DEATH PENALTY CASE
EXECUTION DATE: AUGUST 5, 2025
Case No. M2004-01345-SC-R11-PD

IN THE TENNESSEE SUPREME COURT
AT NASHVILLE

BYRON BLACK,
Appellant,

v.

STATE OF TENNESSEE,
Appellee.

Davidson County Criminal Court Case No. 88-S-1479

MOTION TO RECALL THE MANDATE

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"Tennessee has no business executing persons who are intellectually disabled."

Payne v. State, 493 S.W.3d 478, 486 (Tenn. 2016) (quoting *Keen v. State*, 398 S.W.3d 594, 613 (Tenn. 2012)).

Every expert who has examined Byron Black since this Court's decision in *Van Tran v. State*, 66 S.W.3d 790 (Tenn. 2001), and the United States Supreme Court's decision in *Atkins v. Virginia*, 536 U.S. 304 (2002), has concluded that Byron Black is intellectually disabled. Every. Single. One. In 2022, the State of Tennessee stipulated that Mr. Black is intellectually disabled.[1] That same year, the key witness for the State in prior proceedings, Dr. Susan Vaught, repudiated her 2003 opinion and declared that Byron Black "does meet the criteria for the diagnosis of intellectual disability." Ex. 2, February 28, 2022, Report of Dr. Susan Vaught.

But Mr. Black was too diligent. He brought his claim too soon. As a result, his claim under the United States and Tennessee constitutions was evaluated under standards which we now know are constitutionally intolerable. If Mr. Black had waited to bring his claim until after the Tennessee legislature finally heeded the call of this Court to fix the unconstitutional statute on the books at the time of Mr. Black's *Atkins* hearing, then he would unquestionably have been found intellectually disabled and removed from death row.

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[1] "Because these experts have concluded Petitioner does, in fact, meet the criteria for a diagnosis of intellectual disability, the State stipulates that Petitioner would be found intellectually disabled were a hearing conducted." Ex. 1, Stipulation of the State of Tennessee.

The Court got it wrong in 2005. Black, 2005 WL 2662577, at *12 (imposing a "bright-line cutoff" *contra Hall v. Florida*, 572 U.S. 701, 712 (2014) and relying on adaptive strengths *contra Moore v. Texas*, 581 U.S. 1, 15 (2017)). But this Court can correct that mistake. It must. If it does not, the State of Tennessee will execute a man in clear violation of the United States and Tennessee constitutions.

The Attorney General will no doubt complain about procedure. This Court ought not champion procedural niceties over the rule of law. "The importance of correctly resolving constitutional issues suggests that constitutional issues should rarely be foreclosed by procedural technicalities." *Van Tran v. State*, 66 S.W.3d 790, 799 (Tenn. 2001) (cleaned up). Instead, this Court should exercise its inherent authority to correct manifest injustice by recalling the mandate in its outdated and legally wrong decision in this case. In any event, this motion is procedurally proper.

I. This court has the authority to recall its mandate to correct manifest injustice.

This Court has the inherent authority "to act to correct manifest injustice." *State v. Smith*, 151 S.W.3d 533, 544 (Tenn. Crim. App. 2003). Included in this authority is the "power to recall the mandate in particular circumstances in order that the court may take further action in a case." *Id*. The power to recall the mandate is acknowledged in Tennessee Rules of Appellate Procedure 42(d)which states, "The power to stay a mandate includes the power to recall a mandate."

To justify a recall of the mandate, an extraordinary remedy of last resort, Mr. Black must demonstrate circumstances which override the

public's interest in finality. *Calderon v. Thompson*, 523 U.S. 538 (1998); *State v. Abdur'Rahman*, M1998-00026-SC-DPE-PD (Tenn. Apr. 5, 2002) (order). He can.

II. The execution of a person who is categorically ineligible for the death penalty constitutes a manifest injustice.

The United States and Tennessee constitutions place a substantive restriction on the execution of persons living with an intellectual disability. This Court has repeatedly emphasized the importance of this categorical exemption from execution stating plainly, "We reiterate our commitment 'to the principle that Tennessee has no business executing persons who are intellectually disabled.'" *Payne*, 493 S.W.3d at 486 (*quoting Keen* 398 S.W. 3d at 613.)

