

No. 23-248

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**In the Supreme Court of the United States**

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JAMES GARFIELD BROADNAX, PETITIONER

*v.*

STATE OF TEXAS

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

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**SUPPLEMENTAL BRIEF FOR THE PETITIONER**

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On January 22, 2024, this Court granted certiorari in *Glossip v. Oklahoma*, No. 22-7466, directing the parties to brief and argue, in addition to the questions presented, the issue of “[w]hether the Oklahoma Court of Criminal Appeals’ holding that the Oklahoma Post-Conviction Procedure Act precluded post-conviction relief is an adequate and independent state-law ground for the judgment.” As permitted by Supreme Court Rule 15.8, Petitioner respectfully submits this Supplemental Brief to call this Court’s attention to the potential relevance of this grant of certiorari, as an “intervening matter not available at the time of the party’s last filing.”

Mr. Broadnax petitioned for a writ of certiorari on September 5, 2023. In opposing this Petition, Respondent argued that the Texas Court of Criminal Appeals’ (“CCOA”) decision below rested on an adequate and independent state ground. Resp’t Br. Opp’n at 6–11. In his reply, filed on November 17, 2023, Mr. Broadnax pointed out that the CCOA’s purported application of Tex. Code Crim. Proc. Art. 11.071 § 5(a), under that court’s own interpretation of the same rule, necessarily rested on a substantive federal ground. Pet’r Reply Br. at 2–7.

In *Glossip v. Oklahoma*, the petitioner, like Mr. Broadnax here, argues that the application of the state law rule at issue in his case necessarily turned on determinations of federal law. *See, e.g.*, Pet’r Reply Br. at 11–12, No. 22-7466. Mr. Broadnax submits that in his case, it is clear that the CCOA’s decision was based on a substantive federal ground, and that Respondent’s incorrect argument to the contrary presents no impediment to a grant of certiorari. But to the extent this Court finds it advisable to consider this issue in tandem with the issue presented in *Glossip v. Oklahoma*, Mr. Broadnax alternatively suggests that the Court hold this case pending the disposition of *Glossip v. Oklahoma*.

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The petition for a writ of certiorari should be granted.

Respectfully submitted,

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