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Briefing on: Supreme Court Decision in *Kansas vs. Carr*

**Presented to the House Judiciary Committee
By Assistant Solicitor General Natalie Chalmers**

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Chairman Barker and Members of the Committee:

In July of 2014, the Kansas Supreme Court reversed the death sentences of Jonathan Carr, Reginald Carr, and Sidney Gleason based on two issues.¹ The first issue, common to all three cases, was whether there was an error in a jury instruction that did not tell jurors that mitigating circumstances need not be proven beyond a reasonable doubt. The second issue, present in the *Carr* cases, was whether the Carr brothers should have been tried separately during the penalty proceeding of their cases. The court found constitutional errors under the 8th Amendment in the jury instructions and the joint proceeding.

The Office of the Kansas Attorney General filed petitions for writ of certiorari in the United States Supreme Court based on the Kansas Supreme Court's decisions. The United States Supreme Court agreed to hear the cases and held on arguments on the above issues. On January 20, 2016, the United States Supreme Court reversed the decision of the Kansas Supreme Court finding no constitutional errors in the jury instruction or in the joint proceedings.² The case was then remanded to the Kansas Supreme Court for further proceedings.

The remand will require the Kansas Supreme Court to determine whether the death sentences will be upheld on appeal. Based on the Kansas Supreme Court's initial reversals on the issues listed above, several issues in each case were left undecided. Those issues will now need to be decided.

Thank you for your time. I will stand for questions. ###

¹ *State v. Carr*, 300 Kan. 1, 331 P.3d 544 (2014) *rev'd and remanded*, No. 14-449, 2016 WL 228342 (U.S. Jan. 20, 2016); *State v. Carr*, 300 Kan. 340, 329 P.3d 1195 (2014) *rev'd and remanded*, No. 14-449, 2016 WL 228342 (U.S. Jan. 20, 2016); *State v. Gleason*, 299 Kan. 1127, 1138, 329 P.3d 1102 (2014) *rev'd and remanded sub nom. Kansas v. Carr*, No. 14-449, 2016 WL 228342 (U.S. Jan. 20, 2016).

² *Kansas v. Carr*, ___ U.S. ___, 2016 WL 228342 (2016).