The United States Supreme Court in *Atkins* emphasized that individuals with intellectual disabilities have diminished culpability due to their impairments in reasoning, judgment, and impulse control, that make them less morally culpable and less likely to be deterred by the death penalty. This reasoning was reaffirmed in *Hall*, 572 U.S. 701, where the Court invalidated rigid IQ thresholds that precluded further evidence of intellectual disability, recognizing that such rules create an unacceptable risk of executing individuals who are constitutionally ineligible for the death penalty.

Tennessee has been a historic leader in the protection of persons living with intellectual disability. *See Coleman v. State*, 341 S.W.3d 221, 232 (Tenn. 2011). Indeed, in *Van Tran* this Court recognized the unconstitutionality of the execution of persons with intellectual

disability *before* the United States Supreme Court. It did so noting, "evidence that [intellectually disabled] persons should not be executed abounds." *Van Tran*, 66 S.W.3d at 803. The *Van Tran* court further acknowledged, "public opinion polls have repeatedly shown that, even among death penalty advocates, there is scan support for executing the [intellectually disabled]." *Id*. Public opposition to the execution of persons with intellectual disability remains high. *See New Poll Finds Bipartisan Opposition to Use of the Death Penalty as It is Actually Administered*, Death Penalty Information Center (posted Mar. 1, 2022, updated Mar. 14, 2025), https://deathpenaltyinfo.org/new-poll-finds-bipartisan-opposition-to-use-of-the-death-penalty-as-it-is-actually-administered.

In short, the killing by the state of a person whose execution is forbidden by the state and federal constitutions is the very definition of a manifest injustice. This Court has the power to prevent it from happening.

III. The 2005 decision denying Mr. Black relief is legally wrong.

Demonstrating extreme diligence, shortly after the *Van Tran* and *Atkins* decisions, Mr. Black filed his motion to reopen in the criminal court. The trial court's decision denying relief was affirmed by the Court of Criminal Appeals. *Black v. State*, No. M2004-01345-CCA-R3PD, 2005 WL 2662577 (Tenn. Crim. App. Oct. 19, 2005). This Court denied the application for permission to appeal on February 21, 2006. *Black v. State*, No. M2004-01345-SC-R11-PD (Tenn. Feb. 21, 2006). This Court's mandate issued on March 8, 2006.

A person meets the criteria for intellectual disability if they have: 1) significantly subaverage general intellectual functioning; 2) deficits in adaptive behavior; that 3) manifested during the developmental period. Tenn. Code Ann. § 39-13-203 (2024). Mr. Black meets these criteria. *See* Section V, *infra*. The CCA's opinion denying relief used standards which have all been rejected as unconstitutional by subsequent opinions from this Court and the United States Supreme Court. Namely, the requirement of a bright-line cutoff IQ score of 70 or below and emphasis on adaptive strengths instead of adaptive deficits.

First, the CCA held:

> [O]ur supreme court clarified in *Howell* that the demarcation of an I.Q. score of seventy in the statute is a "bright-line cutoff" and must be met. *Howell*, 151 S.W.3d at 456, 458–59. "[T]he statute should not be interpreted to make allowance for any standard error of measurement or other circumstances whereby a person with an I.Q. above seventy could be considered mentally retarded." *Id*. at 456.

Black, 2005 WL 2662577, at *12. The court doubled down on its rejection of allowance for the standard error of measurement, writing, "*Atkins* did not require states to adopt a procedure that defined mental retardation using a standard error of measurement." *Id*. at *18. And because Mr. Black did not have reported IQ scores "below seventy prior to age eighteen," *Id*. at 17, relief was denied.

This Court in *Coleman* and the United States Supreme Court in *Hall* and *Brumfield v. Cain* 576 U.S. 305 (2015) made clear that courts are constitutionally required to consider the standard error of measurement of IQ tests when evaluating a claim that a person is constitutionally ineligible for the death penalty due to intellectual

disability. In *Hall*, the Court wrote that without consideration of the standard error of measurement, "[t]his rigid rule . . . creates an unacceptable risk that persons with intellectual disability will be executed, and thus is unconstitutional." *Hall*, 572 U.S. at 704.

Indeed, Mr. Black's IQ scores as reported on valid measures of intelligence are remarkably similar to Hall's and Brumfield's. *See* Section V, *infra*.

