers of justice, prosecutors play an integral role in ensuring that *Batson* violations are not perpetuated. When Batson violations do occur, prosecutors should welcome appellate and post-conviction review of meritorious *Batson* claims, not withhold the evidence necessary for judicial review. Indeed, prosecutors are tasked not merely with winning convictions, but with acting

in the interests of justice, convicting only those who can be proven guilty beyond a reasonable doubt through a fair process. Prosecutors thus have a number of important duties at trial, including ensuring the jury selection process is free from racial discrimination. Prosecutors' ethical duties also continue into post-conviction proceedings. Prosecutors who have learned that racial discrimination infected jury selection should rectify the constitutional violation, not resort to gamesmanship to insulate cases from review. When prosecutors abandon their legal and ethical obligation to do justice, it is imperative that courts like this Court step in and provide relief. *Batson*'s protections will count for little if prosecutors are allowed to thwart meritorious *Batson* claims by withholding evidence of invidious discrimination.

This Court should grant Mr. Ricks's application for a writ of habeas corpus.

ARGUMENT

I. Striking Jurors Based on Race Harms Defendants, Potential Jurors, And the Public More Broadly.

The Fourteenth Amendment's guarantee of equal protection prohibits racial discrimination in jury selection. The U.S. Supreme Court held in *Batson* that the Equal Protection Clause forbids prosecutors from exercising peremptory challenges to exclude jurors on account of their race. 476 U.S. at 89. So too, this Court has recognized that "[t]he exclusion of minority citizens from service as jurors constitutes a primary example of the evil the Fourteenth Amendment was designed

to cure." *See, e.g.*, *State ex rel. Curry v. Bowman*, 885 S.W.2d 421, 425 (Tex. Crim. App. 1993) (quoting *Hill v. State*, 827 S.W.2d 860, 873 (Tex. Crim. App. 1992) (Baird, J. concurring) (citation omitted)).

To enforce its constitutional mandate, *Batson* established a burden-shifting framework: Once a defendant makes a prima facie showing of discrimination, the prosecutor must articulate race-neutral reasons for the strikes, and the trial court must then determine whether the defendant has proven purposeful discrimination. 476 U.S. at 96-98. Trial courts are supposed to assess "the prosecutor's credibility" and "the prosecutor's race-neutral explanations in light of all of the relevant facts and circumstances." *See Flowers VI*, 588 U.S. at 302-03; *see also Foster v. Chatman*, 578 U.S. 488, 501 (2016) (this searching review "demands a sensitive inquiry into such circumstantial evidence of intent as may be available" (cleaned up)).

The constitutional prohibition on racial discrimination in jury selection serves multiple vital interests. "The harm caused by a *Batson* violation is inflicted not only upon the parties but the excluded juror and the entire community as well." *Bowman*, 885 S.W.2d at 424. When prosecutors exclude Black jurors on the basis of race, as prosecutors did in this case, they violate defendants' Sixth and Fourteenth Amendment rights, deny excluded jurors their constitutional right to participate in democratic governance, and undermine the legitimacy of the justice system. These harms are particularly egregious in capital cases, where discriminatory jury selection

can determine not only conviction or acquittal, but whether a defendant lives or dies—as it did here.

A. Striking Jurors Based on Race Deprives the Defendant of a Fair Trial.

Empirical evidence demonstrates that racially homogeneous juries produce systematically different and less fair outcomes than diverse juries. Research shows that less diverse juries spend less time deliberating, consider fewer perspectives, and are more likely to convict defendants of color.[2] All-white and nearly all-white juries make more mistakes and are more likely to presume guilt, particularly when judging Black defendants.[3] Diverse juries, on the other hand, have proven to be better equipped when it comes to accurately assessing witness credibility from multiple perspectives, identifying problems like racial profiling and stereotyping, and holding prosecutors to their burden of proof.[4] Thus, the U.S. Supreme Court has long recognized that racialized jury selection "places the fairness of a criminal proceeding in doubt." *Powers v. Ohio*, 499 U.S. 400, 411 (1991). And because we cannot reverse an execution, the nature of capital punishment demands the highest level of

---

[2] *See* Samuel R. Sommers, *On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition in Jury Deliberation*, 90 J. Personality & Soc. Psychol. 597, 608 (2006); *see also* Shamena Anwar et al., *The Impact of Jury Race in Criminal Trials*, 127 Quart. J. Econ. 1017 (2012); William J. Bowers et al., *Death Sentencing in Black and White: An Empirical Analysis of Jurors' Race and Jury Racial Composition*, 3 J. Const. L. 171 (2001).

