
BEFORE THE GOVERNOR OF THE STATE OF TEXAS
AND
THE TEXAS BOARD OF PARDONS AND PAROLES

In re James Garfield Broadnax,

Petitioner,
TDCJ #00999549.

**PETITION FOR COMMUTATION OF DEATH SENTENCE TO A
LESSER PENALTY, OR, IN THE ALTERNATIVE, A 180-DAY
REPRIEVE, AND REQUEST FOR AN INTERVIEW AND HEARING
ON THE MATTER**

James Garfield Broadnax is scheduled for execution on April 30, 2026

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INTRODUCTION

To the Governor and the Honorable Members of the Texas Board of Pardons and Paroles:

Based on the facts presented in this petition and the accompanying exhibits and video, Petitioner respectfully requests that the Texas Board of Pardons and Paroles (the “Board”) recommend, and the Governor grant, a commutation of death sentence to a lesser penalty. In the alternative, Petitioner requests that the Board recommend, and the Governor grant, a reprieve of execution for 180 days so the Board and Governor may give this application appropriate consideration. Petitioner requests an interview and a hearing on the matter.

James Broadnax was convicted and sentenced to death for the 2008 shootings of two young men, Stephen Swan and Matthew Butler, in the course of a robbery in Garland, Texas. The crime was a tragedy, and Mr. Broadnax profoundly regrets his involvement in the events that led to Mr. Swan’s and Mr. Butler’s deaths. But Mr. Broadnax should never have been sentenced to death, as he did not shoot Swan and Butler. His co-defendant, Demarius Cummings, did. Mr. Cummings has recently come forward and confessed to shooting the two victims, both in a declaration signed under penalty of perjury, and in a videotaped

interview, excerpts of which are included in the video submitted with this application.

Mr. Broadnax was a confused and depressed young man in 2009, and at the time of the crime, was high on PCP and marijuana. He had experienced a profoundly abusive childhood, and immediately after his arrest was placed on suicide watch and diagnosed as suffering from delusions resulting from his use of PCP. He had been persuaded by Mr. Cummings to confess to the shootings, on the misguided hope that because he (unlike Cummings) did not have a serious criminal record, he would not receive a death sentence. But the prosecution, focusing on the brutal facts of the crime and the theory that Mr. Broadnax had shot the two victims, falsely portrayed him as a violent psychopath, and persuaded the trial jury to sentence him to death.

Mr. Cummings's confession fundamentally undermines the State's case for Mr. Broadnax's death sentence. The Dallas DA would very likely not have sought the death penalty had it been known Mr. Broadnax was not the shooter, and at least one juror has expressly stated that she would not have convicted him had this new evidence been available at trial.

Mr. Broadnax was neither a killer nor a psychopath. He was a confused, 19-year-old young man who got involved in a robbery. He is now a mature, 37-year-old man who has transformed himself during his time in prison, becoming a leader and example for those around him on how to live life in prison in a meaningful, productive, and spiritual way. His story of redemption and purpose, while facing an undeserved death sentence, is both inspiring and heartbreaking, as detailed below.

GROUNDNS FOR COMMUTATION TO A LESSER PENALTY

I. MR. BROADNAX'S DEATH SENTENCE RESTS ON THE FALSE THEORY THAT HE WAS THE SHOOTER

Mr. Broadnax was sentenced to death based on the now-disproven theory that he was the shooter. The jury that sentenced him to death did not know that someone else came up with the idea to rob the victims, obtained the gun that was used in the robbery, and pulled the trigger, taking the lives of two young victims. Their deaths were indisputably tragic. Twenty-six-year-old Stephen Swan had only recently learned his cancer was in remission. Twenty-eight-year-old Matthew Butler had two toddlers under the age of two. Mr. Broadnax did participate in the robbery of the two victims, and he is deeply remorseful for doing so. But he should not be put to death for killings he did not commit, while the

actual shooter received a life sentence. A commutation would thus reflect and restore the community's judgment regarding the appropriate sentence.

A. Newly surfaced evidence confirms that Mr. Broadnax was not the shooter.

On June 19, 2008, Mr. Broadnax and his cousin, Mr. Demarius Cummings, were arrested for the robbery and murder of Mr. Stephen Swan and Mr. Matthew Butler in Garland, Texas. Their cases were severed, and at both trials, the State based its case on the theory that Mr. Broadnax shot both victims. That was, indeed, the version of the crimes that both Mr. Broadnax and Mr. Cummings told during interviews with the media following their arrest. At Mr. Broadnax's trial, the State secured a death sentence based on that theory. During both the guilt and punishment phases, the State expressly disavowed any law of the parties theory, insisting that Mr. Broadnax should be convicted and sentenced to death as the person who actually "cause[d] the death of [the victims] by shooting [them] with a firearm."¹

¹ 47 RR 182–83; 53 RR 11–12.

