Nos. 24-5612 & 24A290

In the Supreme Court of the United States

PROSECUTING ATTORNEY, 21ST JUDICIAL CIRCUIT
EX REL. MARCELLUS WILLIAMS, Petitioner,

v.

STATE OF MISSOURI, Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MISSOURI

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI AND TO MOTION FOR STAY OF EXECUTION

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CAPITAL CASE

QUESTIONS PRESENTED

The questions presented are:

1. May this Court consider a claim that was never presented to the state courts in violation of state law?
2. Should this Court depart from its well-established practice and grant certiorari review of fact bound claims that are meritless?
3. May this Court consider claims that rest upon adequate and independent state law grounds in violation of Article III?

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JURISDICTIONAL STATEMENT

This Court lacks jurisdiction to review the petition for certiorari because the Missouri Supreme Court's opinion below rests on an adequate and independent state law ground, in that the decision below rested on the state court's interpretation of Missouri law. Missouri's highest court determined that, as a matter of state law, the Prosecutor below could not prove his own case by "conceding" he was correct; and that Williams's *Batson*[1] claim was not preserved because he failed to follow state procedural rules. Pet. App. 254, 249.

To grant this petition, this Court would be required to overrule Missouri's highest court's interpretation of Missouri's laws. But as "a well-established principle of federalism[,]" the adequate and independent state-law grounds the Missouri Supreme Court decided the claims upon render the challenged decision, "immune from review in the federal courts." *Wainwright v. Sykes*, 433 U.S. 72, 81 (1977).

[1] *Batson v. Kentucky*, 476 U.S. 79 (1986).

STATEMENT OF THE CASE[2]

In affirming Williams's[3] convictions and sentences, the Supreme Court of Missouri summarized the facts surrounding Williams's murder of F.G.:

> On August 11, 1998, Williams drove his grandfather's Buick LeSabre to a bus stop and caught a bus to University City. Once there, he began looking for a house to break into. Williams came across the home of [F.G.]. He knocked on the front door but no one answered. Williams then knocked out a window pane near the door, reached in, unlocked the door, and entered [F.G.]'s home. He went to the second floor and heard water running in the shower. It was [F.G.]. Williams went back downstairs, rummaged through the kitchen, found a large butcher knife, and waited.
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> [F.G.] left the shower and called out, asking if anyone was there. She came down the stairs. Williams attacked, stabbing and cutting [F.G.] forty-three times, inflicting seven fatal wounds. Afterwards, Williams went to an upstairs bathroom and washed off. He took a jacket and put it on to conceal the blood on his shirt. Before leaving, Williams placed [F.G.]'s purse and her husband's laptop computer and black carrying case in his backpack. The purse contained, among other things, a St. Louis Post–Dispatch ruler and a calculator. Williams left out the front door and caught a bus back to the Buick.
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> After returning to the car, Williams picked up his girlfriend, [L.A.]. [L.A.] noticed that, despite the summer heat, Williams was wearing a jacket. When he removed the jacket, [L.A.] noticed that Williams' shirt was bloody and that he had scratches on his neck. Williams claimed he had been in a fight. Later in the day, Williams put

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[2] Williams's statement of the case fails to recount the facts of his crime and culpability as they were found by the jury, so this Court should rely on Respondent's statement instead. *See* Rule 15.2.

[3] In the proceeding below, Williams and the St. Louis County Prosecutor were acting as one team. For instance, Williams and the Prosecutor conducted a joint "investigation." They filed joint pleadings in the trial court, including joint findings of fact and conclusions of law. When the Prosecutor filed his appellate brief in the Missouri Supreme Court, Williams's counsel appeared on the cover page. When the Missouri Supreme Court heard oral argument on the appeal, the Prosecutor ceded all time to Williams's counsel. In reality, the Prosecutor acted as Williams's counsel below. Accordingly, Missouri refers to the Prosecutor and Williams interchangeably when discussing the motion to vacate or set aside.

his bloody clothes in his backpack and threw them into a sewer drain, claiming he no longer wanted them.

[L.A.] also saw a laptop computer in the car. A day or two after the murder, Williams sold the laptop to [G.R.].

The next day, [L.A.] went to retrieve some clothes from the trunk of the car. Williams did not want her to look in the trunk and tried to push her away. Before he could, [L.A.] snatched a purse from the trunk. She looked inside and found [F.G.]'s Missouri state identification card and a black coin purse. [L.A.] demanded that Williams explain why he had [F.G.]'s purse. Williams then confessed that the purse belonged to a woman he had killed. He explained in detail how he went into the kitchen, found a butcher knife, and waited for the woman to get out of the shower. He further explained that when the woman came downstairs from the shower, he stabbed her in the arm and then put his hand over her mouth and stabbed her in the neck, twisting the knife as he went. After relaying the details of the murder, Williams grabbed [L.A.] by the throat and threatened to kill her, her children and her mother if she told anyone.

On August 31, 1998, Williams was arrested on unrelated charges and incarcerated at the St. Louis City workhouse. From April until June 1999, Williams shared a room with [H.C.]. One evening in May, [H.C.] and Williams were watching television and saw a news report about [F.G.'s] murder. Shortly after the news report, Williams told [H.C.] that he had committed the crime. Over the next few weeks, [H.C.] and Williams had several conversations about the murder. As he had done with [L.A.], Williams went into considerable detail about how he broke into the house and killed [F.G.].

After [H.C.] was released from jail in June 1999, he went to the University City police and told them about Williams' involvement in [F.G.]'s murder. He reported details of the crime that had never been publicly reported.

In November of 1999, University City police approached [L.A.] to speak with her about the murder. [L.A.] told the police that Williams admitted to her that he had killed [F.G.]. The next day, the police searched the Buick LeSabre and found the Post–Dispatch ruler and calculator belonging to [F.G]. The police also recovered the laptop computer from [G.R.]. The laptop was identified as the one stolen from [F.G.]'s residence.

State v. Williams, 97 S.W.3d 462, 466–67 (Mo. 2003) (*Williams I*).

On direct appeal, Williams made challenges under *Batson v. Kentucky*, 476 U.S. 79 (1986), to three potential jurors who were struck peremptorily at trial; those venirepersons were numbers 64, 65, and 72 on the venire panel. *Williams I*, 97 S.W.3d at 471–72.