[3] Sommers, *supra*, at 603-04.

[4] *Id.* at 600-06; *see also* William J. Bowers et al., *Crossing Racial Boundaries: A Closer Look at the Roots of Racial Bias in Capital Sentencing When the Defendant Is Black and the Victim Is White*, 53 Depaul L. Rev. 1497, 1507-08, 1511, 1531 (2004).

procedural fairness and the most rigorous scrutiny. *See e.g. Furman v. Georgia*, 408 U.S. 238, 286, 289 (1972) (Brennan, J., concurring) ("Death is a unique punishment….") ("Death…is in a class by itself."); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality opinion) ("[T]his qualitative difference between death and other penalties calls for a greater degree of reliability when the death sentence is imposed."); *McCleskey v. Kemp*, 481 U.S. 279, 340 (1987) (Brenan, J. dissenting) ("It hardly needs reiteration that [the U.S. Supreme Court] has consistently acknowledged the uniqueness of the punishment of death.").

B. Striking Jurors Based on Race Deprives the Struck Jurors of Their Right to Participate in the Democratic Process.

Exclusion from jury service based on race denies an essential aspect of citizenship to Texans, inflicting dignitary harm on excluded citizens in addition to the harm it causes to defendants.

Jury service is a "duty, honor, and privilege." *Powers*, 499 U.S. at 415. "Other than voting, serving on a jury is the most substantial opportunity that most citizens have to participate in the democratic process." *Flowers VI*, 588 U.S. at 293. Thus exclusion of Black citizens because of their race signals that Black citizens are presumed unqualified by state actors to decide important questions. *Strauder v. West Virginia*, 100 U.S. 303, 308 (1880) (racial exclusion from jury service places "a brand upon [excluded citizens], affixed by the law, an assertion of their inferiority"),

abrogated on other grounds by Taylor v. Louisiana, 419 U.S. 522, 536 n.19 (1975). "A venireperson excluded from jury service because of race" therefore "suffers a profound personal humiliation heightened by its public character." *Powers*, 499 U.S. at 413-14.

The harm is made worse because excluded jurors have virtually no practical recourse and thus little reason to challenge their exclusion. "The reality is that a juror dismissed because of race probably will leave the courtroom possessing little incentive to set in motion the arduous process needed to vindicate his own rights." *See Powers*, 499 U.S. at 415. And even when excluded jurors muster the courage to try, courts are reluctant to hear their collateral claims. *See, e.g.*, *Pipkins v. Stewart*, 105 F.4th 358, 362-63 (5th Cir. 2024) (per curiam) (affirming W.D. La. summary judgment in Equal Protection action under 42 U.S.C. § 1983 against the Caddo Parish District Attorney's alleged custom of discriminatory peremptory strikes); *Hall v. Valeska*, 849 F. Supp. 2d 1332, 1337-40 (M.D. Ala. 2012) (dismissing § 1983 action by excluded jurors challenging systematic racial discrimination in peremptory strikes), *aff'd*, 509 F. App'x 834 (11th Cir. 2012).

Peremptory strikes have historically been and to this day still are used to exclude potential Black jurors and other jurors of color.[5] Peremptory strikes have been and are used to racialize juries not only based on explicit race-based policies, but also by using pretextual "race-neutral" criteria that have the same intended discriminatory effect.[6]

The harm caused by discriminatory jury selection is compounded by the backdrop of systemic barriers that already compromise equal participation of jurors of color. From the start, Black citizens face underrepresentation in jury pools largely because jury selection systems rely heavily on voter registration and driver's license lists that systematically exclude communities of color.[7] People of color also face disproportionate disqualification due to past involvement with the criminal justice system and resulting financial hardship; hardship that is more prevalent in marginalized communities to begin with.[8] Further, Black jurors encounter higher rates of for-cause challenges, frequently based on their lived experiences with law

---

[5] *Cf.* Hon. Morris B. Hoffman, *Peremptory Challenges Should Be Abolished: A Trial Judge's Perspective*, 64 U. Chi. L. Rev. 809, 819 (1997) (describing peremptory strikes as "the last great tool of Jim Crow").

[6] *See* Equal Justice Initiative, *Race and the Jury: Illegal Discrimination in Jury Selection* (2021).

