IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

TONY CARRUTHERS,

Appellant,

v.

JONATHAN SKRMETTI, Attorney General, Tennessee, et al.,

Appellees.
_____/

Case No: 26-5433

CAPITAL CASE

EXECUTION SCHEDULED MAY 21, 2026, at 10:00 a.m.

APPELLANT'S INITIAL BRIEF

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JURISDICTIONAL STATEMENT

The decision on review is the U.S. District Court for the Middle District of Tennessee's May 15, 2026 *Memorandum Opinion* and accompanying *Order*, in which the District Court denied Appellant Tony Carruthers' *Emergency Motion for Preliminary Injunction and Stay of Execution* and Mr. Carruthers' *Emergency Motion to Stay Litigation and Second Emergency Motion for Stay of Execution*. This Court has jurisdiction to review the District Court's decision under 28 U.S. Code § 1292(a)(1) because it refused an injunction.

ORAL ARGUMENT STATEMENT
(6th Cir. Rule 34(a); *see also* Fed. R. App. P. 34(a)(1))

This case presents several issues of great importance. Not only could this case determine whether Mr. Carruthers lives or dies, but it involves generally the constitutionality of Tennessee's procedures for prisoners accessing statutory rights to forensic testing, which, in cases like Mr. Carruthers, could mean the difference between life and death. Due to the importance of the issues presented, this Court should hold oral argument. *See also* Fed. R. App. P. 34(a)(2) ("Oral argument *must* be allowed in every case unless a panel of three judges who have examined the briefs and record unanimously agrees that oral argument is unnecessary . . . ." (emphasis added)).

STATEMENT OF THE ISSUES

1. Whether the District Court erred in denying Mr. Carruthers' Motions by applying the incorrect legal standard.

2. Whether the District Court misapplied the *Rooker-Feldman*[1] doctrine in denying Mr. Carruthers' Motions as to Counts I-III, V of the Amended Complaint.

3. Whether the District Court wrongly concluded that Mr. Carruthers had not identified a liberty interest in Count IV.

4. Whether Tennessee has violated Mr. Carruthers' federal constitutional right to due process in denying him DNA and fingerprint testing.

[1] *See Rooker v. Fidelity Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983).

STATEMENT OF THE CASE

Mr. Carruthers faces the ultimate deprivation of his life in just days, on May 21, before being allowed an opportunity to test available and never-tested fingerprint and DNA evidence that could confirm his long-maintained innocence. Here, Mr. Carruthers appeals the U.S. District Court for the Middle District of Tennessee's May 15th denial of his *Emergency Motion for Preliminary Injunction and Stay of Execution* (Dist. Dkt. 3, the "**First Motion**") and Mr. Carruthers' *Emergency Motion to Stay Litigation and Second Emergency Motion for Stay of Execution* (the "**Second Motion**") (collectively, the "**Motions**").[2]

A. Mr. Carruthers was convicted based on circumstantial evidence and forced self-representation.

Mr. Carruthers was convicted in 1996 of three counts of first-degree murder based entirely on circumstantial evidence[3] There were no

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[2] All filings in the District Court are referenced by docket number as "(Dist. Dkt. _.)" The District Court's May 15, 2026 *Memorandum Opinion* (Dist. Dkt. 39) is referenced as the "**Opinion**" and cited as "Op." Mr. Carruthers' *First Amended Complaint for Declaratory and Injunctive Relief Pursuant to 42 U.S.C. § 1983* (Dist. Dkt. 32) is referenced as the "**Amended Complaint**" and cited as "Am. Compl."

[3] For further discussion of the facts of the underlying crimes, see *State v. Carruthers*, 35 S.W.3d 516, 524-30 (Tenn. 2000).

eyewitnesses to the murders. *Carruthers*, 35 S.W.3d at 524-30. And, critically, no physical evidence has ever linked him to the crimes. *See id.* (established by omission). To the contrary, Mr. Carruthers was *excluded* from fingerprints collected from the crime scene. (Am. Compl. ¶ 25.)

In fact, the State's case against Mr. Carruthers was so weak that it was originally dismissed in General Sessions Court for lack of evidence. (Am. Compl. ¶ 27.) It was revived only after the State enlisted a paid informant, Alfredo Shaw, who claimed Mr. Carruthers confessed to him. (*See* Am. Compl. ¶ 28.) However, before Mr. Carruthers' trial, Shaw recanted on television, admitting police pressured and paid him to testify falsely. (*See* Am. Compl. ¶¶ 29, 45.) Yet, the State proceeded and, at trial, relied almost entirely on the testimony of convicted felons and paid informants, including Shaw. (*See* Am. Compl. ¶¶ 30-33.)

At trial, Mr. Carruthers was forced to represent himself at his capital trial despite repeated requests for counsel. (Am. Compl. ¶ 34.) This Court previously found the circumstances of Mr. Carruthers' self-representation "troubling," observing that "the state trial court . . . required Mr. Carruthers to proceed pro se through his capital murder trial without giving him the warnings typically required in the distinct

context of a defendant's affirmatively waiving his right to counsel." *Carruthers v. Mays*, 889 F.3d 273, 280 (6th Cir. 2018).[4] If Tennessee proceeds with executing Mr. Carruthers, he will be the first person in modern American history to be put to death after being forced to represent himself at trial.[5]

B. Since trial, the State's case against Mr. Carruthers has unraveled.

Since trial, every pillar of the State's case has crumbled. In 2010 and 2011, Montgomery (Mr. Carruthers' codefendant, *see supra* note 4) told federal investigators that Mr. Carruthers was not involved in the crimes and that Montgomery had enlisted a third party, Ronnie "Eyeball" Irving, to assist in the kidnapping and murders. (Am. Compl. ¶¶ 4, 54-56.) Years before, when Montgomery's retrial was pending (*see supra* note 4), forensic testing revealed an unknown male DNA profile on a blanket buried with the victims. (Am. Compl. ¶¶42-43.) Mr. Carruthers and

[4] Mr. Carruthers' forced self-representation was so prejudicial that his co-defendant, James Montgomery, received a new trial on that basis alone. *See Carruthers*, 35 S.W.3d at 552-54.