At Mr. Cummings's separate trial, the State again advanced the theory that Mr. Broadnax was the shooter. It thus proceeded under the law of the parties doctrine, and asked the jury to find Mr. Cummings guilty because he anticipated that Mr. Broadnax would kill the victims.² Because the State did not pursue the death penalty against Mr. Cummings, upon his conviction, the sentence of life without parole was automatic.³

From the time of his arrest and throughout the years following Mr. Broadnax's conviction and capital sentencing, Mr. Cummings maintained that Mr. Broadnax was the shooter who killed the two victims. Indeed, undersigned counsel first met with Mr. Cummings approximately ten years ago, shortly after taking on Mr. Broadnax's case, and met with him several additional times over the following ten years, and Mr. Cummings consistently maintained that position. It was only on February 20, 2026, after Mr. Cummings learned of Mr. Broadnax's execution date for the first time, that Mr. Cummings informed counsel that he wished to come clean, and to make it known that Mr. Broadnax

² See *State v. Cummings*, No. F08-24666-Y, Cummings Trial Tr. 5 RR 93–98 (jury charge on the law of the parties).

³ *Id.* at 138.

was not the shooter—that he himself was, and that Mr. Broadnax falsely took the blame for him. On March 11, 2026, Mr. Cummings signed a declaration under penalty of perjury, admitting that he—not Mr. Broadnax—shot the two victims.

In his declaration, Mr. Cummings stated: “It was my idea to rob Mr. Swan and Mr. Butler, and I obtained the pistol we took with us that evening and which was used to shoot the victims.” He explained that Mr. Broadnax agreed to take the blame for him, because “[a]t the time we committed these crimes, I had previously committed and been convicted of other crimes, including burglaries; my cousin James was 19 years old and did not have a criminal record, except for a marijuana possession conviction.”⁴ Mr. Cummings has since affirmed these facts in a videotaped statement, portions of which are included in the video provided with this application.⁵

The truth of Mr. Cummings’s declaration is strongly supported by the record evidence at Mr. Broadnax’s trial. The only evidence pointing

⁴ Ex. 2 (Cummings Decl.) at ¶ 3.

⁵ Ex. 6 (Clemency Video), at 10:26–11:07; 20:03–20:25 (“For me, I’m not trying to convince [anyone], I’m just telling it like it is. That’s what happened. . . . The truth of the matter is I was the shooter.”)

to Mr. Broadnax as the killer was Mr. Broadnax's own statements to the media, made when he was intoxicated and in an unstable mental state, and after he had agreed with his cousin to take the blame for being the shooter. The other evidence at trial, including the forensic evidence, corroborates Mr. Cummings's declaration: Mr. Cummings's DNA was found on both the gun and the body of one of the victims and Mr. Broadnax's DNA was not.⁶

B. Mr. Broadnax should never have been sentenced to death as the non-shooter.

A commutation is appropriate here because Mr. Broadnax would never have been sentenced to death had this evidence been available during his trial. Mr. Cummings's confession entirely undermines the case that the State made for Mr. Broadnax's death sentence. The State's showing of future dangerousness rested on the nature and manner of the killings, which, as now established, Mr. Broadnax did not actually commit. Indeed, at least one juror, Edith Clements, has expressly stated that she would not have sentenced Mr. Broadnax to death if the State

⁶ Ex. 3 (DNA Report).

had not presented his false statements to the media confessing to the shootings.⁷

Had it been known that Mr. Broadnax was not the shooter, the District Attorney's Office most likely would not have sought the death penalty against him in the first place. To undersigned counsel's knowledge, since 2003 the Dallas County District Attorney's Office has not sought the death penalty against a defendant where that defendant was not the actual shooter or killer, let alone against a non-shooter who was 19 years old at the time of the crime, with no significant criminal record. Significantly, the State did not seek the death penalty against Mr. Cummings, who was believed to have been the non-shooter in this case—and who did have a criminal record.

This Board's own record reflects the importance of fairness and proportionality in the treatment of non-shooter defendants. Since 1982, the Texas Board of Pardons and Paroles has recommended that the Governor commute death sentences five times. Three of those involved

⁷ Ex. 7 (Clements Letter); *see also* Ex. 6 (Clemency Video), at 19:40–19:50 (“I feel like surely there’s a case for his death sentence to be removed. How can you execute a man with new evidence like this?”).

non-shooter issues.⁸ This is consistent with a broader trend, including Alabama Governor Kay Ivey’s commutation last month of Charles “Sonny” Burton’s death sentence.⁹ Burton, like Mr. Broadnax, was sentenced to death, having been convicted of capital murder after a co-defendant shot a man to death during a botched robbery. Mr. Burton’s co-defendant, like Mr. Cummings, was sentenced to life without parole.¹⁰

C. A commutation is an appropriate failsafe in precisely these circumstances.

Executing Mr. Broadnax under these circumstances would mean carrying out a death sentence for an act he did not commit—a result that no system of justice should countenance. In *Herrera v. Collins*, the U.S. Supreme Court acknowledged that while the criminal justice system is fallible, the integrity of the judicial system is protected by the mechanism of executive clemency.¹¹ Justice Rehnquist described clemency as an appropriate “fail safe” remedy for claims of innocence based on new evidence that was discovered too late in the day to file a new trial motion,

⁸ <https://tcadp.org/2007/08/30/tcadp-hails-decision-to-grant-clemency-to-kenneth-foster/>.

⁹ <https://www.nytimes.com/2026/03/10/us/alabama-ivey-charles-burton.html>.