The Missouri Supreme Court found that the prosecutor articulated three race-neutral reasons for the strike of potential Venireperson 64. *Id*. *First*, the person's earrings and clothing indicated he was trying to be different and indicated he was, in the prosecutor's view, liberal. *Id*.; *see also* Trial Tr. 1585–86. The Missouri Supreme Court found that this did not reflect that racial bias motivated the strike. *Id*. *Second*, the person's demeanor and appearance were similar to Williams. *Id*.; *see also* Trial. Tr. 1586. The court found that reasons for the similarity noted by the prosecutor were the same glasses and demeanor. *Id*. at 472; *see also* Trial Tr. 1586. The court found these reasons not to be inherently race based. *Id*. *Third*, the prosecutor struck Venireperson 64 because he was a postal worker. *Id*.; Trial Tr. 1586–87. The trial court found all of these to be race-neutral reasons. Trial Tr. 1591.

On January 26, 2024, the Prosecutor filed a motion under Mo. Rev. Stat. § 547.031 (2021), to vacate the first-degree murder conviction and death sentence of Williams. Pet. App. 26. The Prosecutor's motion raised four claims on behalf of Williams: (1) that Williams "may be" actually innocent of the first-degree murder, Pet. App. 54–61; (2) that Williams's trial counsel provided ineffective assistance in failing to better impeach two witnesses for the State who testified that Williams

confessed to them, Pet. App. 61–68; (3) that Williams's trial counsel provided ineffective assistance in failing to present different mitigating evidence "contextualizing" Williams's "troubled background, Pet. App. 69–78; and (4) that the State committed *Batson* violations by allegedly exercising peremptory strikes of Venirepersons 64 and 65 on the basis of race, Pet. App. 78–87. In denying Williams's motion to withdraw the execution warrant, the Supreme Court of Missouri stated that it had already considered and rejected these four claims. *State v. Williams*, 2024 WL 3402597, slip op. at *3 n.3 (Mo. Jul. 12, 2024) (*Williams V*). In doing so, the Missouri Supreme Court specifically stated:

> This Court is aware the circuit court scheduled Prosecutor's motion for an August 21, 2024, evidentiary hearing. This Court is equally aware Prosecutor's motion is based on claims this Court previously rejected in Williams' unsuccessful direct appeal, unsuccessful Rule 29.15 motion for postconviction relief, and his unsuccessful petitions for a writ of habeas corpus. Moreover, there is no allegation additional DNA testing has been conducted since the master oversaw DNA testing and this Court denied Williams' habeas petitions.

Williams V, 2024 WL 3402597 at *3, n.3.

On August 28, 2024, the motion court held an evidentiary hearing on Williams's motion and then issued Findings of Fact and Conclusions of Law on September 12, 2024. Pet. App. 2–25. During the pendency of the case, DNA results were received on August 19, 2024, that were not consistent with Williams's theory that DNA on the handle of the murder weapon could match an unknown person and exculpate Williams. Pet. App. at 11-12. Instead, the DNA was consistent with an investigator involved in the trial of the case. *Id.* at 11–12. In addition, the evidence was consistent with the testimony of a crime scene investigator that the killer wore

gloves based on glove marks left at the crime scene. *Id*. at 12.

Over the State's objection, on August 21, 2024, Williams and the Prosecutor, who was the movant attacking Williams's conviction, then attempted to enter an agreement for Williams's to enter a guilty plea to first-degree murder under *Alford v. North Carolina*, 400 U.S. 25 (1970), in order to avoid Williams being executed. Pet. App. 12. Williams's other convictions would be undisturbed. The Missouri Supreme Court issued a writ of prohibition preventing this, and it directed the motion court to conduct a hearing on the case. *Id*.

On August 25, 2024, three days before the hearing, Williams moved to amend his motion to add two claims. *Id*. Claim five asserted a bad faith destruction of evidence claim under *Youngblood v. Arizona*, 488 U.S. 51 (1988). Claim six was a claim the original trial court violated due process by not granting a continuance of the original murder trial. Pet. App. 12.

The motion court, over the State's objection, granted leave to amend the motion to add claim five alleging bad faith destruction of DNA on the murder weapon and of fingerprints collected from the scene. *Id*. at 12–13. The motion court did not grant leave to amend to add claim six, noting that the Missouri Supreme Court had already found it was not an abuse of discretion to deny the motion for continuance. *Id*. at 13.

The motion to vacate alleged that the State exercised discriminatory peremptory strikes of two members of the venire, Venireperson 64 and Venireperson 65. Pet. App. 78–87. When denying Williams's claim, the circuit court below found the prosecutor "denied systematically striking Black jurors or asking Black jurors

more isolating questions than White jurors." *Id*. at 18. The Missouri Supreme Court found this testimony was credible. Pet. App. 250. The circuit court also noted: "The Supreme Court of Missouri rejected Williams' *Batson* challenges to these same venirepersons on direct appeal. The Supreme Court of Missouri found that the State had provided race-neutral reasons to support its strikes of Venireperson 64 and Venireperson 65." Pet. App. 19. (citations omitted). The circuit court, then, determined that it could not "reverse, overrule, or otherwise decline to follow the previous decisions of the Supreme Court of Missouri that populate the long procedural history in Williams' case." Pet. App. 19.

The transcript from the underlying evidentiary hearing refutes the idea that the trial prosecutor had non-race-neutral reasons for any of his peremptory strikes. Resp't. App. 381a–415a; Pet. App. 166–263. The trial prosecutor explicitly *denied* striking potential Venireperson 64 in part because he was black, stating that he struck this potential juror in part because he thought Williams and this potential juror looked similar, but not because he was black. Pet. App. 213. When asked specifically if *part of the reason* he struck this potential juror was because he and Williams were both black, the trial prosecutor stated "*No. Absolutely not. Absolutely not.* If I strike someone because they're black, under the Supreme Court of the United States, *Batson* and other cases, then the case gets sent back for a new trial. It gets reversed if I do that." *Id*. (emphasis added).