[5] *See* Steven Hale, *Tennessee Man Could Be the First Person In Nearly A Century To Be Executed After Being Forced to Represent Himself At Trial*, Appeal (Feb. 18, 2020), https://theappeal.org/tennessee-death-penalty/.

Montgomery were both excluded as sources. (Am. Compl. ¶ 43.) In light of his exclusion, the State offered Montgomery a plea to reduced charges, and he was later released from prison. (Am. Compl. ¶¶ 3, 43 & n.8.) Yet, Mr. Carruthers faces execution for the same crimes.

Further, the medical examiner has disavowed his trial testimony that the victims were buried alive because there was no support for this conclusion. (Am. Compl. ¶ 52.) The prosecution relied on this false theory as its primary argument for the death penalty at trial (Am. Compl. ¶ 33), and the State continues to rely on it today. (Am. Compl. ¶ 53.) One of Mr. Carruthers' original jurors has said that had he "known the victims were not buried alive," he "would not have voted for a death sentence." (Am. Compl. ¶ 91; Dist. Dkt. 32-15.)

In 2024, thirty years after trial, the State *finally* confirmed what Mr. Carruthers always suspected: Shaw was a paid government informant. (Am. Compl. ¶¶ 44-50.) The jury *never* heard this information that went straight to Shaw's bias against Mr. Carruthers. (Am. Compl. ¶¶ 46, 51.)

C. Untested evidence that could confirm Mr. Carruthers' innocence remains available for testing.

Several pieces of evidence remain available for testing that has never been done, which is the crux of Mr. Carruthers' claims in this case.[6] The evidence available for testing that has never been tested includes (a) six unidentified fingerprints from the crime scenes, (b) fingernail scrapings from all three victims; and (c) cloth bindings from the victims' bodies. (Am. Compl. ¶ 80.) In addition, Mr. Carruthers seeks comparison of the unknown male DNA profile and unidentified fingerprints from the crime scene to Ronnie Irving, whose prints and DNA are on file at the medical examiner's office. (*See* Am. Compl. ¶¶ 55, 67, 86.) A forensic expert has concluded that modern DNA technology—which has advanced dramatically since the limited testing in 2003—can now likely obtain profiles from these items that could exclude Mr. Carruthers and/or identify the actual perpetrator. (*See* Am. Compl. ¶¶ 81-85.) One of Mr. Carruthers's original jurors has stated that "[a] DNA match with a

[6] For detailed background on Mr. Carruthers' requests for this testing, see Am. Compl. ¶¶ 65-95.

different person would make me doubt Mr. Carruthers' guilt." (Am. Compl. ¶ 91; Dist. Dkt. 32-14.)

D. Statutory Background

1. The DNA Act

Tennessee enacted the Post-Conviction DNA Analysis Act of 2001, Tenn. Code Ann. §§ 40-30-301 *et seq*. (the "**DNA Act**") to provide a mechanism for inmates to obtain DNA testing of biological evidence. The DNA Act offers litigants two paths to testing, one is discretionary and the other is mandatory. Tenn. Code. Ann. § 40-30-304; Tenn. Code. Ann. § 40-30-305.

First, the Court *shall* grant testing if the movant establishes the following four prongs:

> (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA analysis;
>
> (2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;
>
> (3) The evidence was never previously subjected to DNA analysis or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and
>
> (4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Tenn. Code. Ann. § 40-30-304.

Second, pursuant to Tenn. Code. Ann. § 40-30-305, the Court *may* grant testing if the movant establishes the following four prongs:

> (1) A reasonable probability exists that analysis of the evidence will produce DNA results that would have rendered the petitioner's verdict or sentence more favorable if the results had been available at the proceeding leading to the judgment of conviction;
>
> (2) The evidence is still in existence and in such a condition that DNA analysis may be conducted;
>
> (3) The evidence was never previously subjected to DNA analysis, or was not subjected to the analysis that is now requested which could resolve an issue not resolved by previous analysis; and
>
> (4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Tenn. Code. Ann. § 40-30-305.

The DNA Act contains no time limit for filing. *Griffin v. State*, 182 S.W.3d 795, 799 (Tenn. 2006). A petitioner cannot waive the right to DNA analysis under the Act by implication. *Id.* The third prong expressly permits retesting when the evidence was not subjected "to the analysis that is now requested." Tenn. Code. Ann. §40-30-305.

The DNA Act was created to serve two purposes: "first, to aid in the exoneration of those who are wrongfully convicted and second, to aid in identifying the true perpetrators of the crimes." *Powers v. State*, 343 S.W.

3d 36, 51 (Tenn. 2001). The *Powers* court specifically concluded that the DNA Act granted more than just exclusionary testing because "DNA analysis that only compares a petitioner's profile with a profile developed from biological material found at a crime scene cannot effectuate this second purpose." *Id*. "When, however, uploading the latter into a DNA database can potentially identify the person responsible for the crime, the Act also serves a 'law-enforcement,' or justice-finding, purpose: the apprehension of criminals who may still be at large." *Id*.

2. The Fingerprint Act

Similar to the DNA Act, Tennessee enacted the Post-Conviction Fingerprint Analysis Act of 2021, Tenn. Code Ann. §§ 40-30-401 *et seq*. (the "**Fingerprint Act**").[7] The Fingerprint Act contains parallel provisions and offers litigants two paths to testing, one discretionary and the other mandatory.

First, the court *shall* order testing if the movant shows:

> (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through fingerprint analysis;

[7] The DNA Act and Fingerprint Act are referenced collectively as the "**Acts**."

> (2) The evidence is still in existence and in such a condition that fingerprint analysis may be conducted;
>
> (3) The evidence was never previously subjected to fingerprint analysis, and was not subjected to the analysis that is being requested which could resolve an issue not resolved by previous analysis, or was previously subjected to analysis and the person making the motion under this part requests analysis that uses a new method or technology that is substantially more probative than the prior analysis; and
>
> (4) The application for analysis is made for the purpose of demonstrating innocence and not to unreasonably delay the execution of sentence or administration of justice.