Second, the CCA relied on stereotypes and perceived adaptive strengths to reject expert testimony establishing Mr. Black's adaptive deficits. *Black*, No. M2004-01345-CCA-R3PD, 2005 WL 2662577, at *15 (noting that Mr. Black was liked, respectful, played football, did not get in trouble at school, drove a car, got married, had a child, etc.). But many people with intellectual disability can do all these things. The same type of analysis employed by the CCA here was rejected as unconstitutional in *Moore v. Texas*, 581 U.S. 1, 15–18 (2017):

> In concluding that Moore did not suffer significant adaptive deficits, the CCA overemphasized Moore's perceived adaptive strengths. The CCA recited the strengths it perceived, among them, Moore lived on the streets, mowed lawns, and played pool for money. *See* 470 S.W.3d, at 522–523, 526–527. Moore's adaptive strengths, in the CCA's view, constituted evidence adequate to overcome the considerable objective evidence of Moore's adaptive deficits, *see supra*, at 1045; App. to Pet. for Cert. 180a–202a. See 470 S.W.3d, at 522–524, 526–527. But the medical community focuses the adaptive-functioning inquiry on adaptive deficits. E.g., AAIDD–11, at 47 ("significant limitations in conceptual, social, or practical adaptive skills [are] not outweighed by the potential strengths in some adaptive skills"); DSM–5, at 33, 38 (inquiry should focus on "[d]eficits in adaptive functioning"; deficits in only

> one of the three adaptive-skills domains suffice to show adaptive deficits); *see Brumfield*, 576 U.S., at ——, 135 S.Ct., at 2281 ("[I]ntellectually disabled persons may have 'strengths in social or physical capabilities, strengths in some adaptive skill areas, or strengths in one aspect of an adaptive skill in which they otherwise show an overall limitation.' " (quoting AAMR, Mental Retardation: Definition, Classification, and Systems of Supports 8 (10th ed. 2002))).

Moore, 581 U.S. at 15–16. As with Hall and Brumfield, Mr. Black's clinical picture is also remarkably similar to Moore's.

IV. The courts were unable to cure the error.

The CCA made these constitutional errors in 2005. Mr. Black asked this Court to take the case to correct the errors, but this Court declined, and the mandate issued. Mr. Black then sought relief in federal court.

Doubtless the Attorney General will emphasize the fact that Mr. Black fought vigorously to vindicate his right not to be executed in the federal courts—as if his diligence should be used as a cudgel. In federal court, the Sixth Circuit Court of Appeals found that the CCA's opinion denying relief was erroneous. *Black v. Bell*, 664 F.3d 81 (2011). But the habeas court denied Mr. Black an evidentiary hearing because it was constrained by 28 U.S.C. 2254 (e). *See Black v. Carpenter*, 866 F.3d 734, 741 (6th Cir. 2017) ("our remand was limited: the scope of the remand, as expressly stated in this quoted language, was a review of the record under *Coleman*.")

In 2021, the Tennessee legislature finally took this Court's invitation to modernize the statutory definition of intellectual disability to bring it into conformity with constitutional requirements. Once again demonstrating diligence, Mr. Black quickly filed a motion to reopen citing

the new law. Attached to the filing, among other exhibits, he presented updated expert testimony (Ex. 3, Report of Dr. Daniel Martell); the revised opinion of the State's key witness from the 2003 hearing finding that Mr. Black meets criteria for intellectual disability (Ex. 2, Report of Dr. Susan Vaught); and a stipulation from the State of Tennessee conceding that Mr. Black is ineligible for execution. Ex. 1, Stipulation of the State of Tennessee ("Because these experts have concluded Petitioner does, in fact, meet the criteria for a diagnosis of intellectual disability, the State stipulates that Petitioner would be found intellectually disabled were a hearing conducted.").[2]

But the Court did not reach the substance of the motion because it found that Mr. Black was procedurally barred from seeking relief under the new statute:

> Although "[t]he protection against cruel and unusual punishments afforded by the Eighth Amendment [to the United States Constitution] has defied precise delineation," *State v. Smith*, 48 S.W.3d 159, 170 (Tenn. Crim. App. 2000) (citation omitted), no one disputes that the execution of intellectually disabled persons is statutorily and constitutionally prohibited, see Tenn. Code Ann. § 39-13-203(b); *Atkins v. Virginia*, 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002); *Van Tran v. State*, 66 S.W.3d 790 (Tenn.

