



Joe D. Gonzales  
Criminal District Attorney  
Bexar County, Texas

March 7, 2025

The Honorable Scott S. Harris  
Clerk of the United States Supreme Court  
One First Street NE  
Washington, D.C. 20543

RE: Correction of the Respondent's Brief in Opposition in  
*David Asa Villarreal v. Texas*, Case No. 24-557

Dear Mr. Harris:

On February 25, 2025, respondent filed its brief in opposition to the petition. As petitioner notes in his reply of March 5, 2025, respondent misquoted the Crimes Act of 1790. (BIO 15.) Specifically, respondent quoted the Act as saying "reasonable hours" when it actually says, "seasonable hours." Act of April 30, 1790, ch. 9, § 29, 1 Stat. 118 (1790).

Undersigned counsel assures this Court that the misquote was inadvertent, and he asks that it consider this letter brief to correct any mischaracterization of the relevant law. By way of an explanation—not an excuse—the mistake came from a combination of counsel relying on a misquote of the Act in the Congressional Research Service's Constitution Annotated<sup>1</sup> and reading a PDF scan of the Act too quickly. Counsel apologizes to the Court and opposing counsel for this mistake.

But respondent stands by the substance of its argument. As petitioner notes, "seasonable" meant "opportune," but it also meant "happening or done at a proper time; proper as to time." Samuel Johnson, *A Dictionary of the English Language* (1785)

---

<sup>1</sup> Cong. Rsch. Serv., *Amdt6.6.1 Historical Background on Right to Counsel*, CONSTITUTION ANNOTATED, [https://constitution.congress.gov/browse/essay/amdt6-6-1/ALDE\\_00000948/](https://constitution.congress.gov/browse/essay/amdt6-6-1/ALDE_00000948/) (last visited March 7, 2025).

(unpaginated).<sup>2</sup> If some hours were proper, then others were necessarily improper, which would presumably include the overnight hours. And respondent’s main point was, and remains, that placing a qualification—whether it be “seasonable,” “reasonable,” or anything else—on the hours counsel and client could meet “shows that the right to counsel was not unlimited; rather, counsel’s contact with his client could be restricted.” (BIO 15.) If Congress believed the soon-to-be-ratified Counsel Clause required that attorney and client be able to meet at all hours, it would not have included any qualifier in the Act.

With these comments and, again, undersigned counsel’s apologies, respondent asks that this letter be distributed to the Members of the Court for their consideration of the petition.

Respectfully,  
Joe D. Gonzales  
Criminal District Attorney  
Bexar County, Texas

*/s/Andrew N. Warthen*  
Andrew N. Warthen  
Assistant Criminal District Attorney  
Bexar County, Texas  
101 W. Nueva Street, 7th Floor  
San Antonio, Texas 78205  
(210) 335-1539  
awarthen@bexar.org

cc: **Stuart Banner**  
Counsel for Petitioner  
banner@law.ucla.edu

---

<sup>2</sup>This version of Johnson’s dictionary can be found online at: <https://archive.org/details/dictionaryofengl02johnuoft/page/n585/mode/2up> (last visited March 7, 2025). A more user-friendly version of an earlier edition of the dictionary—but with the same definitions of “seasonable”—is also available. JOHNSON’S DICTIONARY ONLINE, 2021, <https://johnsonsdictionaryonline.com/index.php> (last visited March 7, 2025).