Tenn. Code Ann. § 40-30-404.

Second, the court *may* order testing if the movant establishes the same four prongs, except that the first prong requires showing "[a] reasonable probability exists that analysis of the evidence will produce fingerprint results that would have rendered the petitioner's verdict or sentence more favorable if the results had been available at the proceeding leading to the judgment of conviction." Tenn. Code Ann. § 40-30-405.

3. Tennessee Supreme Court Rule 12.4(E)

Tennessee Supreme Court Rule 12.4(E), as amended in December 2025, provides: "After a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court." The Rule also

provides for the appointment of a special master for fact-finding when necessary. Tenn. Sup. Ct. R. 12.4(E). The explanatory comment to the amendment states: "Section 4(E) was amended to set forth the procedures for state court collateral litigation potentially affecting the method or timing of execution that is filed after a date of execution is set." (Am. Compl. ¶ 165.)

E. State Court Proceedings[8]

1. Mr. Carruthers' Fingerprint Act Requests

On September 21, 2021, Mr. Carruthers filed a *pro se* petition for fingerprint analysis under the Fingerprint Act requesting comparison of six unidentified prints taken from the victim's home—including from doorknobs and a phone receiver that the perpetrator likely touched—with the known prints of Ronnie Irving. (Am. Compl. ¶ 65.) As stated above, Mr. Carruthers and Montgomery had already been excluded from all fingerprints collected at the scene. In February 2022, the State responded. (Am. Compl. ¶ 66.) In January 2026, after Mr. Carruthers'

[8] The Tennessee Criminal Court for Shelby County is referenced as the "**Criminal Court**." The Tennessee Court of Criminal Appeals is referenced as the "**CCA**." The Tennessee Supreme Court is referenced as the "**TSC**."

execution had been set,[9] Mr. Carruthers, through counsel, filed a reply/amendment to the *pro se* motion. (Am. Compl. ¶ 67.)

That same month, the Criminal Court summarily denied the petition without a hearing. (Am. Compl. ¶ 66.) *Four months later*, the CCA affirmed, applying what amounts to a conclusive-proof-of-innocence standard—asking whether fingerprint evidence would "eliminate[] the possibility" of Mr. Carruthers's involvement—rather than the statutory "reasonable probability" standard. (Am. Compl. ¶ 69-71; Dist. Dkt. 32-12.) Remarkably, the CCA acknowledged that fingerprint results could show "a possible fourth participant in these crimes." (Dist. Dkt. 32-12.) In a case built entirely on circumstantial evidence with no physical evidence linking Mr. Carruthers to the crime, even the CCA's own finding plainly satisfies the statutory "reasonable probability" standard.

The CCA also refused to consider post-trial evidence (*e.g.*, Montgomery's statement identifying Irving as the perpetrator) even though nothing in the statute limits the evidentiary record, stating that

[9] On September 30, 2025, the TSC granted the State's Motion and set Mr. Carruthers' execution for May 21, 2026, at 10:00 a.m. (Am. Compl. ¶ 41; Dist. Dkt. 32-10.)

the Fingerprint Act "is not an avenue for relief for allegations of newly discovered evidence unrelated to fingerprint analysis." (Am. Compl. ¶ 71; Dist. Dkt. 32-12.) The CCA also failed entirely to analyze Mr. Carruthers' petition under the discretionary provision of the Fingerprint Act, § 40-30-405.

On April 28, just *twelve days* after the CCA's denial, Mr. Carruthers filed his Complaint in the underlying lawsuit raising claims under § 1983 related to the CCA's authoritative construction of the Fingerprint Act. (*See generally* Dist. Dkt. 1.)

2. Mr. Carruthers' DNA Act Requests

On April 9, 2026, shortly after obtaining new counsel (Am. Compl. ¶ 77), pursuant to the DNA Act and Rule 12.4(E), Mr. Carruthers filed a motion for DNA testing under the DNA Act in the TSC seeking post-conviction DNA analysis of evidence that had never been tested. (Am. Compl. ¶ 78; Dist. Dkt. 32-3.) Three weeks later, the TSC denied the motion, holding in pertinent part:

> Mr. Carruthers' motion is not well-taken. As the State asserts in its response in opposition to the motion, the December 2025 amendment to Rule 12(4)(E) neither created a new procedural avenue nor granted this Court original jurisdiction to adjudicate an eleventh-hour DNA claim that was not timely pursued via the existing DNA Act.

(Dist. Dkt. 32-13; *see also* Am. Compl. ¶ 89.)

Less than a week after the TSC's denial, Mr. Carruthers filed a second motion for DNA testing under the DNA Act in the Criminal Court. (Am. Compl. ¶ 93.) While the second motion was pending in the Criminal Court, Mr. Carruthers filed his Amended Complaint in the lawsuit below, raising claims related to the TSC's authoritative construction of the DNA Act and Rule 12.4(E).[10]

F. Federal Court Proceedings

Mr. Carruthers initiated the underlying § 1983 action on April 28, asserting claims related to the State's arbitrary deprivation of his liberty interest in obtaining fingerprint analysis under the Fingerprint Act. (Dist. Dkt. 1.) With his Complaint he filed the First Motion, asking the District Court to stay his execution and issue a preliminary injunction. (Dist. Dkt. 3.)

On May 4, after the TSC denied his first DNA motion and while his attorneys were finalizing his Amended Complaint, Mr. Carruthers filed

[10] Since Mr. Carruthers filed the Amended Complaint, the Criminal Court denied the motion on May 11, 2026. That denial is currently on appeal to the TSC, which assumed jurisdiction from the CCA.

his Second Motion, again asking the District Court to stay his execution and asking the District Court to stay the § 1983 litigation pending the resolution of his second DNA motion in the state courts. (Dist. Dkt. 22.)