[2] Precedent is clear that such a factual stipulation is binding on the parties. *Christian Legal Soc. Chapter of the Univ. of Cal., Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 677 (2010) (A party is "bound by the factual stipulations it submits."). The doctrine of judicial estoppel prohibits the State from now disputing Mr. Black's intellectual disability. *Sibley v. McCord*, 173 S.W.3d 416, 419 (Tenn. Ct. App. 2004) ("The doctrine of judicial estoppel prevents a litigant who has taken a position in one judicial proceeding from taking a contradictory position in another.").

> 2001). However, the issue in this case concerns the procedural mechanism for deciding whether a person has an intellectual disability.

Black v. State, No. M2022-00423-CCA-R3PD, 2023 WL 3843397, at *10 (Tenn. Crim. App. June 6, 2023).

At least four people who were previously sentenced to death have been declared ineligible for the death penalty in the four years since the legislature amended the statute: Rickey Bell, Pervis Payne, Michael Sample, and Clarence Nesbitt. Had Mr. Black failed to promptly bring his action, his name would be on that list.

V. Mr. Black is a person living with an intellectual disability. Full Stop.

The experts and the law align to establish that Mr. Black is unquestionably a person living with an intellectual disability. He meets all three prongs.[3]

A. Evidence of sub-average intellectual functioning

Mr. Black exhibits significantly subaverage intellectual functioning. Throughout his life, intelligence testing has consistently shown Mr. Black's intelligence to be in the intellectually disabled range. Below are the results of all individually administered, psychometrically valid IQ tests that Mr. Black has taken. *See e.g.,* Ex. 12, 1993 Report of Dr. Gillian Blair; Ex. 13, 2001 Report of Dr. Patty van Eys 2001; Ex. 4,

[3] Numerous experts have concluded that Mr. Black meets the criteria for the diagnosis. Ex. 3, 2020 Report of Dr. Daniel Martell; Ex. 4, 2021 Report of Dr. Daniel Martell; Ex. 5, 2025 Report of Dr. Daniel Martell; Ex. 6, 2025 Report of Dr. Baecht; Ex. 7, 2008 Report of Dr. Stephen Greenspan 2008; Ex. 8, 2008, Report of Dr. Marc Tasse; Ex. 9, 2001 Report of Dr. Daniel Grant; Ex. 10, 2001 Report of Dr. Globus; Ex. 11, 2004 Report of Dr. Globus. It is notable that the State's expert who previously testified that Mr. Black was not intellectually disabled revisited her opinion and subsequently concluded that under current legal and diagnostic criteria, Mr. Black is intellectually disabled. Ex. 2, 2022 Report of Dr. Susan Vaught.

2021 Report of Dr. Daniel Martell. The chart below also includes adjusted scores based on the standard error of measurement and the Flynn Effect, as required by prevailing standards. *Hall*, 572 U.S. at 723 (instructing courts to take into consideration the standard error of measurement in evaluating intellectual disabilities); *Coleman*, 341 S.W.3d at 242 n.55 (applying the Flynn Effect and holding "scores must be correspondingly adjusted downward" due to test obsolescence).[4]

Year (expert)	**Test**	**Full Scale IQ**	**SEM (Score range)**	**Flynn Adjusted IQ**
1993 (Blair)	WAIS-R	73	+/- 5	67
1997 (Auble)	WAIS-R	76	+/- 5	70
2001 (Grant)	Stanford-Binet-4th ed.	57	+/- 2.5	52
2001 (Van Eys)	WAIS-III	69	+/- 3	67

[4] These precedents post-date the Tennessee courts' rejection of Mr. Black's intellectual disability claim. *Hall* is of particular relevance to the Court of Criminal Appeals decision in Mr. Black's case that held that an IQ score of 70 was a "bright-line cutoff," a ruling plainly repudiated by *Hall*. *Black v. State*, No. M2004-01345-CCA-R3PD, 2005 WL 2662577, at *12 (Tenn. Crim. App. Oct. 19, 2005). Similarly, the Court of Criminal Appeals' reliance upon Mr. Black's adaptive strengths such as being employed, caring for an automobile, or generally getting along well with others has also been rejected by a subsequent Supreme Court decision. *Compare Id*. at *15 *with Moore v. Texas*, 581 U.S. 1, 15 (2017) (mandating that courts examine adaptive deficits, not adaptive strengths). Thus, while the State may claim that Mr. Black failed to demonstrate that he is intellectually disabled, it is beyond dispute that the Tennessee courts' adjudication of Mr. Black's claim was unreliable for reasons elucidated by the Supreme Court in *Hall* and *Moore*.