¹⁰ *Id.*

¹¹ 506 U.S. 390, 412–17 (1993).

noting that “history is replete with examples of wrongfully convicted persons who have been pardoned in the wake of after-discovered evidence establishing their innocence.”¹²

Mr. Broadnax is seeking court relief based on Mr. Cummings’s new confession, but because Mr. Cummings has come forward after Mr. Broadnax’s direct appeals and initial habeas petitions have concluded, it is uncertain whether any court will review this new evidence. If the courts conclude they are unable to review the new evidence demonstrating that the wrong person was convicted and sentenced to death for being the triggerman, this Board and the Governor will be the only authorities empowered to prevent Mr. Broadnax’s execution. We respectfully request that it exercise that authority to prevent Mr. Broadnax’s execution for a shooting that he did not commit.

II. MR. BROADNAX’S PURSUIT OF REDEMPTION WHILE INCARCERATED MERITS COMMUTATION

Independent of the new evidence undermining his death sentence, Mr. Broadnax is worthy of the Board’s and the Governor’s mercy. The young man who entered death row nearly twenty years ago no longer

¹² *Id.* at 415.

exists. In his place is someone who has spent every day since his conviction striving to become better—not because it might one day save his life, but because he believed it was the right thing to do. Through discipline, service, and an unwavering commitment to the well-being of those around him, Mr. Broadnax has achieved something remarkable: he has found redemption behind the walls of a prison, and in doing so, he has helped countless others find their own. Mr. Broadnax is worthy of a commutation not only because of the man he has become and the lives he has touched, but because of the positive influence he will continue to have if given the opportunity to live out his remaining days. The world will be a better place with as many of those days as possible.

Mr. Broadnax is a Christian and in his religious tradition, redemption stands among its highest values. Mr. Broadnax's story does not begin or end with his participation in the crime that resulted in his death sentence at age nineteen—a night that now sits nearly halfway between his birth and the many years he has since spent on death row. That moment matters, but it is not the whole truth of who he is. What defines Mr. Broadnax today is the sustained transformation that followed. His redemption is so evident that it led another man on death

row, Tedderick Batiste, to tell counsel that, if there were only one spot for clemency and it was between the two men, he would let Mr. Broadnax get it. That statement carries unusual weight, coming from a fellow condemned man, speaking from close observation of genuine change.

Mr. Broadnax is not the same person he was at the time of his conviction. After years of internal work, painful reckoning, and honest reflection, he now speaks openly about his remorse for the choices and actions that led to the deaths of Stephen Swan and Matthew Butler. He has taken responsibility for his own actions, even while facing the reality, over the last 17 years, that he was not the shooter. He has sought atonement through discipline, service, and commitment to helping others avoid the same path. His conduct reflects that seriousness.

A. Mr. Broadnax has pursued spiritual transformation, confronted his past, and supported others through the Faith-Based Program.

Mr. Broadnax's spiritual reflection and commitment to moral self-improvement is apparent to those who have known him since he has been incarcerated. Mr. Broadnax was one of only twenty-eight men selected for the Texas Department of Criminal Justice's Faith-Based Program for men on death row. Under the program, only men with no disciplinary

infractions in the prior two years, after writing multiple essays, securing a recommendation from the Chaplain, and passing additional security reviews, received approval from the Warden to participate. Mr. Broadnax met each of these requirements, earning his place through discipline, credibility, and demonstrated readiness for transformation.

The Faith-Based Program is designed to change the trajectory of its participants through an intensive curriculum focused on moral development, accountability, and personal growth. Mr. Broadnax engaged fully in each of the program's core components. After Mr. Broadnax focused on releasing long-held pain and committed himself to making better decisions, his leadership emerged naturally.

Irving Davis, another fellow inmate residing in the Polunsky Unit, has told counsel that Mr. Broadnax stepped into a teaching role, encouraging fellow participants to view their lives with clarity rather than despair. Mr. Broadnax taught classes on spirituality, conflict resolution, and finding inner peace during moments of stress.

And his leadership extended beyond formal instruction. One fellow inmate described how, after a period in which there was growing tension between inmates and guards at the Polunsky Unit, Mr. Broadnax

successfully convinced others to begin greeting the guards and asking them how their days were going. This led to a dramatic shift in guard-inmate interactions, and created a safer and healthier environment overall. Mr. Broadnax, seeing the trust that others have in him, recognized that he had a platform—and a unique understanding of the human condition—to improve everyone’s lives.

Another time, when religious tensions arose between Christian inmates and a Muslim man on death row, Mr. Broadnax intervened to remind those involved that Jesus is revered in both Christianity and Islam and urged them to resist division in favor of shared dignity and justice. The conflict ended not through authority or force, but through empathy and moral reasoning.

The effectiveness of faith-based programs is well established. Nearly 90% of the more than 90,000 graduates of the Bridges to Life curriculum that Mr. Broadnax completed as part of the Faith-Based Program do not return to prison within three years of release.¹³ Participants in the Faith-Based Program live together in a dedicated housing unit, learning, teaching, and supporting one another

¹³ <https://www.bridgestolife.org/fact-sheet>.

continuously for more than a year.¹⁴ Within that environment, Mr. Broadnax did not merely participate. He became a leader, one with the ability to connect with and help others around him. It is unique and emblematic of Mr. Broadnax's true character to devote as much time and energy as he has to helping those around him, even while he faced the likelihood that he will never be released from prison.

B. Mr. Broadnax's education and stewardship extend beyond the Faith-Based Program and reflect lasting rehabilitation and impact.