On May 8, after the TSC denied his first DNA motion and while his second DNA motion was pending in the Criminal Court, Mr. Carruthers filed his Amended Complaint adding claims related to the DNA Act and Rule 12.4(E). (*See generally* Am. Compl.) The District Court denied his Motions late on Friday, May 15. Hours later, Mr. Carruthers filed his Notice of Appeal. (Dist. Dkt. 41.) This Initial Brief follows. Last night, pursuant to 6th Cir. Rule 8, Mr. Carruthers also filed an emergency motion to stay his execution pending resolution of this appeal. (Dkt. 3.)

SUMMARY OF THE ARGUMENT

The gravity of this case cannot be overstated. Mr. Carruthers stands to lose his life without being afforded a fair opportunity to access statutory procedures to test available evidence that could prove his innocence.

The issues are straightforward. Mr. Carruthers has a constitutionally protected liberty interest in accessing Tennessee's statutory post-conviction DNA and fingerprint testing procedures. *See*

generally Skinner v. Switzer, 562 U.S. 521 (2011); *Reed v. Goertz*, 598 U.S. 230 (2023); *Gutierrez v. Saenz*, 606 U.S. 305 (2025). He has been wrongly denied access to such procedures based on the State courts' arbitrary and irrational construction of the applicable statutes and rules. *See generally Bouie v. City of Columbia*, 378 U.S. 347 (1964); *Marks v. United States*, 430 U.S. 188 (1977).

"DNA testing has an unparalleled ability both to exonerate the wrongly convicted and to identify the guilty." *Dist. Attorney's Office for Third Jud. Dist. v. Osborne*, 557 U.S. 52, 55 (2009). In this case, the biological evidence that could establish Mr. Carruthers' innocence—unidentified fingerprints from the crime scene, fingernail scrapings from three murder victims, cloth bindings used on their bodies, and an unidentified male DNA profile already found on a blanket buried with the victims—exists, is in the State's possession, and is available for testing. Modern DNA testing takes just weeks. The State faces no prejudice from a brief delay in Mr. Carruthers' scheduled execution. *Hartman v. Bobby*, 319 F. App'x 370, 370 (6th Cir. 2009). If the results inculpate Mr. Carruthers, the execution proceeds. If they exculpate him or identify another suspect, an innocent man can be spared. But Mr.

Carruthers has to be able to litigate his underlying § 1983 claims to get there.

The District Court never reached the merits of Mr. Carruthers' underlying claims but, on preliminary injunction, held that Mr. Carruthers does not have a likelihood of success on the merits of his claims. The District Court got it wrong for three reasons. First, the District Court abandoned Sixth Circuit law and applied the wrong legal standard in denying Mr. Carruthers' Motions, thereby prejudicing Mr. Carruthers. Second, the District Court misapplied the *Rooker-Feldman* doctrine to bar four of Mr. Carruthers' five claims. Finally, although Mr. Carruthers' interest at issue is clear, the District Court could not find the liberty interest at issue in Count V.

Ultimately, the State has created an inescapable procedural "Catch-22"[11] that ensures death row prisoners like Mr. Carruthers can never actually obtain the forensic testing promised in the Acts before being killed by the State. This cannot stand.

[11] *Trotter v. Florida*, 146 S. Ct. 755 (2026) (Sotomayor, J., respecting the denial of the application for stay of execution and denial of certiorari).

ARGUMENT

The issues in this appeal address the District Court's legal conclusions, which this Court reviews *de novo*. *Certified Restoration Dry Cleaning Network, L.L.C. v. Tenke Corp.*, 511 F.3d 535, 541 (6th Cir. 2007).

I. The District Court misapplied the legal standard in reviewing Mr. Carruthers' Motions, thereby prejudicing Mr. Carruthers.

This Court's precedent is clear that the four-prong test for a stay of execution (and preliminary injunction) is a balancing test. *See, e.g.*, *Zagorski v. Mays*, 906 F.3d 414, 416 (6th Cir. 2018) (quoting *Workman v. Bell*, 484 F.3d 837, 839 (6th Cir. 2007)). In fact, the District Court recognized this. (*See* Op. at 26-27, n.31 ("Published Sixth Circuit case law stands unmistakably for the proposition that these four items are factors rather than requirements . . . .").)

However, the District Court explicitly abandoned this Sixth Circuit law and, instead, applied the test as establishing four mandatory prongs. (*See* Op., at 26 ("To obtain a stay of execution a plaintiff must satisfy a four-requirement test, just as he would when moving for a preliminary injunction."); *id.* at 27, n.13 (explicitly abandoning Sixth Circuit law to,

instead, follow Ninth and Eleventh Circuit law).) The District Court was not free to do so. *United States v. Gleaves*, 654 F. Supp. 3d 646, 651 (M.D. Tenn. 2023) ("Absent a clear directive from the Supreme Court, this Court is bound by Sixth Circuit precedent."); *see also Brown v. Cassens Transp. Co.*, 492 F.3d 640, 646 (6th Cir. 2007) ("Absent a clear directive from the Supreme Court or a decision of this court sitting en banc, we are not at liberty to reverse this court's precedent."); *Hall v. Eichenlaub*, 559 F. Supp. 2d 777, 782 (E.D. Mich. 2008) ("[A] district court is bound by the decisions of the Circuit Court of Appeals in which it sits.").

Rather than considering each of the factors, the District Court determined *only* that Mr. Carruthers does not have a likelihood of success on the merits (wrongly, as discussed below). (*See generally* Op.) After making that determination, the District Court abandoned the required analysis on the other factors. (Op., at 55.)

Contrary to the District Court's analysis, this Court has granted a stay of execution even where the petitioner did not show a likelihood of success on the merits. *See, e.g.*, *Zagorski*, 906 F.3d at 416 (granting a stay of execution even where petitioner "face[d] an uphill battle on the merits" because "due process requires that [petitioner] be afforded an

opportunity to present his appeal" to this Court). This Court has also granted a stay without analyzing this factor because of the interests involved—as the District Court recognized. (*See* Op., at 27, n.31 (citing *Hartman v. Bobby*, 319 F. App'x 370, 371-72 (6th Cir. 2009)).)