2021 (Martell)	WAIS-IV	67	+/- 3	63

Mr. Black's IQ test scores have consistently demonstrated that his intelligence is in the intellectually disabled range. In fact, the scores show remarkable congruence over time and exhibit significantly subaverage intellectual functioning. All the scores above indicate an IQ at least two standard deviations below the mean and, as such, satisfy prong one of an intellectual disability diagnosis.

B. Evidence of Adaptive Deficits

Mr. Black exhibits deficits in adaptive functioning in multiple domains. In the conceptual domain, which includes skills such as language, math, money, and self-direction Mr. Black exhibits marked deficits. Ex. 3, 2020 Report of Dr. Daniel Martell. Academically, Mr. Black was held back and required to repeat the second grade.[5] Ex. 14, Byron Black School Records. Neuropsychological testing indicates that Mr. Black's abilities in math fall in the 2nd percentile and his reading abilities in the 4th percentile. Ex. 3, 2020 Report of Dr. Daniel Martell. Put differently, 98% of the population exhibits stronger performance in math and 96% of the population exhibits better reading skills. *Id.*

[5] Mr. Black attended underperforming, segregated schools. *Black*, 2005 WL 2662577, at *2. His education predated federal legislation such as the Education for All Handicapped Children Act, assuring "free and appropriate education" to all students. Ex. 7, 2008 Report of Dr. Stephen Greenspan; Education for All Handicapped Children Act, Pub. L. No. 94-142, 89 Stat. 773, 775. In prior proceedings, his teacher admitted "I would never let a student get a bad grade." Ex. 7, 2008 Report of Dr. Stephen Greenspan. The fact that Mr. Black was held back in such an environment is telling.

Early indications of Mr. Black's deficits in the conceptual domain are confirmed by individuals that knew him as a child. For example, Rossi Turner grew up with, attended the same school as, and lived on the same street as Mr. Black. Ex. 15, Turner Declaration. Turner recounts that when neighborhood children played simple games, Mr. Black struggled to understand how to play the game and consistently was the first child to lose because he could not grasp the concept of the game or its rules. *Id.*; Ex. 3, 2020 Report of Dr. Daniel Martell. Dr. Martell's recent testing confirms that Mr. Black has "severe impairment in applying reasoning and decision-making to real-world situations." Ex. 5, 2025 Report of Dr. Daniel Martell. These deficits make him "[u]nable to make sound, independent decisions." *Id.*

Across the decades of evaluations, neuropsychological testing consistently shows sharp deficits in memory, word finding, verbal expression, and attention. *Id.*; Ex. 3, 2020 Report of Dr. Daniel Martell; Ex. 9, 2001 Report of Dr. Daniel Grant; Ex. 16, 2008 Dr. Pamela Auble Declaration. Dr. Martell's recent assessment shows that these deficits have only worsened with time and age. Ex. 5, 2025 Report of Dr. Daniel Martell.

In the social domain, Mr. Black exhibits deficits indicative of intellectual disability. Several informants note that Mr. Black is unsuitably familiar with strangers, smiles inappropriately, and fails to maintain customary distance in social interactions. Ex. 3, 2020 Report of Dr. Daniel Martell; *see also*, Ex. 13, 2001 Report of Dr. Patty van Eys; Ex. 17. Declaration of Ross Alderman. Likewise, informants from Mr. Black's childhood remember that in addition to failing to "catch on" to games, he

missed social cues and had few close friends. Ex. 3, 2020 Report of Dr. Daniel Martell.

Finally, Mr. Black's deficits in the practical domain are the most severe. Mr. Black never lived independently, even after marrying and fathering a child. Ex. 18, Declaration of Melba Corley; Ex. 7, 2008 Report of Dr. Stephen Greenspan. His ex-wife described him as "childish" and reliant on family members for financial support. Ex. 3, 2020 Report of Dr. Daniel Martell. Mr. Black could not perform simple tasks such as assuming responsibility to care of his son, cooking, or operating a washing machine. Ex. 9, 2001 Declaration of Dr. Daniel Grant; Ex. 19, Declaration of Freda Whitney.