Beyond the Faith-Based Program, Mr. Broadnax has completed more than a dozen additional courses—far exceeding the average of two or three completed by most men on death row.¹⁵ He has treated learning not as a credential, but as a moral obligation. Mr. Broadnax has explained he believes education has the ability to teach you about the hurt you have experienced and helps with character development. He believes that learning still matters for those serving life sentences, because you have a duty to live while you're alive. He is also a voracious

¹⁴ https://www.tdcj.texas.gov/divisions/cvsd/inner_change.html.

¹⁵ See, e.g., Ex. 5 (Course Certificates).

reader and has spoken of the value of the lessons he gains and the self-reflections he applies from the books he reads.

Mr. Broadnax's rehabilitation is confirmed by inmates and others who interact with him. Mr. Broadnax's peers speak highly of him, as someone who can resolve conflicts, offer perspective, and maintain the trust and respect of the officers, staff, and other men on death row. For example, Irving Davis told counsel that Mr. Broadnax helps put together care packages for new death row inmates. He has organized inmates to play chess and *Dungeon and Dragons* to help them cope with being in solitary confinement for more than 22 hours a day. Rickey Cummings, another fellow inmate on death row, and Tedderick Batiste have described Mr. Broadnax as a natural mentor who is deeply committed to growth and powerfully recounted his efforts to teach inmates art therapy and creative writing.¹⁶ Former death row inmate Frank A. Williams, Jr. worked with Mr. Broadnax as part of the Self-Harm Program and said he finds Mr. Broadnax to be "intelligent, respectful, reverent of the opportunities he receives, and a leader of the men around him."¹⁷ As

¹⁶ See, e.g., Ex. 6 (Clemency Video), at 16:22–16:43.

¹⁷ Ex. 10 (Williams Letter).

someone who has personally used his time post-death row to help others, Mr. Williams expressed that he believes a commutation for Mr. Broadnax “would be invaluable to the general population of the Texas Department of Criminal Justice” and that he believes “the truest good in this situation is to let him live and employ him to accomplish the greatest good within the inmate population.”¹⁸

That trust extends to institutional leadership. Mr. Broadnax was selected from more than 160 men on death row as one of five men to serve as inaugural mentors in the Peer-to-Peer Program created by Officer Keith Stuckart. Although the program was later paused due to staffing shortages, the responsibility entrusted to him speaks to his credibility, judgment, and rehabilitation.

Mr. Broadnax’s service has not been confined to the prison community. He has also served as a mentor with the Chris Young Foundation, which works to steer at-risk youth away from the paths that lead to incarceration. He has expressed a desire to help develop a comprehensive mentoring program that integrates faith-based guidance with practical support for young people in need. Even a juror who put

¹⁸ *Id.*

him on death row, Edith Clements, has visited with him and been touched by his spirituality and kindness; she observed that “he has taken the time he has had in confinement to educate and better himself.”¹⁹

Taken together, these facts tell a coherent and compelling story of redemption—one fully consistent with Scripture. Biblical redemption requires confession, accountability, transformation, and fruit. The Gospel does not ask whether someone is sorry; it asks whether they have been made new. “By their fruits you shall know them,” and Mr. Broadnax’s life on death row has borne unmistakable fruit: discipline replacing chaos, service replacing harm, humility replacing immaturity.

To commute Mr. Broadnax’s sentence would not erase his crime or diminish its gravity. It would recognize something equally serious: that transformation is real, that character can be rebuilt, and that a life devoted to repair, mentorship, and moral leadership still has value. A commutation here would not undermine justice. It would bring it to completion.

¹⁹ Ex. 7 (Clements Letter); Ex. 6 (Clemency Video), at 16:59–17:28.

C. Mr. Broadnax would continue to contribute to his community if his life were spared.

Mr. Broadnax's life has meaning and purpose, and the world is a better place because he is in it. Behind the walls of death row, he has helped inmates rediscover hope, joy, and dignity. He has established art classes, teaching other inmates the power of art therapy and the freedom of creative expression. He has written poetry and lyrics, and encouraged inmates to publish their own work, giving voice to men whom society has all but forgotten.

And Mr. Broadnax's impact extends well beyond prison walls. He has built a community of pen pals and friends from around the world who have traveled to visit him, drawn to the person he has become. He has a father and a half-brother with whom he only recently connected, and through those relationships he has discovered new dimensions of himself and of what family can mean. He has a fiancée who fell in love with the man he has become.

To execute Mr. Broadnax would be to take far more than a single life. It would mean ending the life of a son whose father only recently found him, a partner whose fiancée cherishes him, a brother, a friend, and a mentor whose influence has given others the strength to change

their own lives. The State should not carry out that act. Mr. Broadnax's life, as it is now lived, is itself the most powerful evidence that mercy is warranted.

III. HIS EARLY CHILDHOOD TRAUMA AND YOUTH AT THE TIME OF THE OFFENSE SERVE AS MITIGATING FACTORS

Mr. Broadnax's transformation did not occur in a vacuum. To fully understand the moral weight of Mr. Broadnax's rehabilitation, it is necessary to confront the conditions that shaped his earliest years—the trauma, neglect, and abuse that preceded his crime and framed his path. That history does not excuse what he did. But it explains how a child, a young James, was formed before he ever had the chance to reform himself.