In fact, the District Court itself recognized the gravity of the interests involved here, writing: "The Court is aware how much is at stake here—for both sides, but especially for Plaintiff." (Op., at 52.) Yet, the District Court used that against Mr. Carruthers rather than considering this in a balancing test. (*See* Op., at 52 ("But precisely because the stakes are so high . . . Plaintiff's claims need to be very sound.").) This is not the law.

Even under the more deferential abuse-of-discretion standard applicable, the District Court's explicit abandonment of Sixth Circuit law categorical refusal to analyze the remaining three factors in a capital case—where irreparable harm is execution—was in error. This reversible error prejudiced Mr. Carruthers by essentially eliminating his ability to litigate his claims.[12] For the reasons discussed in Mr. Carruthers Motions

[12] When the District Court issued its Opinion, none of the Defendants had responded to Mr. Carruthers' Amended Complaint. That remains true.

and in his *Emergency Motion for Stay of Execution and Incorporated Memorandum of Law* filed in this Court, the four factors weigh strongly in favor of granting a stay.

On this basis alone, Mr. Carruthers has a strong likelihood of success on the merits of this appeal. Further, as discussed below, even on the one prong the District Court did analyze, it erred. Accordingly, this Court should reverse the District Court's denial of Mr. Carruthers' Motions.

II. The District Court wrongly concluded that four of Mr. Carruthers' claims are barred by the *Rooker-Feldman* doctrine.

The crux of Mr. Carruthers' claims in the underlying case is simple: Mr. Carruthers has a right to access statutory post-conviction forensic testing procedures (*i.e.*, the Acts), and the State has arbitrarily denied him that access when evidence exists that can be tested. (*See generally* Am. Compl.) The District Court erred in concluding that four of Mr. Carruthers' claims are barred by the *Rooker-Feldman* doctrine.

Also, Mr. Carruthers served discovery requests on several of the Defendants, which remain unanswered.

A. Supreme Court precedent establishes that challenges to forensic-testing statutes as authoritatively construed are cognizable under § 1983.

Contrary to the District Court's ruling, the Supreme Court has squarely held that § 1983 challenges to post-conviction forensic testing statutes as authoritatively construed are not barred by the *Rooker-Feldman* doctrine.

In *Skinner*, the Supreme Court held that a death-row prisoner's challenge to a Texas DNA statute "did not challenge the adverse [state court] decisions themselves" but rather "target[ed] as unconstitutional the [state] statute they authoritatively construed." 562 U.S. at 532. The Court articulated the controlling principle: "[A] state-court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action." *Id.* at 532-33.

The Supreme Court reinforced this holding in *Reed v. Goertz*, 598 U.S. 230 (2023). There, the Court found a § 1983 claim was not barred by *Rooker-Feldman* where the plaintiff "did not challenge the adverse state-court decisions themselves, but rather target[ed] as unconstitutional the [state] statute they authoritatively construed." *Id.* at 235. That is exactly

what Mr. Carruthers seeks to do here, which is clear on the face of his pleading.

In *Gutierrez v. Saenz*, 606 U.S. 305 (2025), the Supreme Court squarely reaffirmed the *Osborne*/*Reed*/*Skinner* framework in a case nearly identical to this one. There, Ruben Gutierrez—a Texas death-row prisoner convicted of capital murder—had sought DNA testing of crime-scene evidence for nearly fifteen years to demonstrate that he was never present at crime scene. *Id.* at 309–12. When the local prosecutor refused to release the evidence, Gutierrez filed suit under § 1983, alleging that Texas's post-conviction DNA testing statute (Article 64), as authoritatively construed by the Texas Court of Criminal Appeals, deprived him of his liberty interest in utilizing state procedures to obtain an acquittal or sentence reduction. *Id.* at 312-13. The U.S. Court of Appeals for the Fifth Circuit vacated the district court's declaratory judgment, reasoning that Gutierrez lacked standing because the prosecutor was unlikely to "reverse course and allow testing" even if a federal court declared the statute unconstitutional. *Id.* at 313 (quoting *Gutierrez v. Saenz*, 93 F.4th 267, 272 (5th Cir. 2024)). While Gutierrez's request for rehearing was pending in the Fifth Circuit, Texas scheduled

his execution. *Id.* at 314. The Supreme Court stayed the execution and granted certiorari. *Id.*

Upon review, the Supreme Court reversed, holding that convicted individuals "have a liberty interest in demonstrating [their] innocence with new evidence under state law," *id.* (quoting *Osborne*, 557 U.S. at 68), and that a declaratory judgment redresses the prisoner's injury by "eliminating the state prosecutor's allegedly unlawful justification for denying DNA testing," *id.* at 316. The Court rejected the argument that alternative state-law grounds for denial defeated standing, reasoning that "a prosecutor might eventually find another reason . . . to deny a prisoner's request for DNA testing does not vitiate his standing to argue that the cited reasons violated his rights under the Due Process Clause." *Id.* at 319-20. Finally, the Court held that a procedural due process claim cannot be mooted by the defendant's mid-appeal promise that the outcome will not change, as permitting such a rule would "allow all manner of defendants to manufacture mootness." *Id.* at 320-21.

Mr. Carruthers' case is materially indistinguishable: like Gutierrez, he is a death-row prisoner who has filed a § 1983 action challenging state-created post-conviction forensic testing procedures as

authoritatively construed, asserting the identical liberty interest in accessing DNA and fingerprint evidence that could demonstrate his innocence and that he has been deprived of accessing for years—an interest that his imminent execution will permanently and irreversibly extinguish.

B. Mr. Carruthers challenges the State courts' arbitrary and irrational interpretation of the Acts and Rule 12.4(E) as violations of his right to due process.

