

NO. _____

**In The
UNITED STATES SUPREME COURT**

**ROBERTO MORENO RAMOS,
Petitioner,**

versus

**WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,
Respondent.**

**On Petition for Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit**

MOTION FOR STAY OF EXECUTION

*****CAPITAL CASE***
EXECUTION SCHEDULED FOR
TODAY, NOVEMBER 14, 2018**

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November 12, 2018

*Counsel of Record
Member, Supreme Court Bar*

COMES NOW the Petitioner in the above-styled case and respectfully moves this Court, pursuant to 28 U.S.C. § 2251 and *Barefoot v. Estelle*, to stay his execution, currently scheduled for today, November 14, 2018, at 6 PM Central Standard Time. He requested a stay of execution from the court below, which was denied. *See Ramos v. Cockrell*, No. 00-40633, Order (Nov. 10 2018).

28 U.S.C. § 2251 vests this Court with jurisdiction to stay the pending execution. *Barefoot v. Estelle*, 463 U.S. 880, 889 (1983) sets out the standard for when granting a stay of execution is appropriate:

It is well established that there “‘must be a reasonable probability that four Members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; there must be a significant possibility of reversal of the lower court’s decision; and there must be a likelihood that irreparable harm will result if that decision is not stayed.’”

Id. at 895 (citations omitted). *See also Nken v. Holder*, 556 U.S. 418, 434 (2009). All three criteria are met in this case.

First, four members of this Court should consider the underlying issues sufficiently meritorious for *certiorari*. This case involves the complete and catastrophic failure of every safeguard in place at county, state, and federal levels for the protection of Petitioner’s rights – including, ultimately, his right to protect and enforce his Sixth Amendment right to the effective assistance of counsel at trial. As the accompanying petition for a writ of certiorari details, trial counsel appointed to represent Mr. Moreno Ramos was abysmally ineffective. State habeas counsel appointed by the state was patently unqualified and raised only non-cognizeable claims. As a result, not a single state or federal court has ever reviewed the merits of Petitioner’s powerful claim of ineffective assistance of trial counsel. Mr. Moreno Ramos asks this Court, ultimately, to consider the integrity of a process that led to such an untenable result. The issues

raised are certainly meritorious.

Second, there is a significant possibility that this Court will in fact reverse the lower court's judgment. The Court of Appeals for the Fifth Circuit erroneously applied the standard articulated in *Calderon v. Thompson*, 523 U.S. 538 (1998), a case that is inapplicable in light of the fact that Mr. Moreno Ramos raised a challenge to the integrity of the process. Allowing Mr. Moreno Ramos to go to his death without any decision-maker having *ever* engaged in individualized sentencing and without *ever* having received any merits consideration of his substantial claim of ineffective assistance of trial counsel undermines the reliability of the death penalty in Petitioner's case, and the public's confidence in the fair application of the ultimate punishment.

Last, Mr. Moreno Ramos easily meets the third prong: If he were executed, he would suffer irreparable harm. Balancing the equities, the relative harm to Mr. Moreno Ramos that would result from his execution far exceeds any harm to the State that would result from a stay. Without a stay of execution, Petitioner will be executed tonight, with the result that no tribunal, neither state nor federal, will ever have adequately addressed the manifestly meritorious claims he seeks to present for judicial review.

CONCLUSION AND PRAYER FOR RELIEF

For all of the reasons stated above, Mr. Moreno Ramos moves this Court to stay his execution, currently scheduled for November 14, 2018.

DATED this 14th day of November, 2018.

Respectfully Submitted,

/s/ Danalynn Recer
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing, this 14th day of November 2018.

/s/ Danalynn Recer
Danalynn Recer
Counsel for Mr. Moreno Ramos