A. James's early childhood was marked by trauma, neglect, and violence.

From an early age, James's life was defined by instability and harm. He lived with his mother, Audrey Kelley, in what was described as a "crack-infested" housing project in Texarkana, Arkansas.²⁰ James only recently learned the identity of his father, and his father played no role

²⁰ 52 RR 9.

in his upbringing.²¹ His father was white, and his mother was Black, making James the only mixed-race child in a Black family, a difference that would become a source of cruelty.²²

James’s mother struggled with severe substance abuse, violent relationships, and repeated involvement with the criminal justice system, including charges related to abusing her own children. James was one of five siblings—but despite their existence, he grew up like an only child, having been separated from all of them by the age of four.

A family friend, Francine Mazone, knew James and his mother from the neighborhood and often fed James because he was “always hungry.”²³ He kept his head down, stayed quiet, and “never, never” smiled.²⁴ Mazone, James’s Aunt Jackie Aaron, and relative Juanita Mayes each testified at trial that they frequently saw James with visible injuries.²⁵ Mayes recalled seeing his “skin split open” and described him

²¹ 50 RR 300.

²² Ex. 6 (Clemency Video), at 4:10–4:30.

²³ 52 RR 9.

²⁴ *Id.*

²⁵ 52 RR 10, 43.

as “always being beat[en].”²⁶ She testified that she never once saw James’s mother show him affection.²⁷

Because of his mother’s instability, James was frequently dropped off with friends and relatives—sometimes with people she barely knew.²⁸ These placements were not temporary disruptions but part of a broader pattern of abandonment.

James’s mother cycled through at least five serious relationships during his childhood, most of which involved domestic violence that James witnessed firsthand. On one occasion, a dispute between James’s mother and his stepfather culminated in one adult ramming the other’s car off the road, causing it to flip while the children were inside.²⁹ That same man later abducted James’s infant brother, Michael, and James never saw him again.

Another relationship, with a man named Richard, was particularly violent. Police were frequently called due to abuse, and James recalled being slapped by Richard when he was nine or ten years old. When

²⁶ 52 RR 42–43.

²⁷ 52 RR 53.

²⁸ 51 RR 260; 52 RR 53.

²⁹ 50 RR 306.

James told his mother, she did not believe him and instead beat him herself. Richard and James's mother also used crack together, often in James's presence. Similar cycles of violence followed with other men, two of whom sent James's mother to the hospital due to physical abuse.

James and his mother struggled constantly to survive. Electricity was routinely shut off. Food stamps were their primary source of sustenance. His mother frequently moved them to follow whichever man she was dating, even if that meant pulling James out of school mid-year. As a child, James was never provided a stable, safe, or nurturing home. He did not choose this life. He endured it.

B. James was further neglected, abused, and degraded by his caregiver.

When James's mother could not manage him, she often sent him to live with another member of his family, Betty Eason.³⁰ But Eason, rather than finding refuge, was deliberately cruel to James. Eason made clear that her animus toward James stemmed from his being mixed-race. She

³⁰ 52 RR 44.

routinely called him a “half-breed,” a “dirty little white boy,” and “half baked.”³¹ She told him that no one—not even his mother—wanted him.³²

Eason’s neglect and abuse were severe. She locked James out of the house without food or water in the heat of summer.³³ One stepfather testified that when James returned from Eason’s care, he looked as though he had not bathed in months.³⁴ While cleaning him, a dead roach was discovered in his ear.³⁵ James was treated as a disgraced outcast, rejected by someone who could have offered stability when no one else did.³⁶

When it was discovered that James’s older half-brother was sexually assaulting James, Eason was upset because, in the words of James’s cousin Kevon, that older brother “could do no wrong in her eyes.”³⁷ As another of James’s cousins Kristina put it: He never knew

³¹ 51 RR 234.

³² 51 RR 237.

³³ 52 RR 47–49; Ex. 6 (Clemency Video), at 5:42–6:21.

³⁴ 52 RR 161–162.

³⁵ *Id.*

³⁶ 50 RR 256.

³⁷ Ex. 6 (Clemency Video), at 6:55–7:08.

his dad. His grandmother hated him. His own brother molested him.”³⁸ These were the “people that are supposed to protect you, provide for you.”³⁹

James could not change the trait for which he was punished. Eason’s racism was unrelenting, and he learned to survive by staying quiet and absorbing abuse. It was an environment no child should have been forced to endure.

C. Constant instability and loneliness shaped James’s adolescence.

Before his incarceration at nineteen, James lived in at least twelve different locations.⁴⁰ These included housing projects, homeless shelters, and the homes of friends or relatives when his mother could not care for him. Some placements offered brief relief, such as the time he spent with Francine Mazone, which he hoped would last. Others, particularly extended stays with Eason, were periods of even greater desperation.

³⁸ *Id.* at 7:12–7:17.

³⁹ *Id.* at 7:18–7:25.

⁴⁰ 50 RR 281.

This relentless instability left James feeling chaos and disorganization, completely unwanted, isolated, and detested. The emotional toll followed him into adolescence.