While not binding on the state courts, on September 19, 2024, in a separate proceeding the United States District Court for the Eastern District of Missouri

rejected the same *Batson* claim based on the transcript of the motion to vacate hearing. Order Denying Motion Set Aside Judgment, *Williams v. Vandergriff*, 4:05-CV-1474-RWS (E.D. Mo. Sep. 19, 2024). The United States District Court for the Eastern District of Missouri found that asserting that one of the reasons that the prosecutor struck one of the potential jurors was because the person was black was a "mischaracterization" of the prosecutor's testimony. *Id.* at *5. The court then held that the prosecutor's testimony does not support the inference that the race of the potential juror was "'one reason' for striking him." *Id.*

The state motion court also made findings rejecting the *Youngblood* claim. After the hearing in this matter, the circuit court found, in pertinent part:

> 60. [K.L.] testified that he knew from talking to Detective [V.C.] that the killer wore gloves. *Id.* at 183-85.
>
> 61. [K.L.] testified that he believed it was appropriate to handle the knife without gloves after the crime laboratory had completed their testing, after he was informed that no one wanted any more testing on the knife, and after he was informed the laboratory found there were no fingerprints and nothing to link any individual to the crime. *Id.* at 192-93.
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> 62. [K.L.] testified he handled the knife without gloves at least five times prior to trial. *Id.* at 180-87. He showed the knife to four witnesses (two detectives, F.G.'s husband, and the medical examiner) and affixed an exhibit sticker on the knife for use at trial. *Id.* at 180-81.
>
> 63. [K.L.] testified credibly that he had never heard of touch DNA in 2001 and probably did not hear of it until 2015. *Id.* at 241. [K.L.] testified that the standard procedure in the St. Louis Prosecuting Attorney's Office at the time of Williams' trial was not to wear gloves when handling fully tested evidence because there was no reason to. *Id.*

64. [K.L.] testified that he did not open untested fingernail clippings at trial without gloves because he did not want to contaminate them. *Id.* at 246.

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91. Here, neither Movant nor Williams presented any evidence from which this Court could find that the State destroyed potentially useful evidence in bad faith, let alone clear and convincing evidence of the same.

92. The record before this Court refutes the allegation of bad-faith destruction of latent fingerprints. Indeed, the trial transcript indicates that latent fingerprints of insufficient quality for comparison were destroyed. Resp. Ex. A at 95-96, 3241. Specifically, Detective [T.K.] testified that he received fingerprint lifts that were of insufficient quality to be used for comparison and those were destroyed after it was determined that the lifts were useless. *Id.* at 2324, 2340-41. No evidence was presented that this was done in bad faith. Because Movant has failed to me[e]t his burden of proof, this Court finds the claim of bad-faith destruction of fingerprint evidence to be without merit.

93. In addition, Movant did not carry his burden to demonstrate bad-faith destruction of whatever genetic material, if any, was present on the handle of the murder weapon prior to the knife handle being touched by [K.L.], Investigator [E.M.], and any other individuals.

94. [K.L.] testified that he believed it was appropriate to handle the knife without gloves after the crime laboratory had completed their testing, he was informed that no one wanted any more testing on the knife, and the laboratory found there were no fingerprints and nothing on the knife to link any individual to the crime. *Id.* at 192-93. [K.L.] stated that this belief was bolstered by the information provided by Detective [V.C.] indicating that the killer had worn gloves, which, in turn was supported by the testimony of H.C. *Id.* at 192-93.

95. [K.L.] testified that he carried the knife around without gloves during Williams' trial and handed it to a witness who was not wearing gloves and "[n]o one said anything." *Id.* at 247.

96. This Court finds that [K.L.] testified credibly concerning the touching of the knife and that his testimony, as well as the other

> evidence in the state court record, refutes a claim that he, or any other State-actor, acted in bad faith by touching the knife handle without gloves and Movant's theory has no probative value.
>
> 97. Because Movant failed to prove his claim by clear and convincing evidence, this Court finds Movant's fifth claim to be without legal merit.

Pet. App. 16, 21.

The opinion of the Supreme Court of Missouri is set out in the Petitioner's Appendix at pages 236–259. The court found that the movant did not present any new evidence on the *Batson* claim but instead tried to "twist" the trial prosecutor's race neutral explanation into a showing of purposeful discrimination. Pet. App. 250. The Missouri Supreme Court found the prosecutor actually testified that part of the reason he struck Venireperson 64 was that person looked similar, in that he had the same glasses and same piercing eyes. Pet. App. 250. The Missouri Supreme Court agreed with the district court that the movant mischaracterized the prosecutor's testimony in claiming that the prosecutor said part of the reason he struck Venireperson 64 was because of race. Pet. App. 250. The Missouri Supreme Court found that the prosecutor testified, "No, absolutely not," when asked if part of the reason he struck Venireperson 64 was because of race, and that the circuit court was entitled to give the testimony weight. Pet. App. 250. The Missouri Supreme Court found that Williams had cherry-picked the record, ignored the circuit courts factual findings, and offered no persuasive justification for reversing the previous determination of the *Batson* claim. Pet. App. 251.

The Missouri Supreme Court rejected the *Youngblood* claim. Pet. App. 251–254. The Missouri Supreme Court found that none of the evidence showed bad-faith destruction of evidence, noting that the prosecutor credibly testified to his belief that the killer wore gloves, that in 2001 he had never heard of touch DNA, that it is incorrect to impute the current understanding of touch DNA to a 2001 case, and that it was unremarkable the weapon was handled as it was. Pet. App. 251–54.

The Missouri Supreme Court found that the circuit court found that the witnesses who testified about the retention of voir dire notes said little of probative value. Pet. App. 254.

The Missouri Supreme Court found that Missouri case law and Mo. Rev. Stat. § 547.031 were inconsistent with the idea that the Prosecutor could concede his own claims. Pet. App. 254–55.

REASONS FOR DENYING THE PETITION

I. This petition is an extraordinarily poor vehicle for considering the questions presented because this Court is without jurisdiction to consider Williams's late-arriving claims, neither of which fit this Court's traditional criteria for certiorari review.

Williams's petition presents an exceptionally poor vehicle for addressing the questions presented because it does not invoke this Court's jurisdiction and because Williams has constructed and executed a strategy of extreme delay in bringing his claims, and thus, this petition.

A. The Missouri Supreme Court adjudicated Williams's claims on independent and adequate state law grounds, and therefore this Court is without jurisdiction over the claims.