[7] Julie A. Cascino, *Following Oregon's Trail: Implementing Automatic Voter Registration to Provide for Improved Jury Representation in the United States*, 59 Wm. & Mary L. Rev. 2575, 2578-79 (2018) ("Due to the low registration rates of these groups, voter rolls often do not accurately represent the proportion of eligible minority, low-income, or young voters in a specific community. Accordingly, jury pools are less representative of that community as well.").

[8] *See* Ginger Jackson-Gleich, *Rigging the Jury: How Each State Reduces Jury Diversity by Excluding People with Criminal Records*, Prison Policy Initiative (Feb. 18, 2021).

enforcement and the courts.[9] Each of these realities operates to reduce jury diversity; together, they aggravate the injuries that racialized peremptory strikes already inflict, which are constitutionally intolerable on their own.

C. Striking Jurors Based on Race Harms the Public by Undermining the Community's Faith in the Fairness of the Justice System and Making the System Less Effective.

"Racially-motivated peremptory strikes during jury selection not only affect a defendant's rights, they also deprive a community of its voice in a criminal trial." *Ex parte Robertson*, 603 S.W.3d 427, 429 (Tex. Crim. App. 2020) (Newell, J., concurring) (citations omitted). The consequences of discriminatory jury selection extend to all of us. A justice system that tolerates racial discrimination in jury selection—or that tolerates attempts by prosecutors to thwart judicial review—forfeits the public trust on which effective law enforcement and public safety depend.

The U.S. Supreme Court recognizes that racial bias in the jury system is a "familiar and recurring evil that, if left unaddressed, would risk systemic injury to the administration of justice." *See Peña-Rodriguez v. Colorado*, 580 U.S. 206, 224 (2017). And because it "implicates unique historical, constitutional, and institutional

[9] *See, e.g.*, Thomas Ward Frampton, *For Cause: Rethinking Racial Exclusion and the American Jury*, 118 Mich. L. Rev. 785, 790-95 (2020) (studies in Mississippi and Louisiana found that Black prospective jurors were more than three times more likely as white prospective jurors to be excluded "for cause").

concerns," the Court demands vigilant judicial attention to ensure that racial bias does not infect a defendant's right to a fair trial.[10] "The duty to confront racial animus in the justice system is not the legislature's alone." *Id.* at 222. When "called upon to enforce the Constitution's guarantee against state-sponsored racial discrimination in the jury system," the U.S. Supreme Court has consistently held that "discrimination on the basis of race, 'odious in all aspects, is especially pernicious in the administration of justice.'" *Id.* at 222-23 (quoting *Rose v. Mitchell*, 443 U.S. 545, 555 (1979)).

"Enforcing th[e] constitutional principle" of equal protection in jury selection helps to "protect the rights of defendants and jurors, and to enhance public confidence in the fairness of the criminal justice system." *Flowers VI*, 588 U.S. at 301. The U.S. Supreme Court has warned repeatedly of the dangers in racializing jury selection in particular because it "places the fairness of a criminal proceeding in doubt," which "casts doubt on the integrity of the judicial process" itself. *Powers*, 499 U.S. at 411 (quoting *Rose*, 443 U.S. at 556). "Jury service preserves the democratic element of the law, as it guards the rights of the parties and ensures continued acceptance of the laws by all of the people." *Id.* at 407 (citing *Green v.*

[10] *See, e.g.*, *id.* at 225 (holding that the Sixth Amendment requires an exception to the no-impeachment rule when a juror makes clear statements indicating reliance on racial stereotypes to convict, as racial bias differs from other jury misconduct and threatens systemic harm to the administration of justice); *see also id.* at 221 (the constitutional "imperative to purge racial prejudice from the administration of justice" has deep historical roots).

United States, 356 U.S. 165, 215 (1958) (Black, J., dissenting)). The jury serves as "a vital check against the wrongful exercise of power by the State and its prosecutors," and striking jurors because they are not white damages "both the fact and the perception of this guarantee." *Id.* at 411 (citing *Batson*, 476 U.S. at 86); *see also Davis v. Ayala*, 576 U.S. 257, 285 (2015) (U.S. Supreme Court has repeatedly emphasized that racially motivated jury selection "undermines our criminal justice system" and "poisons public confidence in the evenhanded administration of justice").

These concerns are not abstract. From FJP's experience, public safety depends on public trust, and that public trust depends on a justice system that treats people fairly. When people have trust in legal authorities and view the police, the courts, and the law as legitimate, they are more likely to report crimes, cooperate as witnesses, and accept police and judicial system authority.[11] On the other hand, when the public does not trust law enforcers, community members may be less willing to participate in the criminal justice system.[12] This reluctance hampers the ability of the courts, police, and prosecutors to fulfill their public safety obligations. Without

[11] *See* Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?*, 6 Ohio St. J. Crim. L. 231, 263 (2008); *see also* Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation, and Engagement*, 20 Psych., Pub. Pol'y, & L. 78, 78-79 (2014).