As a middle school student, James loved learning. He excelled in science, social studies, earth science, and geography, and he dreamed of becoming an architect or engineer. But constant moves made it increasingly difficult to keep up academically. His performance declined, and his enjoyment of school faded. By high school, James had attended five different schools across Texas and Arkansas.⁴¹ He struggled academically and socially, unable to form lasting friendships. Eventually, he began skipping school and dropped out in the eleventh grade.⁴²

James still tried to move forward. He enrolled in GED classes, walking four to five miles each way to attend them.⁴³ The physical toll forced him to stop. He attempted to enroll in Job Corps to pursue

⁴¹ 51 RR 241.

⁴² 50 RR 225.

⁴³ 51 RR 242.

architecture, but he needed his birth certificate. His mother had it and so it could not be found.⁴⁴ He lost that opportunity, like so many others.

D. A childhood shaped by addiction led to substance involvement and ultimately to the crime.

James grew up surrounded by drug use. His mother abused alcohol and drugs, and her partners openly used crack and marijuana.⁴⁵ By age nine, James was smoking marijuana himself, eventually using it nearly every day. James used PCP only three times in his life. Two in the weeks leading up to the crime, and the third on the day it occurred. That day, James and his co-defendant smoked PCP a few hours before arriving at the recording studio. James described feeling as though he were moving in slow motion, with everything blurred. He experienced memory loss during and after the crime, including not remembering being booked, requesting a lawyer, his arraignment, or any of the interviews with the press or what led up to them.

Mr. Broadnax's account is supported by University of Texas Professor of Psychiatry and Pharmacology John D. Roache, who reviewed the facts of Mr. Broadnax's mental state and drug consumption at the

⁴⁴ 51 RR 243.

⁴⁵ 51 RR 264–265.

time of his media statements, and concluded that he was in “a very unstable and compromised mental state” and that his cognitive capacity to make informed decisions was “seriously compromise[d]” at the time of the offense and during the media interviews.⁴⁶

Following the new evidence that Mr. Cummings was the shooter, Dr. Roache provided an updated opinion stating that the new information “further bolsters” his previous conclusions and evidences “how easily the intoxicated James Broadnax was influenced to make bad self-injurious decisions that were not in his own self-interest.”⁴⁷ Dr. Roache further opined that Mr. Cummings’s declaration provides insight to explain why Mr. Broadnax confessed in media interviews to a crime he did not commit—namely that he wanted to “help” or “please” his cousin who led him into the crime.⁴⁸

⁴⁶ Ex. 4 (Roache Decl.)

⁴⁷ *Id.* Studies of brain development and juvenile behavior show that the key factors cited by the Court in *Roper* (poor impulse control and unnecessary risk-taking) are not only present in adolescence, but also in 18- to 20-year-olds. See Kathryn Paige Harden & Elliot M. Tucker-Drob, Individual differences in the development of sensation seeking and impulsivity during adolescence: Further evidence for a dual systems model, 47 *Developmental Psychology* 3, 739–746 (2011).

⁴⁸ See Ex. 4 (Roache Decl.).

This history does not excuse Mr. Broadnax's mistakes. But it matters. Scripture teaches that judgment must be informed by truth, and truth requires confronting how a child was formed before he ever became a man.

IV. CONCLUSION

Clemency exists both to provide a "fail safe" in our criminal justice system and because justice, rightly understood, is not exhausted by punishment alone. In Mr. Broadnax's case, a commutation is appropriate for both reasons. First, it is appropriate because Mr. Cummings's recent confession confirms that he was the shooter, not Mr. Broadnax. Mr. Broadnax was sentenced to death precisely because the prosecution presented evidence that he was the shooter and that he had shot the two victims in a particularly brutal manner. But he did not do that, Mr. Cummings did. It would be unjust for Mr. Broadnax to be executed for actions he did not take.

A commutation is also appropriate in this case because Mr. Broadnax's efforts to improve himself and seek redemption are worthy of recognition and mercy. In Scripture, judgment is never blind to formation; it accounts not only for what a man has done, but for how he

was made. The Bible repeatedly distinguishes between hardened defiance and lives shaped by suffering, neglect, and abuse, insisting that moral evaluation must attend to both act and origin. “A bruised reed He will not break,” not because wrongdoing is ignored, but because fragility matters when deciding how judgment is completed. Clemency occupies that precise space: it does not deny human shortcomings, but it refuses to treat punishment as the final or exclusive measure of justice.

The Texas Board of Pardons and Paroles has long recognized this function. This Board’s past record reflects the importance of fairness and proportionality in the treatment of non-shooter defendants. In its own statements, the Board has emphasized that clemency is an act of mercy grounded in individualized review—reserved for cases where the full truth of a person’s life reveals circumstances that the judicial process, by design, could not fully weigh. The Board considers whether continued execution of a sentence serves justice in light of rehabilitation, mitigating history, and moral growth. That authority exists precisely because rigid outcomes can obscure moral reality. Clemency is not an exception to the system; it is the system’s conscience.

In Mr. Broadnax's case, that conscience is called into action. His current situation cannot be understood without reckoning honestly with the circumstances that led him to confess to killings he did not commit—a childhood marked by abandonment, degradation, hunger, violence, and sustained abuse—conditions Scripture consistently treats as morally weighty. Nor can his sentence be evaluated without acknowledging the man he has become through accountability, repentance, and service. To proceed with his sentence without considering the recent revelations from Mr. Cummings would be unjust and contrary to the principles the Board should consider when determining whether a commutation is warranted.