The District Court held that Claims I-III and V "specifically challenge[] particular prior adverse state court rulings against him" and are therefore barred by *Rooker-Feldman*. (Op., at 33.) The court reasoned that Mr. Carruthers' allegations—which reference specific state-court rulings against Mr. Carruthers and quote from them—demonstrate that he is "challenging specifically" the denials themselves rather than the Acts. (Op., at 33, 38-39.) This analysis is not only incorrect but reflects a fundamental misapprehension of the *Skinner*/*Reed* framework.

In reaching this conclusion, the District Court conflated the *evidence* of an unconstitutional construction with a request for federal appellate review of a state court decision. Mr. Carruthers' pleading necessarily references specific state-court decisions, including his own,

because those decisions constitute the evidence of *how* the statutes have been authoritatively construed and the outcomes manifested by these constructions.

A plaintiff cannot demonstrate that a statute has been construed unconstitutionally without pointing to the decisions that effectuated the unconstitutional construction. That is precisely what *Skinner* held permissible: the plaintiff "target[ed] as unconstitutional the [state] statute [the state courts] authoritatively construed." 562 U.S. at 532.

Indeed, Mr. Carruthers' claims target several distinct unconstitutional constructions of the Acts, all of which violate fundamental fairness and deprive prisoners like Mr. Carruthers of the ability to use and access the Acts, including:

1. Although the Fingerprint Act requires a "reasonable probability" standard, the CCA applied what amounts to a "conclusive proof of innocence" standard in reviewing Mr. Carruthers' request, asking whether fingerprint evidence would "eliminate[] the possibility" of involvement. (Dist. Dkt. 32-12, at 14.) As authoritatively construed, this significantly increases the burden on prisoners seeking relief under the Fingerprint Act in

contravention of the language enacted by the Tennessee Legislature. (*See* Am. Compl. ¶¶ 105, 109.)

2. While Tennessee courts have made clear that there is no time-limit for seeking testing under the DNA Act, the Tennessee Supreme Court denied Mr. Carruthers' first DNA motion as "an eleventh-hour DNA claim that was not timely pursued via the existing DNA Act." (Dist. Dkt. 32-13.) In other words, the Tennessee courts authoritatively construed the DNA Act to include a timeliness requirement that appears nowhere in the statutory text. (Am. Compl. Count III.)

3. Rule 12.4(E) provides that post-execution-date collateral litigation "must commence with the filing of a motion in this Court." Yet the Tennessee Supreme Court construed its own rule to mean that it "neither created a new procedural avenue nor granted this Court original jurisdiction" to adjudicate DNA claims. (Dist. Dkt. 32-13.) Count III of the Amended Complaint challenges the Rule as authoritatively construed to mean the opposite of what it says—directing inmates to file in a specific court that then disclaims jurisdiction. Despite the District Court agreeing that the

> statute grants the Tennessee Supreme Court original jurisdiction over these claims, it refused to grant any relief. (*See* Op. 39, n. 14. ("This rule thus carves out an exception to the Tennessee Supreme Court's customary role, which is to serve not as a forum for commencement of litigation but rather as a forum for appellate-level review of cases commenced in a lower court.").)

Each of these were arbitrary, unique, and irrational constructions of the Acts and Rule 12.4(E) that deprived Mr. Carruthers of due process of law. *See Bouie*, 378 U.S. at 353; *Marks*, 430 U.S. at 191-92; *see also Shuttlesworth v. City of Birmingham,* 382 U.S. 87, 90-92 (1965); *Cole v. Arkansas*, 333 U.S. 196 (1948).

To be clear, none of Mr. Carruthers' claims asked the District Court to sit in appellate review of a particular Tennessee state-court ruling. Rather, Mr. Carruthers challenged the state courts' construction of the Acts and Rule 12.4(E), as outlined above. In his claims below, Mr. Carruthers asked the District Court to declare that the Acts and Rule 12.4(E), as authoritatively construed by the Tennessee courts, violate his right to due process. *See* U.S. Const. amend. XIV; *Bouie*, 378 U.S. at 353 (holding that "an unforeseeable judicial enlargement of a criminal

statute, applied retroactively, operates precisely like an ex post facto law" and therefore violates due process); *Marks*, 430 U.S. at 191-92 (holding that retroactive application of a new, broader judicial standard violates due process because individuals lacked fair warning of the changed legal rule); *see also Shuttlesworth,* 382 U.S. at 90-92; *Cole*, 333 U.S. 196. (*See generally* Am. Compl.) Even the allegations cited in the District Court's Opinion make clear that was the basis for Mr. Carruthers' claims. (*See* Op., at 33-35 (quoting Am. Compl.).) Contrary to the District Court's ruling, this is precisely the type of claim that the Supreme Court has held cognizable under § 1983. *Skinner*, 562 U.S. at 532; *Reed*, 598 U.S. at 235.

Mr. Carruthers relied on the Fingerprint Act as written to require a showing of a "reasonable probability" of a different outcome under both provisions of that Act. However, the CCA arbitrarily and irrationally interpreted the Fingerprint Act to, instead, impose a heighted "actual innocence" standard—in violation of Mr. Carruthers' right to due process. *See Bouie*, 378 U.S. at 353; *Marks*, 430 U.S. at 191-92. This is at issue in Counts I-II of the Amended Complaint.

Likewise, the DNA Act, as written, contains no time limit for filing, as the TSC has recognized. *Griffin*, 182 S.W.3d at 799. Yet, the TSC

arbitrarily and irrationally interpreted the DNA Act to include a timeliness element—in violation of Mr. Carruthers' right to due process. *See Bouie*, 378 U.S. at 353; *Marks*, 430 U.S. at 191-92. This is at issue in Counts III-IV of the Complaint.