[12] *See, e.g.*, Giffords L. Ctr. to Prevent Gun Violence, *In Pursuit of Peace: Building Police-Community Trust to Break the Cycle of Violence* (Sept. 9, 2021), https://tinyurl.com/3nf737kt.

cooperative victims and witnesses, police are unable to investigate, prosecutors are unable to bring charges, and juries are unable to convict the guilty or free the innocent.[13]

II. Prosecutors Should Encourage Judicial Review of Meritorious Batson Claims, Not Withhold Evidence of Discrimination.

Prosecutors should encourage appellate and post-conviction review, or even agree to a new trial, when they discover that the convicting jury was the product of gender or racial discrimination.

Prosecutors have a duty to pursue justice, not merely convictions, and that means upholding the integrity of the criminal trial process. The American Bar Association's Model Rules on Professional Conduct, make it clear that prosecutors are "a minister of justice and not simply … an advocate."[14] "This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that special precautions are taken to prevent and rectify the conviction of innocent persons."[15] Indeed, prosecutors are tasked with representing "a sovereignty whose interest in a criminal prosecution is not that it shall win a case, but that justice shall be done." *United*

[13] *Id.*

[14] American Bar Association, *Model Rules on Professional Conduct*, Rule 3.8 cmt. 1 (2025), https://tinyurl.com/2452takv.

[15] *Id.*

States v. Bagley, 473 U.S. 667, 675 n.6 (1985) (alterations omitted) (quoting *Berger v. United States*, 295 U.S. 78, 88 (1935)).

Prosecutors must likewise be dedicated to ensuring the legitimacy and integrity of the trial process. For example, the "use of unlawful discriminatory peremptory challenges is not legitimate advocacy" under ABA Model Rule of Professional Conduct 8.4(g).[16] In fact, "[i]t is as much [the prosecutor's] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use legitimate means to bring about a just one." *Berger*, 295 U.S. at 88. It thus goes without saying that prosecutors must comply with *Batson* by not using peremptory strikes to discriminate against potential jurors based on race.

A prosecutor's obligation to do justice continues after conviction. "The public trust" placed in prosecutors "requires that they be quick to confess error when, in their opinion, a miscarriage of justice may result from their remaining silent." *Young v. United States*, 315 U.S. 257, 258 (1942). And more than a century ago, in *Cook v. United States*, 138 U.S. 157, 185 (1891), the U.S. Supreme Court recognized that "it was … [the] duty" of the government's representatives in a criminal case to concede reversible error. The American Bar Association's Criminal Justice Standards for the Prosecutorial Function thus do not require prosecutors to "invoke every possible

[16] American Bar Association, *Formal Opinion 517* at 3 (July 9, 2025), https://tinyurl.com/yc2pr4jj.

defense to a collateral attack" if "the interests of justice" would not be served by doing so.[17] And prosecutors build confidence when they honor those rules and that trust, as when the Oklahoma Attorney General recently joined death-row defendant Richard Glossip in asserting error in Glossip's case under *Napue v. Illinois*, 360 US 264 (1959), "conceding both that [a key witness's] testimony was false and that the prosecution knowingly failed to correct it." *Glossip v. Oklahoma*, 145 S. Ct. 612, 627 (2025).

Likewise, if a prosector "come[s] to realize that participants in a previous defendant's case are ethically flawed," the prosecutor must "decide whether justice requires them to take action that would help [the] defendant."[18] That's because prosecutors should seek to defend only convictions "legally obtained."[19] A contrary approach—authorizing prosecutors to act with the sole purpose of shielding convictions—would send the troubling message that the justice system's singular objective is to keep people in prison, rather than to do justice. Indeed, various laws and policies encourage or require prosecutors to seek justice after conviction. For example, courts have held that a state's *Brady* obligations to turn over exculpatory

---

[17] American Bar Association, *Criminal Justice Standards for the Prosecutorial Function*, Standard 3-8.5 (4th ed. 2017), https://tinyurl.com/4xw5f582.

[18] Fred C. Zacharias, *The Role of Prosecutors in Serving Justice After Convictions*, 58 Vanderbilt L. Rev. 171, 178, 182 (2005).