We respectfully suggest that the Board consider both Mr. Broadnax's actual moral culpability for the crimes at issue here in light of Mr. Cummings's confession, and whether justice would be served by extinguishing a life that has been demonstrably transformed. Here, mercy does not weaken justice; it completes it. Commutations exists for moments such as this—when mercy is not merely justified, but demanded.

REQUIREMENTS OF TITLE 37 OF THE TEXAS
ADMINISTRATIVE CODE § 143.42

1. Name and Pertinent Identifying Information of Applicant

James Broadnax, TDCJ #00999549, is incarcerated at the Polunsky Unit in Livingston, Texas. Mr. Broadnax's execution is scheduled for April 30, 2026.

2. Identity of Applicant's Agents

Attorneys Camille M. Knight, of the law firm C. Knight Law, and Steven C. Herzog, Pietro J. Signoracci, David M. Clements, Amanda Valerio-Esene, and Victoria Chandra, of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP, are presenting the application on behalf of Mr. Broadnax.

3. Certified Copies of Documentation

Certified copies of the indictment, judgment, jury verdict, sentencing order, including official documentation verifying the scheduled execution date are included as Exhibit 1.

4. Brief Statement of the Offense

On June 19, 2008, Stephen Swan and Matthew Butler were shot to death during the course of a botched robbery in Garland, Texas. Mr. Broadnax and his cousin, Demarius Cummings, were arrested for the shootings. Their cases were severed, and at both trials, the State based its case on the theory that Mr. Broadnax shot both victims.

The State did not present any direct evidence at Mr. Broadnax's trial that he was the shooter, other than Mr. Broadnax's own confession to media outlets identifying himself as the shooter while in a drug-induced state. Other evidence presented by the State at Mr. Broadnax's trial showed that the only DNA found on the murder weapon and in the pockets of one of the victims' body belonged to Mr. Cummings, not Mr. Broadnax.

On August 13, 2009, a Dallas County jury found Mr. Broadnax guilty of capital murder pursuant to Tex. Penal Code § 19.03(a)(2). After a separate punishment hearing, the jury answered the special issues in a manner requiring death, and on August 21, 2009, the 7th Judicial District Court of Dallas County, Texas, entered a judgment sentencing Mr. Broadnax to death.

In January 2010, Mr. Cummings was tried, convicted, and sentenced to life without parole in a separate trial that took place less than five months after Mr. Broadnax's trial. Mr. Cummings has since come forward and confessed under penalty of perjury to shooting both victims.

5. Brief Statement of Appellate History

On December 14, 2011, the Texas Court of Criminal Appeals affirmed Mr. Broadnax's conviction and sentence in *Broadnax v. State*, No. AP-76,207, 2011 WL 6225399 (Tex. Crim. App. Dec. 14, 2011), *cert. denied*, 568 U.S. 828 (2012).

Mr. Broadnax filed a state habeas corpus petition on December 20, 2011. Application for Post Conviction Writ of Habeas Corpus, *Ex Parte James Garfield Broadnax*, TCCA Cause No. AP-76,207. On May 20, 2015, the Court of Criminal Appeals denied Mr. Broadnax's state habeas corpus petition. *Ex Parte Broadnax*, No. WR-81,573-01, 2015 WL 2452758 (Tex. Crim. App. May 20, 2015), *cert. denied*, 577 U.S. 842 (2015).

On May 18, 2016, Mr. Broadnax filed an initial petition for a federal writ of habeas corpus in the U.S. District Court for the Northern District of Texas. After receiving, on June 1, 2016, previously withheld files from the Dallas County District Attorney's Office that were responsive to requests Mr. Broadnax had originally made during state habeas proceedings, Mr. Broadnax filed an amended federal habeas petition on November 18, 2016. On July 23, 2019, the U.S. District Court for the Northern District of Texas in Dallas denied Mr. Broadnax's federal habeas petition and denied his motion for a Certificate of Appealability. *Broadnax v. Davis*, No. 3:15-CV-1758-N, 2019 WL 3302840 (N.D. Tex. July 23, 2019). The Court held that it was barred from considering the

new evidence Mr. Broadnax presented in support of his *Batson* claim by *Cullen v. Pinholster*, 563 U.S. 170 (2011) and 28 U.S.C. § 2254(d)(2).⁴⁹

On July 24, 2020, the U.S. Court of Appeals for the Fifth Circuit granted Mr. Broadnax’s motion for a Certificate of Appealability on the issue of “whether the district court erroneously concluded that the spreadsheet was barred by *Pinholster* and 28 U.S.C. § 2254(d)(2).” *Broadnax v. Davis*, 813 F. App’x 166 (5th Cir. 2020). On February 8, 2021, the Fifth Circuit held that the federal habeas court was barred from considering the newly discovered evidence related to Mr. Broadnax’s *Batson* claim and denied the Certificate of Appealability for Mr. Broadnax’s other appellate claims. *Broadnax v. Lumpkin*, 987 F.3d 400 (5th Cir. 2021). On March 8, 2021, Mr. Broadnax filed a petition for panel rehearing challenging the denial of a Certificate of Appealability relating to a claim that Mr. Broadnax’s appellate counsel had been ineffective in failing to challenge the admission of Dr. Price’s testimony. On March 23, 2021, the Fifth Circuit denied Mr. Broadnax’s petition for rehearing. Order Denying Petition for Rehearing, *Broadnax v. Lumpkin*, No. 19-70014 (5th Cir. Mar. 23, 2021).