This Court lacks jurisdiction to review the petition for certiorari because the Missouri Supreme Court's decision on Williams's claims rests on adequate and independent state law grounds, in that the decision below rested on the state court's interpretation of Missouri law. With respect to Williams's "concession" claim, Missouri's highest court determined that, as a matter of state law, a prosecutor "cannot also represent the party with the burden of proof and satisfy that burden by merely asserting his own claims are correct. This type of one-sided proceeding cannot be squared with § 547.031 or this Court's case law." Pet. App. 254. And with respect to Williams's *Batson* claim, Missouri's highest court found that the Prosecutor's complaint was with "the form and language of the circuit court's judgment," that because Prosecutor did not file a "[Missouri Supreme Court] Rule 78.07(c) motion to amend the judgment," that meant that "Prosecutor waived this claim of error." Pet. App. 249.

"The adequate and independent state grounds doctrine is the product of two fundamental features of [this Court's] jurisdiction." *Cruz v. Arizona*, 598 U.S. 17, 32 (2023) (Barrett, J, dissenting). "First, this Court is powerless to revise a state court's interpretation of its own law." *Id.* Thus, this Court "cannot disturb state-court rulings on state-law questions that are independent of federal law." *Id.* (citing *Murdock v. Memphis*, 87 U.S. 590 (1875)). "Second, Article III empowers federal courts to render

judgments, not advisory opinions." *Id.* (citing *Hayburn's Case*, 2 U.S. 408 (1792)). Both features are relevant here.

Williams's so-called "concession" claim was rejected on the common sense principle—and state law ground—that Missouri law is incompatible with allowing, "the party with the burden of proof [to] satisfy that burden by merely asserting his own claims are correct." Pet. App. 254. More specifically, the Missouri Supreme Court found such a gambit was nothing more than a "one-sided proceeding" that "cannot be squared with § 547.031 or [the Missouri Supreme Court's] case law." Pet. App. 254. When a state court finds that a litigant's argument "cannot be squared" with a state's statute, that is an independent and adequate state law ground for the judgment.

Williams fairs no better with respect to his *Batson* claim. As the Missouri Supreme Court explained, the Prosecutor's brief did not directly challenge the trial court's adjudication of the *Batson* claim. Pet. App. 249; Resp't. App. 25a. Instead, the Prosecutor's brief challenged the form and language of the trial court's judgment. Resp't. App. 25a. In Missouri, civil litigants who wish to challenge the form and language of the trial court's judgment *are required to file a post-trial motion*. Mo. Sup. Ct. R. 78.07(c); *accord Faatz v. Ashcroft*, 685 S.W.3d 388, 397 (Mo. 2024). The failure to follow a state procedural briefing rule is the classic example of an independent and adequate state law ground. *See, e.g., Wainwright*, 433 U.S. at 84 n.8. The purpose of Missouri Supreme Court Rule 78.07(c) is to provide trial courts the opportunity to correct errors *without* appellate intervention. *See, e.g., Gerlt v. State*, 339 S.W.3d 578, 585 (Mo. App. 2011). Of course, this Court has long recognized that "[a] State's

procedural rules serve vital purposes at trial, on appeal, and on state collateral attack." *Murray v. Carrier*, 477 U.S. 478, 490 (1986). Although Missouri courts articulate the principle differently, the meaning is the same: "A just rule, fairly interpreted and enforced, wrongs no man." *Sullivan v. Holbrook*, 109 S.W. 668, 670 (Mo. 1908).

Put simply, the decision below rests on adequate and independent state law grounds, and as "a well-established principle of federalism[,]" these adequate and independent state-law grounds render the decision, "immune from review in the federal courts." *Wainwright*, 433 U.S. at 81; *accord Lee v. Kemna*, 534 U.S. 362, 375 (2002); *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). This Court should deny the petition for certiorari.

B. Williams unreasonably delayed in bringing this petition.

"Both the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Bucklew v. Precythe*, 587 U.S. 119, 149 (2019) (quoting *Hill v. McDonough*, 547 U.S. 573, 584 (2006)). "Those interests have been frustrated in this case." *Id.* As the Missouri Supreme Court explained "Despite nearly a quarter century of litigation in both state and federal courts, there is no credible evidence of actual innocence or any showing of a constitutional error undermining confidence in the original judgment." Pet. App. 236. Williams has exhausted nearly every state and federal avenue for review, some more than once. And each and every time, Williams's claims have been found to be meritless. In short, Williams "has managed to secure delay through lawsuit after lawsuit." *Bucklew*, 587 U.S. at 149.

Just as he did in 2014 and 2017, Williams is trying to manufacture another emergency through dilatory tactics. That alone cautions against this Court granting certiorari to review his questions presented. This time, Williams manufactured delay by allowing the Prosecutor's motion to languish in circuit court without so much as a status conference for months. Then, once his execution date drew near, Williams began taking conflicting positions. In one court, Williams claimed that the delay of the evidentiary hearing from July 2024 to August 2024 violated his rights. Mot. for Stay at *3–4, *State v. Williams*, SC83934 (Mo. Sept. 17, 2024). Just days later, he argued the opposite position in the Missouri Supreme Court; this time asserting that the evidentiary hearing was held *too soon*, and that violated his rights. Resp't. App. 67a. All the while, Williams continued to delay. Now he comes to this Court and contends that the exigency of his impending execution is a reason to grant certiorari review. This delay is unreasonable, and "[t]he people of Missouri, the surviving victims of [Williams's] crimes, and others like them deserve better." *Bucklew*, 587 U.S. at 149–50. This Court should deny the petition for a writ of certiorari to prevent Williams from benefitting from a strategy centered on unwarranted and unjust delay.

C. None of Williams's claims fall within this Court's traditional criteria for granting certiorari review.

This Court traditionally grants certiorari review for one of three reasons: first, because the decision below arises from the Court of Appeals and it creates or deepens a split in authority between the circuits of the Court of Appeals or state courts of last resort; second, because the decision below arises from a state court of last resort and it creates or deepens a split in authority between the circuits of the Court of Appeals

or state courts of law resort; and third, because the decision below raises an important question of federal law that remains unsettled by this Court, or because the decision below conflicts with a decision of this Court. Rule 10.

Neither of Williams's claims fall within these categories. It is telling that Williams does not even attempt to invoke Rule 10 within his petition for certiorari review. Pet. at v–vi. The decision below arises from a state court of last resort, so Rule 10(a) is not applicable. Pet. at 1–40. Williams identifies no conflict between the Missouri Supreme Court's decision and the decision of any other state court of last resort or of any circuit of the Court of Appeals. So Rule 10(b) is not applicable. *Id*. And Williams does not identify any important question of federal law that should be settled by this Court, nor does he identify how the decision below conflicts with a prior decision of this Court. So Rule 10(c) does not apply.