Mr. Black never had a checking account and neuropsychological testing shows deficits in money management. Ex. 3, 2020 Report of Dr. Daniel Martell; Ex. 5, 2025 Report of Dr. Daniel Martell. Mr. Black's money management scores acquired by Dr. Martell in 2025 are "extremely low" and "[i]ndicate[] severe difficulty with financial management." *Id.* Scores at this level low indicate that an individual is at "high risk" or "not safe" to manage money independently. *Id.*

Childhood informants recall Mr. Black consistently forgot to do his limited chores as a child. Rossi Turner recalls that it was Mr. Black's job to fetch coal and kindling, which he was unable to reliably perform. Ex. 15, Rossi Turner Declaration. Turner believes that Mr. Black did not fail to do his chores out of defiance; rather, he forgot his chores and required repeated instruction about how to do them properly. *Id.*

In 2008, Dr. Stephen Greenspan, a widely respected expert on intellectual disability, administered the Vineland-2 retrospectively by

interviewing Mr. Black's sisters Melba Black Corley and Freda Black Whitney, as well as his friend Rossi Turner, and his football coach Al Harris. Ex. 7, 2008 Report of Dr. Stephen Greenspan. The Vineland-2 is "the most widely-used and respected adaptive behavior rating instrument." *Id*. The informants showed remarkable consistency and revealed Mr. Black's adaptive functioning measured more than two standard deviations below the mean. *Id*.

In short, numerous experts have concluded that Mr. Black exhibits deficits in adaptive functioning. Their conclusions are confirmed by empirically validated, psychometrically valid testing.

C. Evidence of onset during the developmental period

Mr. Black's intellectual disability manifested during the developmental period. His academic difficulties were evident as early as the second grade when he was held back due to poor performance. Ex. 7, 2008 Report of Dr. Stephen Greenspan. As discussed above, his friends and family attest to early, indicative difficulties such as Mr. Black's inability to grasp simple childhood games and his inability to recall and perform his chores. Ex. 15, Rossi Turner Declaration. His high school football coach recounts that although Mr. Black exhibited athletic ability, he was unable to understand and execute offensive plays and required a simplified playbook if he was to play at all. Ex. 7, 2008 Report of Dr. Stephen Greenspan (documenting interview of Al Harris, Football Coach). Mr. Black was more capable of grasping defense, where the task at hand was simpler: to run and tackle the ball carrier. *Id.* The reports of Drs. Martell, Greenspan, Tasse, Grant, and Vaught (State's expert) all support the conclusion that Mr. Black's impairments manifested during

the developmental period. Ex. 3, 2020 Report of Dr. Daniel Martell; Ex. 7, 2008 Report of Dr. Stephen Greenspan; Ex. 8, 2008 Report of Dr. Marc Tasse; Ex. 9, 2001 Report of Dr. Daniel Grant.

VI. This Court should recall its mandate to prevent manifest injustice.

The taking of a human life by the state is the most awesome exercise of governmental power. If the Court knows that an execution will be in substantive violation of the constitution, it has a solemn duty to say so and to stop it. Mr. Black is not at fault for the CCA's erroneous ruling in 2005, nor this Court's failure to grant the application for permission to appeal in 2006. There is still time for this Court to correct the error. It should do so.

VII. At the very least, the Court should issue a Certificate of Commutation.

Should this Court conclude that it lacks the authority to set aside Mr. Black's unconstitutional death sentence, then it should issue a certificate of commutation to Governor Lee. Tenn. Code Ann. § 40-27-106; *Workman v. State*, 22 S.W.3d 807 (2000). The uncontroverted facts in the record establish beyond question that Mr. Black is a person with intellectual disability. There is no credible evidence to the contrary.

While it is true that this Court has no role in the commutation proceedings, the legislature did see fit to provide this Court with the ability to communicate to the Governor situations where extenuating circumstances, in this Court's view, warrant a commutation. This is one of those rare occurrences.

Respectfully submitted this the 1st day of July, 2025.

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Certificate of Service

I, Kelley J Henry, certify that on July 1, 2025, a true and correct copy of the foregoing was served via email and United States mail to opposing counsel, Nicholas Spangler, Deputy Attorney General, P.O. Box 20207, Nashville, Tennessee 37202.

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