Similarly, the plain language of Rule 12.4(E) provides that collateral litigation "*must* commence" in the TSC "[a]fter a date of execution is set." (Am. Compl. ¶ 189.) After Mr. Carruthers filed precisely where the Rule directed, the TSC arbitrarily and irrationally interpreted the Rule contrary to its plain meaning—in violation of Mr. Carruthers' right to due process. *See Bouie*, 378 U.S. at 353; *Marks*, 430 U.S. at 191-92. And, in doing so, the TSC imposed again a timeliness requirement that does not exist in the DNA Act. This construction sent Mr. Carruthers on another procedural runaround, violating his right to due process. *See Bouie*, 378 U.S. at 353; *Marks*, 430 U.S. at 191-92. *See generally Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982). This is at issue in Counts III-IV of the Complaint.[13]

[13] This is also at issue in Count V, but that count is not at issue in this discussion.

In *Bouie v. City of Columbia*, 378 U.S. 347 (1964), the Supreme Court established that a judicial interpretation of a statute that is unforeseeable and contradicts the statute's plain text violates the Due Process Clause—operating as the judicial equivalent of an ex post facto law. The Court held that "an unforeseeable judicial enlargement of a criminal statute, applied retroactively, operates precisely like an ex post facto law, such as Art. I, § 10, of the Constitution forbids." *Id.* at 353. While *Bouie* arose in the criminal punishment context, its animating principle—that due process forbids the retroactive application of unforeseeable judicial constructions—extends to any deprivation of a constitutionally protected interest. *See Marks*, 430 U.S. at 191-92 (applying *Bouie*'s fair-warning principle to the retroactive broadening of judicial standards); *Shuttlesworth*, 382 U.S. at 90–92 (holding that a person cannot be penalized for failing to comply with an unconstitutional or nonexistent legal requirement); *Cole*, 333 U.S. at 201 (holding that due process requires judgment on the legal theory actually given notice of).

The *Bouie* framework independently reinforces the conclusion that these claims survive *Rooker-Feldman*. A claim that a judicial construction is so unforeseeable as to violate due process is, by its nature,

a challenge to the construction rather than to the underlying ruling. That is what Mr. Carruthers has raised here and is precisely the type of claim *Skinner*, 562 U.S. at 532, holds cognizable under § 1983.

The principle of *Shuttlesworth*, 382 U.S. at 90-92, applies with full force here: a person cannot be penalized for failing to comply with a legal requirement that does not exist. The CCA penalized Mr. Carruthers for not meeting a standard that does not exist in the Fingerprint Act. And the TSC penalized Mr. Carruthers on two grounds: (1) filing in the "wrong court," notwithstanding that Rule 12.4(E) expressly directed him to file in the Tennessee Supreme Court; and (2) filing "untimely," notwithstanding that the DNA Act contains no filing deadline whatsoever. Under *Shuttlesworth*, this was constitutionally impermissible.

Similarly, under *Cole*, 333 U.S. 196, due process requires that a litigant be judged based on the legal theory of which he was actually given notice. For the reasons discussed, the Tennessee courts did the opposite. Under *Cole*, substituting an unannounced standard for the one in the statute violates due process.

The District Court itself recognized that the *Rooker-Feldman* doctrine "does not bar as-applied constitutional challenges seeking prospective relief as long as 'the source of [the plaintiff]'s alleged injury is not the past state court judgments' but 'the purported unconstitutionality of [the statute] as applied in future cases.'" (Op., at 33 (quoting *Hall v. Callahan*, 727 F.3d 450, 455 n.3 (6th Cir. 2013)). All of Mr. Carruthers's claims are exactly that and fall within *Hall*'s framework.

The ultimate measure of a procedural safeguard is whether it can function in practice. A post-conviction testing statute that cannot, as a practical matter, provide testing to a death-row inmate before his execution is not a safeguard; it is a façade. The State may point to the Acts' mere existence and claim that Tennessee provides robust post-conviction testing rights. But if those rights cannot be exercised before the State carries out an execution—if every procedural avenue is blocked by contradictory judicial constructions, judicially invented deadlines, and courts that disclaim the very jurisdiction the rules confer—then the right exists in name only, and the State executes prisoners while maintaining the pretense that a meaningful check against wrongful execution exists.

Due process requires more than a statutory promise. It requires that the promise be capable of fulfillment before the State carries out an irreversible act. The Acts, as authoritatively construed by its courts, cannot fulfill their promise for death-row inmates facing imminent execution. They are therefore "fundamentally inadequate to vindicate the substantive rights provided," *Osborne*, 557 U.S. at 69, and their application to Mr. Carruthers—whose execution will proceed while untested DNA evidence sits in the State's custody—violates the Due Process Clause.

Therefore, the District Court erred in holding that Counts I-III and V are barred by *Rooker-Feldman*.

For these reasons, the District Court erred in holding that Counts I-III and V are barred by *Rooker-Feldman*. Accordingly, the District Court's ruling must be reversed.

III. The District Court erred in concluding that Mr. Carruthers had not identified a liberty interest in Count IV.

In *Osborne*, the Supreme Court recognized that state laws "providing for post-conviction DNA testing may create a liberty interest in accessing biological evidence for testing." 557 U.S. at 68-70. The District Court recognized this under Sixth Circuit law, too. (Op., at 46.)

Yet, somehow, the District Court concluded that Mr. Carruthers had not adequately identified a liberty interest at issue in Count IV. (Op., at 48-52.)

In reaching this conclusion, the District Court identified multiple formulations of the liberty interest across Mr. Carruthers' filings and concluded that it could not identify which one Mr. Carruthers was asserting. (Op., at 52.) Specifically, the District Court observed that Mr. Carruthers' Amended Complaint described "a liberty interest in utilizing state procedures to demonstrate his innocence and/or seek a reduction of his sentence," while his First Motion described "a liberty interest in demonstrating his innocence with new evidence under state law that creates avenues for doing so." (Op., at 48-49.) Despite the District Court's constrained reading, these formulations describe the same liberty interest in different words.

To be clear, the interest is this: Tennessee affirmatively created, through the Acts, a statutory procedure that provides inmates a defined mechanism to access post-conviction DNA and fingerprint testing for the purpose of establishing innocence. That statutory entitlement gives rise

to a constitutionally protected liberty interest in accessing and utilizing those procedures. *See Osborne*, 557 U.S. at 68–70.