All Williams brings this Court is a garden-variety request for error correction. But this Court is not in the business of mere error correction. *See, e.g., Price v. Dunn*, 139 S. Ct. 1533, 1539 (2019) (Thomas, J., concurring.). Because Williams has failed to even attempt to identify any of the traditional reasons for granting certiorari review, this Court should deny the petition.

II. The Missouri Supreme Court adjudicated the Prosecutor's "concession" under state law, its decision does not implicate any federal statutes or the United States Constitution, and Williams's claim is meritless.

In his first point, Williams claims that this Court should grant certiorari review over his claim that "due process of law requires reversal where a capital conviction" contains a concession from the prosecutor. Pet. at i, 15–34. This claim is

not worthy of certiorari review because the Missouri Supreme Court adjudicated the claim under state law and even if the claim could somehow be adjudicated under federal law, the claim would be meritless.

A. The Missouri Supreme Court rejected the Prosecutor's "concession" claim after interpreting a state statute, and after considering Missouri case law.

As discussed above, the Missouri Supreme Court rejected Williams's claim on state law grounds. The Missouri Supreme Court wrote

> In other words, Prosecutor now alleges that he has conceded that his own claim is correct. Prosecutor filed his § 547.031 in support of Williams; he cannot also represent the party with the burden of proof and satisfy that burden by merely asserting his own claims are correct. This type of one-sided proceeding cannot be squared with § 547.031 or this Court's case law.

Pet. App. 254. This is a clear, unequivocal statement that the Missouri Supreme Court's decision rested upon independent and adequate state law grounds. In addition, the Missouri Supreme Court went further, *ex gratia*, and addressed the merits of claim, writing "Prosecutor alleges the circuit court did not even consider Prosecutor's concession of constitutional error, but that claim is refuted by the record." Pet. App. 256. But that additional merits review does not abrogate the independent and adequate state law ground upon which the Missouri Supreme Court's holding relies.

B. Williams's claim is meritless.

Additionally, Williams's claim is meritless for at least four reasons. *First,* Williams's claim is antithetical to the adversarial design of Missouri and federal courts. *Second*, the Prosecutor's attempted "concession" below was on legal grounds,

not factual grounds. *Third*, as the Missouri Supreme Court found, the state courts *did* give appropriate weight to the Prosecutor's "concession." And *fourth*, Williams's proffered reading of *Young v. United States*, 315 U.S. 257 (1942), would abrogate long-held principles of "Our Federalism."

1. Our adversarial system prohibits two plaintiffs from jointly imposing liability on the defendant.

At the outset, Williams's vision for the structure of our legal system is antithetical to that of the founders. As this Court has explained, "We have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law. The need to develop all relevant facts in the adversary system is both fundamental and comprehensive." *United States v. Nixon*, 418 U.S. 683, 709 (1974). The adversarial design of our system is not limited to criminal cases; "In both civil and criminal cases, . . . we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present." *Greenlaw v. United States*, 554 U.S. 237, 243 (2008); *see also Moody v. Net Choice*, 144 S. Ct. 2383, 2418–19 (2024) (Thomas, J., concurring). So, then, "The Nation's adversarial adjudication system follows the principle of party presentation." *United States v. Sineneng-Smith*, 590 U.S. 371, 371 (2020) (citing *Greenlaw*, 554 U.S. at 243). In other words, since the time of the founding, this Nation's courts have recognized that the best means to a reliable result is for two parties to present disputed facts to a neutral fact finder. *See, e.g., David v. Alaska*, 415 U.S. 308, 316 (1974).

But Williams's vision turns this straight-forward principle on its head. In Williams's view, neither Missouri nor our Nation's legal system is offended by two

plaintiffs joining together to impose liability on a defendant. Pet. at 38. The Missouri Supreme Court rejected Williams's argument:

> Prosecutor now alleges that he has conceded that his own claim is correct. Prosecutor filed his § 547.031 in support of Williams; he cannot also represent the party with the burden of proof and satisfy that burden by merely asserting his own claims are correct. This type of one-sided proceeding cannot be squared with § 547.031 or this Court's case law.

Pet. App. 254. To articulate Williams's argument is to understand its flawed, self-proving logic. No court would sanction Williams's argument in another civil or criminal proceeding. For instance, two civil plaintiffs could not join together to stipulate that the defendant's negligence caused the plaintiffs' damages. At bottom, the Prosecutor, when he filed a motion under Mo. Rev. Stat. § 547.031, became Williams's counsel. Although disputed below, Williams is forced to admit that the respondent in this matter is the State of Missouri. Pet. at ii. Williams cannot credibly argue that the Prosecutor's alleged "concession" imposes liability on the State when Williams's counsel comes as the prosecutor. *Cf. Morrison v. Olsen*, 487 U.S. 654, 699 (1988) (Scalia, J., dissenting) ("But this wolf comes as a wolf."). As a result, this claim is meritless and not worthy of this Court's review.

2. The Prosecutor attempted to concede legal grounds, not facts.

As Williams all but admits, the Prosecutor's "concession" below was a legal conclusion, not a factual matter. Pet. at 17–34. But this Court settles legal questions after factual disputes between parties, not abstract questions of law. *See N.A.S.A. v. Nelson*, 562 U.S. 137, 147 n. 10 (2011). As this Court explained in *Young*, "our judicial obligations compel us to examine independently" so-called concessions of legal

grounds. *Young*, 315 U.S. at 258–59. This is so because the Court's "judgments are precedents, and the proper administration of the criminal law cannot be left merely to the stipulation of parties." *Id.*

Missouri courts channel these legal principles into a straightforward rule: " '[P]arties cannot stipulate to legal issues, and this Court is not bound by the [State's] confession of error.' " Pet. App. 254–55 (quoting *Missouri v. Hardin*, 429 S.W.3d 417, 421 n. 4 (Mo. 2014)). That is not error. The Prosecutor, for whatever reason, did not attempt to enter stipulated facts and then make a legal argument from those facts, as Williams admits. Pet. at 17–34. Instead, the Prosecutor attempted to "concede" the ultimate legal conclusion and then obtain a judgment against the State. But it was not error for the State courts to "examine independently" the Prosecutor's claims. *Young*, 315 U.S. at 258–59. In other words, because the Missouri courts did not err, this claim is meritless.