[19] National District Attorneys Association, *National Prosecution Standards* 9-1.3 (4th ed. Jan. 2023).

evidence that the state knew about at trial continues during post-conviction proceedings. *E.g.*, *In re Jenkins*, 525 P.3d 1057, 1067 (Cal. 2023); *Whitlock v. Brueggemann*, 682 F.3d 567, 588 (7th Cir. 2012); *Canion v. Cole*, 115 P.3d 1261, 1262 (Ariz. 2005) (en banc); *High v. Head*, 209 F.3d 1257, 1264 n.8 (11th Cir. 2000); *Thomas v. Goldsmith*, 979 F.2d 746, 749-50 (9th Cir. 1992).

Prosecutors cannot have faith in a conviction when jurors were struck based on race, so prosecutors should support appellate and post-conviction review of meritorious *Batson* claims—like Applicant's claims here. In FJP's experience, many prosecutors care about the integrity of the capital convictions they secure, and they welcome the opportunity to demonstrate that their jury selection was non-discriminatory. When prosecutors instead withhold evidence of racial discrimination in the jury selection process to prevent meaningful judicial review, as prosecutors in this case did for nearly a decade, they abandon their obligation to do justice. In such cases, it is imperative for the judiciary to provide the necessary review and correction.

Texas Code of Criminal Procedure Article 11.071, § 5(a)(1) exists precisely so that the Court of Criminal Appeals may provide relief under "exceptional circumstances" like those present in Applicant's case, where, despite defense counsel's diligent efforts, critical evidence only emerges after an initial application. *C.f. In re Texas Dep't of Crim. Just.*, 710 S.W.3d 731, 738 (Tex. Crim. App. 2025)

(citing *Ex parte Torres*, 943 S.W.2d 469, 473-74 (Tex. Crim. App. 1997)). Now that prosecutors have handed over the evidence of racial discrimination against prospective jurors in this case, this Court has the power to vindicate Applicant's meritorious *Batson* claim. Indeed, because Applicant's execution is imminent, this Court has the last opportunity to remedy the egregious injustice that has occurred in this case. Justice requires Mr. Ricks to have a trial free from racialized jury selection tactics. And the people of Texas deserve better than a justice system that promises equal protection while turning a blind eye when fundamental constitutional rights are trampled

CONCLUSION

This Court should grant Mr. Ricks's application for a writ of habeas corpus.

Respectfully submitted,

/s/Kristin Swain
Kristin Swain
Counsel for *Amici*

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a true and correct copy of the foregoing Brief of *Amici Curiae* Fair and Just Prosecution was electronically delivered to the following individuals through the Court of Criminal Appeal's e-filing system on this day 2nd day of March, 2026.

Fredericka Sargent
Assistant District Attorney, Postconviction
Tarrant County District Attorney's Office
Tim Curry Criminal Justice Center, 4th Floor
401 West Belknap Street
Fort Worth, Texas 76196
Phone: 817.884.3109
Fax: 817.884.2499
FSargent@tarrantcountytx.gov

Jeremy Schepers
Supervisor, Capital Habeas Unit

Naomi Fenwick
Assistant Federal Public Defender

Officer of the Federal Public Defender
Northern District of Texas
525 S. Griffin St., Ste. 629
Dallas, TX 75202
Phone: 214.767.2746
Fax: 214.767.2886
Jeremy_schepers@fd.org
Naomi_fenwick@fd.org

/s/ Kristin Swain

Kristin Swain

CERTIFICATE OF COMPLIANCE

Pursuant to Tex. R. App. Pro. 73.1, undersigned counsel certifies that this document complies with:

1. The type-volume limitation of Tex. R. App. Pro. 73.1(d) because this document contains 4044 words.
2. The typeface requirements of Tex. R. App. Pro. 73.1(e) because this document has been prepared in a conventional typeface using Microsoft Word in 14-point Times New Roman font.

/s/ Kristin Swain

Kristin Swain

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Kristin Swain on behalf of Kristin Swain
Bar No. 24138995
k.swain@phillipsblack.org
Envelope ID: 111902256
Filing Code Description: Brief
Filing Description: Brief of Amicus Curiae Fair and Just Prosecution
Status as of 3/3/2026 8:14 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Naomi Fenwick	24107764	naomi_fenwick@fd.org	3/2/2026 4:56:26 PM	SENT
Fredericka Sargent		FSargent@tarrantcountytx.gov	3/2/2026 4:56:26 PM	SENT
Jefferson David Clendenin		jay.clendenin@oag.texas.gov	3/2/2026 4:56:26 PM	SENT