Mr. Broadnax submitted a petition for a writ of certiorari to the U.S. Supreme Court on August 20, 2021, which the Court denied on January 18, 2022. *Broadnax v. Lumpkin*, 142 S. Ct. 859 (2022).

The Texas Court of Criminal Appeals dismissed Mr. Broadnax’s second application for writ of habeas corpus on June 7, 2023, and the U.S. Supreme Court denied Mr. Broadnax’s petition for writ of certiorari on June 24, 2024. The Court of Criminal Appeals dismissed Mr. Broadnax’s third application for writ of habeas corpus on November 6, 2025. On the same day, the Court of Criminal Appeals also denied Mr. Broadnax’s

⁴⁹ *Pinholster* held that federal courts are generally precluded from considering evidence not before the state courts when considering petitions for habeas corpus challenging state court convictions, subject to a potential exception if the evidence is in support of a “new claim.” See *Pinholster*, 563 U.S. at 186 n.10. Mr. Broadnax argued that his *Batson* claim, with the new evidence, was precisely the type of “new claim” contemplated as an exception to this rule in the Supreme Court’s opinion, but the Federal District Court and Fifth Circuit rejected those arguments, and the Supreme Court denied Mr. Broadnax’s petition for certiorari seeking review of the Fifth Circuit’s decision. *Broadnax v. Lumpkin*, 142 S. Ct. 859 (2022).

suggestion that the Court reconsider its dismissal of Mr. Broadnax's second habeas corpus application.

On December 17, 2025, Judge Chika Anyiam of the Criminal District Court No. 7, Dallas County, Texas, signed an execution order setting Mr. Broadnax's execution for April 30, 2026, at 6:00 p.m. CT.

On February 4, 2026, Mr. Broadnax submitted two petitions, each seeking a writ of certiorari with the U.S. Supreme Court, challenging, respectively, the Court of Criminal Appeals' dismissal of Mr. Broadnax's third application for writ of habeas corpus on the basis of the State's erroneous use of rap lyrics and hearsay expert testimony at Mr. Broadnax's trial, and the Court of Criminal Appeals' denial of Mr. Broadnax's suggestion for reconsideration of the dismissal of his second application for writ of habeas corpus based on the State's discriminatory jury selection practices during *voir dire*, arguing that newly disclosed evidence confirms that racial markings in Mr. Broadnax's case were not created in preparation for a *Batson* hearing. Both petitions are currently pending.

By declaration dated March 11, 2026, Mr. Cummings recanted his prior statements and admitted under penalty of perjury, that he, not Mr. Broadnax, was the person who shot and killed the two victims.

Mr. Broadnax filed a third application for writ of habeas corpus before the Texas Court of Criminal Appeals on March 19, 2026, asserting claims based on Mr. Cummings's declaration and the new evidence of *Batson* violations cited in his February 2026 Supreme Court cert petitions, both of which were unavailable at the time Mr. Broadnax filed his previous state habeas applications. This application is currently pending.

6. Brief Statement of Legal Issues

The legal issues present in Mr. Broadnax's case include, but are not limited to, the following: (1) the State relied on false and misleading evidence to secure Mr. Broadnax's conviction and death sentence, as Mr. Cummings's declaration makes clear; (2) in light of the new evidence establishing Mr. Broadnax was not the killer, no rational juror could have convicted Mr. Broadnax of the charged crime or found him eligible for the

death penalty under the requisite elements, especially because the State's entire proof of future dangerousness relied upon the fact and method of killing—which Mr. Broadnax did not actually commit; (3) the death penalty is disproportionate and unconstitutional for a defendant who did not commit the actual killing unless he is found, despite not having committed the killing, to have the requisite culpable mental state of “reckless indifference to human life”; (4) the State improperly relied on false and unreliable evidence of Mr. Broadnax's purported psychopathy and future dangerousness that has been widely debunked by newly available science and research; and (5) previously unavailable evidence clearly establishes that the State violated Mr. Broadnax's *Batson* rights at trial.

7. Requested Length of Reprieve

180 days.

8. Grounds for Commutation and/or Reprieve

Mr. Broadnax's wrongful conviction and sentencing were based on the unreliable and now demonstrably false evidence that he was the shooter; his youth at the time of the offense; mitigating factors related to his early childhood abuse; and Mr. Broadnax's thorough and meaningful pursuit of spiritual transformation, stewardship, and the good service he could perform among his fellow inmates as well as the transformational connections he has forged outside prison.

PRAYER

For the reasons stated above, Petitioner respectfully requests that the Texas Board of Pardons and Paroles (the “Board”) recommend, and the Governor grant, a commutation of death sentence to a lesser penalty. In the alternative, Petitioner requests that the Board recommend, and the Governor grant, a reprieve of execution for 180 days so the Board and Governor may give this application appropriate consideration. Petitioner requests an interview and a hearing on the matter.

Respectfully submitted, this 7th day of April 2026.

[Faint signature of Amanda Valerio-Esene]

Amanda Valerio-Esene

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