3. The state courts gave appropriate weight to the Prosecutor's "concession."

One of Williams's primary arguments is that the Missouri Supreme Court merely "paid lip service" to *Young*'s description of deference.[4] Pet. at 17. But this is plainly wrong. The Missouri courts gave the appropriate weight to the Prosecutor's "concession" in two ways: by considering the concession alongside the evidence, and in following Mo. Rev. Stat. § 547.031.

[4] The Prosecutor and Williams provided the Missouri Supreme Court with a single description of *Young*. Resp't. App. 62a. The Missouri Supreme Court applied that standard. Pet. App. 255.

As the Missouri Supreme Court explained, the trial court's decision was "supported by substantial evidence, [was] not against the weight of the evidence, and [was] not based on an erroneous declaration or application of the law." Pet. App. 256. To reach that conclusion, the Missouri Supreme Court noted that the trial court heard evidence, considered that evidence, and even considered the Prosecutor and Williams's attempt to enter into a consent judgment. Pet. App. 256. Even more than that, the trial court also invited the parties to submit proposed findings, and the trial court considered those proposed findings before issuing its own findings of fact and conclusions of law. Pet. App. 256. All of that amounted to the appropriate consideration due the Prosecutor's so-called "concession."[5]

But more than that, the state courts gave the Prosecutor's "concession" additional consideration through the mechanics of Mo. Rev. Stat. § 547.031. The statute allows a prosecuting attorney to advance claims on behalf of an inmate, apparently with few—if any—of the traditional limitations imposed on post-conviction relief challenges. *Compare* Mo. Rev. Stat. § 547.031, *with* 28 U.S.C. § 2254(a–e) (deference, exhaustion, procedural default). In other words, Missouri's law allows a Prosecutor to initiate a legal process. In comparison, most concessions take place in response to a legal proceeding instituted by a defendant, such as direct appeal. *See, e.g., Young*, 315 U.S. at 257. Once a prosecutor has begun a legal

[5] There is good reason to think that at least two members of this Court would be skeptical of the Prosecutor's effort to concede his own claims: the statute requires some sort of hearing on the claims. *See Johnson v. Missouri*, 143 S. Ct. 417, 417–418 (2022) (Jackson, J., dissenting from the denial of application for stay).

challenge, the State's representative—the Attorney General—may appear and defend. From there, the Prosecutor must prove his claims by clear and convincing evidence at an evidentiary hearing. Mo. Rev. Stat. § 547.031. If the Prosecutor was merely allowed to prove his own claims by conceding he was correct, then Missouri's statutory scheme's imposing a hearing would be mere surplusage. This is not allowed under Missouri's method of interpreting statutes. *See, e.g., Middleton v. Missouri Department of Corrections*, 278 S.W.3d 193, 197 (Mo. 2009); *see also Smith v. St. Louis County Police*, 659 S.W.3d 895, 902 n.8 (Mo. 2023).

Finally, this statutory procedure is not much different than this Court's practice where one party concedes a legal claim. In such an event, this Court routinely appoints amicus to defend the judgment below. *See, e.g., Dickerson v. United States*, 530 U.S. 428, 441 n. 7 (2000). Surely, Williams would not accuse the Court of failing to give the Government's concession appropriate weight in a case where the Government concedes error and this Court appoints amicus to defend the judgment.

When taken together, the Missouri court's consideration of the Prosecutor's "concession," the statutory design, and this Court's appointed amicus practice show that the Missouri courts accorded the appropriate consideration to the Prosecutor's positions. As a result, this claim is meritless.

4. Williams's reading of *Young v. United States* violates long-held principles of "Our Federalism."

As a final point, Williams's reading of *Young* would violate long-held principles of "Our Federalism" by denying Missouri the right to structure its criminal justice system as it deems appropriate. " 'Our Federalism' born in the early struggling days

of our Union of States, occupies a highly important place in our Nation's history and its future.' " *Younger v. Harris*, 401 U.S. 37, 44–45 (1974). "Our Federalism," in principle, "represent[s] [] a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States." *Id.* at 44. As a result, states have considerable flexibility when designing their criminal justice systems. This Court has repeatedly recognized the States' important interests in enforcing lawful criminal judgments without federal interference. "The power to convict and punish criminals lies at the heart of the States' 'residuary and inviolable sovereignty.'" *Shinn v. Ramirez*, 596 U.S. 366, 376 (2022) (quoting The Federalist No. 39, p. 245 (J. Madison) (Clinton Rossiter ed. 1961)); *see also, e.g., Patterson v. New York*, 432 U.S. 197, 201 (1977). In *Patterson*, this Court explained, "It goes without saying that preventing and dealing with crime is much more the business of the States than it is of the Federal Government . . . and that we should not lightly construe the Constitution so as to intrude upon the administration of justice by the individual States." *Id.* at 202 (internal citation omitted). As a result, a procedural rule will only be found to violate due process when it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Id.* at 202.

Williams has not made this showing. Missouri's statute, as described above, allows a prosecutor to raise a claim on behalf of a defendant, while still subjecting

that claim to adversarial testing. Mo. Rev. Stat. § 547.031. Even when a prosecutor attempts to "concede" a claim, the prosecutor is not Missouri's chief legal officer—the Attorney General is. Pet. App. 255 n. 12; *accord Missouri v. Todd*, 433 S.W.2d 550, 554 (Mo. Div. 2, 1968). Missouri's practice conforms to *Young*, and it mirrors this Court's amicus practice as described above. For Williams's claim to prevail, this Court must overrule the potion of *Young* that holds "our judicial obligations compel us to examine independently the errors confessed" and the Court must abandon its amicus practice where no party defends the judgment below. Of course, neither the holding of *Young*, nor this Court's amicus practice violate the Due Process Clause. Missouri's statute complies with the Due Process Clause and holding otherwise offends the deeply rooted tradition of "Our Federalism." So this claim is meritless.

III. The Missouri Supreme Court adjudicated the Prosecutor's *Batson* claim on state law grounds, and it was correct when it found, ex gratia, the fact bound claim was meritless.