The phrase "to demonstrate his innocence," as used in Mr. Carruthers' filings, describes the purpose for which the legislature created the procedures—it does not constitute a separate or distinct liberty interest in "being found innocent." The District Court erroneously treated routine variation in phrasing across two different filings as a substantive deficiency in Mr. Carruthers' legal theory.

To the extent any clarification is required, Mr. Carruthers states unequivocally that the liberty interest he asserts is the *Osborne* interest: the constitutionally protected interest in accessing and utilizing the post-conviction procedures that Tennessee affirmatively created in the Acts to establish his innocence, without being deprived of that interest through fundamentally inadequate process. It is not an interest in "being found innocent" (which would implicate habeas corpus). (Op., at 49.) Nor is it a "compound" interest combining multiple theories. (Op., at 49.) It is the interest that the District Court's own citations identify and that *Osborne*, *Skinner*, and *Reed* have recognized.

Mr. Carruthers' pleading affirms this on its face, as he never asked the District Court to render him innocent or exonerate him. He merely asked for access to the Acts. (*See generally* Am. Compl.)

The undisputed facts make this case straightforward: Mr. Carruthers has never been given access to the testing the State's own statutes promise. The evidence remains available for testing in the State's possession—fingernail scrapings from three victims, cloth bindings from their bodies, and an unidentified male DNA profile that has already excluded Mr. Carruthers. A qualified forensic expert has opined that modern DNA technology can likely obtain probative profiles from the untested items. The State has identified no prejudice from allowing such testing. Yet, the State seeks to execute Mr. Carruthers in less than 72 hours—rendering the deprivation permanent and irremediable—before any court affords him the process he is due. The District Court's refusal to recognize this interest, based on the manufactured ambiguity of routine phrasing variation, was a legal error.

Although it articulated the *Osborne* framework—asking whether the state's procedures are "fundamentally inadequate to vindicate the substantive rights provided"—the District Court never applied that

standard to the facts before it. Instead, the District Court became mired in the threshold question of which liberty interest Mr. Carruthers was asserting and never reached the substantive adequacy inquiry.

Had the District Court conducted the required analysis, it would have been compelled to address the following: the DNA Act's complete absence of a filing deadline paired with the Tennessee Supreme Court's characterization of the motion as "untimely"; Rule 12.4(E)'s express direction to file in the Tennessee Supreme Court paired with that court's disclaimer of jurisdiction; the Fingerprint Act's "reasonable probability" standard paired with the CCA's application of a far more demanding "eliminate the possibility" standard; and the state courts' refusal to consider post-trial evidence despite the absence of any statutory prohibition on doing so. Each of these deficiencies—arbitrarily applied to Mr. Carruthers in unprecedented rulings, as listed above—represents a procedure that says one thing on its face and means something fundamentally different in application. The upshot is that Mr. Carruthers finds himself barred from vindicating statutory rights that Tennessee purports to provide by procedures that are "fundamentally

inadequate to vindicate the substantive rights provided." *Osborne*, 557 U.S. at 69.

The standard for a motion to stay execution requires only a "significant possibility of success on the merits." *See Workman v. Bell*, 484 F.3d 837, 839 (6th Cir. 2007) (applying the "significant possibility" standard in a capital case). Given that *Osborne* itself holds that state DNA testing statutes "may create a liberty interest," 557 U.S. at 69, and Tennessee has enacted precisely such a statute, the threshold inquiry—whether there exists a significant possibility that a constitutionally protected interest in utilizing those state-created procedures is at stake—must be answered in the affirmative. The District Court impermissibly demanded certainty at a stage where the governing standard requires only significant possibility.

The District Court acknowledged "how much is at stake here—for both sides, but especially for Plaintiff" and stated that "precisely because the stakes are so high . . . Plaintiff's claims need to be very sound." This reasoning inverts the applicable standard. The heightened and irreversible stakes of a capital case counsel in favor of granting

preliminary relief upon a threshold showing of significant possibility of success—not against it.

Accordingly, the District Court erred in denying Mr. Carruthers' Motion on Count IV.

CONCLUSION

This case is simple. Mr. Carruthers has a constitutionally protected interest in accessing state-created forensic testing procedures to establish his innocence. He has never been afforded adequate access to those procedures. The biological evidence exists, is in the State's possession, and is available for testing. There is no prejudice to the State from a brief delay to allow the testing. Yet, the State seeks to "rush to extinguish" Mr. Carruthers' life—making the deprivation permanent and irreversible. *Guerrero v. Busby*, No. 25A1235, 2026 WL 1345577, at *1 (U.S. May 14, 2026) (Jackson, J., dissenting from grant of application to vacate stay).

The District Court's denial of Mr. Carruthers' request for a preliminary injunction rests on legal errors, including abandoning Sixth Circuit law in applying the standard for reviewing a preliminary injunction, misapplying the *Rooker-Feldman* doctrine and foreclosing

claims that are clearly recognized under *Reed* and *Skinner*, and manufacturing ambiguity in a liberty interest that *Osborne* clearly identifies. Contrary to the District Court's ruling, Mr. Carruthers has a likelihood of success on the merits in the underlying action of addressing the "Catch-22" the Tennessee courts have created for prisoners like Mr. Carruthers who seek forensic testing.

The Constitution does not permit a State to execute a person while blocking him from accessing statutory procedures for testing scientific evidence that could exonerate him—particularly when there is no prejudice to the State from allowing the testing to proceed. Without intervention from this Court, Tennessee will succeed in doing just that—and Mr. Carruthers' unconstitutional execution will proceed.

Accordingly, this Court should reverse the District Court's ruling.

Dated: May 18, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I, Lucas Cameron-Vaughn, Esq., certify that this Brief complies with the word limitation requirements of Rule 32(a)(7). Excluding the parts of the Brief exempted by Rule 32(f), this Brief contains 7,844 words.

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