In his second point, Williams claims that this Court should grant certiorari review over his claim that a *Batson* violation was committed at his trial. Pet. at 34–39. This claim is not worthy of certiorari review for two reasons. *First*, the claim was adjudicated on state law grounds, which serves as an independent and adequate reason to decline certiorari review. And *second*, the Missouri Supreme Court correctly found, *ex gratia*, that the Prosecutor's fact bound claim was meritless.

A. The Missouri Supreme Court rejected the Prosecutor's *Batson* claim as unpreserved, which is an independent and adequate state law ground supporting the judgment.

As described in the jurisdictional statement as well as in Point I.A, *supra*, the Missouri Supreme Court rejected Williams's claim on state law grounds. The Missouri Supreme Court explained that the Prosecutor's brief did not directly challenge the trial court's adjudication of the *Batson* claim. Pet. App. 249; Resp't. App. 25a.

Instead of raising the merits of the claim, the Prosecutor's brief challenged the form and language of the trial court's judgment. Resp't. App. 25a. In Missouri, civil litigants who wish to challenge the form and language of the trial court's judgment *are required to file a post-trial motion*. Mo. Sup. Ct. R. 78.07(c); *accord Faatz*, 685 S.W.3d at 397. The failure to follow a state procedural briefing rule is the classic example of an independent and adequate state law ground. *See, e.g., Wainwright*, 433 U.S.at 84 n.8 In sum, Williams—through the prosecutor—advanced a pure *Batson* claim at the trial court, but then, on appeal, advanced a claim that the form and language of the trial court's judgment was insufficient without first filing the required motion in the trial court. Under Missouri law, that means that Williams's claim is unpreserved as a matter of state law.

B. The Missouri Supreme Court's *ex gratia* rejection of the fact bound *Batson* claim was correct; the claim is meritless.

Although it rejected the claim on procedural grounds, the Missouri Supreme Court also performed *ex gratia* review of the *Batson* claim, and found the claim to be meritless on the fact bound record before the court. As a matter of state law, the

Missouri Supreme Court explained that the trial court "specifically found the trial prosecutor 'denied systematically striking potential Black jurors' " and that the trial court found all of the prosecutor's testimony to be credible. Pet. App. 249–50. Even on certiorari review, this Court cannot disturb the credibility findings made by state trial courts, especially when the trial court observed the testimony in person. *See, e.g., Marshall v. Lonberger*, 459 U.S. 422, 433 (1983) (applying same implicit credibility finding rule). And on direct review of federal trial court proceedings this Court's review is limited to clear error. *Rice v. Collins*, 546 U.S. 333, 338 (2006).

With respect to the *Batson* claim as a whole, the Missouri Supreme Court explained "Prosecutor did not present any new evidence on this claim" and that "Now, Prosecutor attempts to twist the original prosecutor's race-neutral explanation into a showing of purposeful discrimination." Pet. App. 250. In the original trial, the prosecutor offered three race-neutral reasons, and the trial court accepted those reasons. Trial Tr. 1585–91. The Missouri Supreme Court, reviewing the *Batson* claim on direct appeal, explained that there were multiple, race-neutral reasons for striking the juror. *First*, "[t]he prosecutor first explained that the venireperson's earrings and clothing indicated that he was 'trying to be different' and was 'liberal.' " *Missouri v. Williams*, 97 S.W.3d 462, 471 (Mo. 2003). As the Missouri Supreme Court explained, "Striking a prospective juror based upon clothing and attire is does not reflect an inherent racial bias motivating the strike." *Id. Second*, the Missouri Supreme Court remarked that "the prosecutor[] stated that the venireperson's demeanor and appearance were similar to Williams" and that "these reasons are not inherently race

based." *Id.* at 472. And *third*, the Missouri Supreme Court observed that the prosecutor struck the venierperson because they were a postal employee, and the court explained that "Employment is a valid race-neutral basis for striking a prospective juror." *Id.* These are all valid, race neutral reasons for striking Venierperson 62. Of course, this Court denied certiorari review. *Williams v. Missouri*, 539 U.S. 944 (2003).

Next, the Missouri Supreme Court turned to the "new evidence": recent testimony from the trial prosecutor. Pet. App. 250. The Missouri Supreme Court rejected Williams's argument about the import of the trial prosecutor's testimony, writing that Williams's argument "mischaracterizes that portion of the trial prosecutor's testimony" and that Williams's argument "cherry-picks the record, ignores the circuit court's factual findings, and offers no persuasive justifications for reversing this Court's previous merits determination of this claim." Pet. App. 250–51. The Missouri Supreme Court also relied on the United States District Court for the Eastern District of Missouri's recent finding in a separate proceeding that Williams's argument " 'mischaracteriz[ed]' the prosecutor's testimony at the § 547.031 hearing." Pet. App. 250 (quoting *Williams v. Vandergriff*, Case No. 4:05-CV-1474-RWS (E.D. Mo. Sep. 19, 2024)).

The Missouri Supreme Court's decision is fact bound; it relies on the state courts' admission and consideration of evidence and testimony, and the credibility determinations drawn therefrom. That alone would make the claim unworthy of this Court's certiorari review. There is more, however, because the Missouri Supreme

Court's *ex grata* decision is also correct. Accordingly, this Court should deny certiorari review.

IV. The Missouri Supreme Court correctly adjudicated the Prosecutor's fact bound *Youngblood* claim.

Williams offers one final reason for granting certiorari review: the alleged bad-faith destruction of touch DNA evidence on the murder weapon.[6] Pet. 30–34. After the murder in 2001, the murder weapon was tested, and the crime laboratory concluded they could retrieve no additional forensic evidence from the weapon. Resp't. App. 370a–374a. Thereafter, the State's trial team handled the weapon without gloves based on their good-faith belief that no additional testing could be performed. Resp't. App. 370a–371a. Years later, Williams obtained "touch DNA" testing on the knife, which revealed a partial DNA profile. Pet. App. 10. During legal proceedings at the Missouri Supreme Court, the State produced affidavits from the prosecutor and the investigator that indicated they touched the knife without gloves. Sugg. in Opp., *Missouri v. Williams*, SC83934 (Mo. Jan. 30, 2024). Neither the Prosecutor nor Williams acted upon that information until approximately three business days before the hearing. Resp't. App. 147a. The next business day, additional testing confirmed that the recently developed DNA profile was consistent with members of the trial team. Resp't. App. 147a; Pet. at 31.[7]

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[6] Below, the Prosecutor also raised *Youngblood* claims relating to fingerprint lifts and voir dire notes. Pet. App. 253–54. But Williams did not raise those claims in his certiorari petition, so they are abandoned.

[7] Williams claims that he received the new DNA report from the lab the day before the hearing. Pet. at 31. But the report is actually dated two days before the

From this, Williams asserts that the State knowingly and in bad faith destroyed evidence. The Missouri Supreme Court, applying *Youngblood*, rejected that argument. Pet. App. 251–53. In short, the Missouri state courts found that the prosecutor was credible when he testified that "as of Williams' trial in 2001, he had never heard of touch DNA." Pet. App. 252. The Missouri Supreme Court further explained that there was simply no evidence of intentional, bad-faith action on the part of the State. Pet. App. 252. And the Missouri Supreme Court found that there was no evidence of destruction because the Prosecutor's argument "hinges on the factually untenable proposition that the uncontaminated DNA evidence would have shown it belonged to an alternate perpetrator." Pet. App. 253. The Prosecutor and Williams's "*own expert* testified the only touch DNA on the murder weapon likely came from a St. Louis County investigator." Pet. App. 253 (emphasis in original). And, just like the *Batson* claim, the Missouri Supreme Court found that the prosecutor testified credibly "that the killer wore gloves, thus severely undermining any argument that the lack of a conclusive DNA match to Williams undermines confidence in the verdict."[8] Pet. App. 253.

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hearing. Resp't. App. 147a. And the report shows that the evidence was not received until August 19, a mere three business days before the evidentiary hearing. Resp't. App. 147a. Williams has never explained this discrepancy, or why he and the prosecutor waited until the last moment to confirm the affidavits provided to him months earlier.

[8] The trial testimony shows that one of the State's witnesses testified at trial that the killer wore gloves. Trial Tr. 2200–2203. Williams's petition for certiorari does not challenge this testimony. And has he not explained how a killer wearing gloves would leave fingerprints or DNA behind.

The Missouri Supreme Court's decision is fact bound; it relies on the state courts' admission and consideration of evidence and testimony, and the credibility determinations drawn therefrom. That alone would make the claim unworthy of this Court's certiorari review. There is more, however, because the Missouri Supreme Court's decision is also correct. Williams does not even attempt to show the Missouri Supreme Court's decision is wrong; instead, he merely says the Prosecutor conceded (the Prosecutor's own claim) and that Williams should therefore prevail. Pet. at 30.

As explained above, such a "concession" did not relieve the state courts from their obligation to "examine independently" the claims. *Young*, 315 U.S. at 258–59. This Court is not a court of mere error correction, and error correction is not one of the traditional reasons for granting certiorari review under Rule 10. *See Barnes v. Ahlman*, 140 S. Ct. 2620, 2622 (Sotomayor, J, dissenting) ("Even if this Court disagrees with the District Court's conclusion, 'error correction . . . is outside the mainstream of the Court's functions and . . . not among the 'compelling reasons' . . . that govern the grant of certiorari.'") (quoting S. Shapiro, K. Geller, T. Bishop, E. Hartnett, & D. Himmelfarb, Supreme Court Practice § 5.12(c)(3), p. 5–45 (11th ed. 2019)). That is doubly true when, as here, the decision below is correct and is founded upon credibility determinations that this Court may not disturb. *See Marshall*, 459 U.S. at 433.

Accordingly, this Court should deny certiorari review.

REASONS FOR DENYING THE APPLICATION FOR STAY OF EXECUTION

"[A] stay of execution is an equitable remedy. It is not available as a matter of

right, and equity must be sensitive to the State's strong interest in enforcing its criminal judgments without undue interference from the federal courts." *Hill v. McDonough*, 547 U.S. 573, 584 (2006). A request for a stay of execution must meet the standard required for all other stay applications. *Id.* "Under that standard, a court considers four factors: '(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.' " *Nken v. Holder*, 556 U.S. 418, 425–26 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

"Given the State's significant interest in enforcing its criminal judgments, there is a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay." *Nelson v. Campbell*, 541 U.S. 637, 650 (2004); *see also, e.g.*, *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992) (per curiam) (holding that the "last-minute nature of an application" may be grounds for denial of a stay). Indeed, "an inmate is not entitled to a stay of execution as a matter of course." *Hill*, 547 U.S. at 583–84. This is because "both the State and crime victims have an important interest in the timely enforcement of a sentence." *Id.* at 584. Belated motions for stay are not favored because they offend the State's and the victims' rights to final disposition of criminal judgments. *Bucklew*, 587 U.S. at 149.

Petitioner has not demonstrated any probability that this Court will grant a

writ of certiorari, let alone a fair prospect that he would win on the merits. This Court has no jurisdiction in the case, as it would have to overrule the Missouri Supreme Court on the interpretation of the Missouri Constitution, which this Court cannot do. *Coleman*, 501 U.S. at 729.

Here, the alleged point of a stay would be to allow Williams to litigate alleged meritorious challenges to his judgment of conviction and sentence. The alleged harm from denying a stay would be that Williams could not litigate those allegedly meritorious claims. But, as discussed above, Williams has no meritorious claims. The only effect of a stay would be further delay in case that has already been delayed many years through Williams' litigation of meritless claims. It is not irreparable harm by any reasonable definition that Williams is not allowed to delay the execution of his sentence by continuously presenting meritless claims.

In contrast, the State of Missouri, crime victims, for whom the case goes on for decades without resolution, and the criminal justice system are all harmed by endless litigation of meritless claims. *See Bucklew*, 587 U.S. at 149–50 (noting that the State and crime victims have an important interest in timely enforcement of a sentence and that the people of Missouri and crime victims deserve better than the excessive delays that now routinely occur before the enforcement of a death sentence); *see also Wainwright*, 433 U.S. at 90 (noting the criminal trial should be the main event in a criminal case rather than a tryout on the road for later litigation). This is especially true when, as here, the vast majority of a petitioner's meritless claims have already been rejected by this Court before the current litigation.

This real and concreate harm far outweighs any alleged injury to Williams from not being allowed to delay execution of his sentence through meritless litigation. This Court should deny the application for stay of execution.

CONCLUSION

This Court should deny the petition for a writ of certiorari. This Court should also deny the application for a stay of execution.

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