

**IN THE
SUPREME COURT OF THE UNITED STATES
No. 19-_____**

In re: LEE HALL, *Petitioner*

APPLICATION FOR STAY OF EXECUTION

**THIS IS A CAPITAL CASE
EXECUTION SET FOR DECEMBER 5, 2019 AT 7 PM CST**

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December 4, 2019

To the Honorable Sonia Sotomayor, Associate Justice of the United States and Circuit Justice for the Sixth Circuit:

Petitioner Lee Hall respectfully moves for an order staying his execution which is set for December 5, 2019 at 7 p.m. CST, in the above-entitled proceeding, pending the filing of and final action by this Court on the original petition for writ of habeas corpus filed concurrently with this Application.

Pursuant to Supreme Court Rules 23.1, 23.2, 28 U.S.C. § 2101(f) and 28 U.S.C. § 1651, the stay may lawfully be granted.

In the accompanying Original Petition for Writ of Certiorari, Mr. Hall asks this Court to review the constitutionality of the imposition of the death penalty on Mr. Hall, who was sentenced to death through the participation of a juror who concealed material information that would have led to a challenge for cause because she could not be impartial. Execution of Mr. Hall's death sentence would therefore be in violation of the Sixth, Eighth and Fourteenth Amendments of the United States Constitution.

Therefore, this Court must stay his execution so that it may fully consider his Petition for Writ of Habeas Corpus.

INTRODUCTION

Mr. Hall's capital trial contained allegations and evidence of domestic violence, including that Mr. Hall stalked his estranged girlfriend, Traci Crozier, before eventually murdering her. Unbeknownst to Mr. Hall's defense team, or to the

trial court, the jury that convicted Mr. Hall and sentenced him to death was tainted by the participation of a juror¹ who had, herself, suffered domestic violence. Upon hearing evidence of Mr. Hall's behavior, this juror "hated Lee [Hall]." (Sealed Entry 12, Attachment A, pages 2-3, *October 7, 2019 Declaration of Juror A*). Evidence that this juror harbored this bias has only recently been revealed.

This newly discovered information has become the basis for Mr. Hall's second habeas petition, that his 1992 trial was compromised by a structural constitutional defect—the service of a juror who has admitted bias toward and hatred of Mr. Hall at the time she sat in judgment and delivered a guilty verdict and death sentence upon him. The juror, "Juror A," who served at Hall's trial, was the victim of severe domestic violence, including rape, which culminated in her abusive husband's suicide. Despite her history, Juror A concealed her traumatic experiences when completing her jury questionnaire and in answering questions about domestic violence during voir dire. She finally came forward regarding her life experiences only two months ago and revealed that her own victimization biased her against Mr. Hall.

This newly discovered evidence could not have been discovered sooner,

¹The juror's name is withheld due to the sensitive nature of her disclosures. (Sealed Entry 12, Att. A to Second Habeas, October 7, 2019 Declaration of Juror A (disclosing her history of domestic violence); Sealed Entry 12, Att. B to Second Habeas, October 10 Affidavit of Jeffery Vittatoe (regarding his conversations with Juror A); Sealed Entry 12, Att. C to Second Habeas, March 1992 Juror Questionnaire completed by Juror A).

including at the time of Mr. Hall's original federal habeas corpus proceedings, even with the exercise of reasonable diligence. Juror A was traumatized by the events in her first marriage and would not openly discuss her personal experiences of domestic violence and rape until very recently. Even now, she still has not disclosed them to family members. However, now that it is come to light that a biased juror sat in judgment of Mr. Hall, this Court must stay his execution to more fully examine his Petition.

REASONS FOR THE STAY

As more fully developed in Petitioner Hall's Petition for Writ of Habeas Corpus, these allegations of juror bias strike at the heart of our justice system, particularly in a capital case. Juror A had a history of rape and abuse that she concealed from the court, the prosecution and the defense. More importantly, this abuse was so traumatic that Juror A's memories "flooded back" and she "hated" Mr. Hall when he was testifying about the events leading up to Ms. Crozier's death. She could not be a fair juror and would have been subject to a challenge for cause.

An impartial jury is a fundamental element of the Sixth Amendment's guarantee of a fair trial. "The jury is a central foundation of our justice system and our democracy." *Peña-Rodriguez v. Colorado*, 580 U.S. ___, 137 S. Ct. 855, 857 (2017). The Sixth Amendment secures to criminal defendants the right to trial by an impartial jury. *Skilling v. United States*, 561 U.S. 358, 377 (2010). That is true for any trial, but most particularly, in a capital trial. No valid guilty verdict can be

rendered by an unconstitutionally biased jury and certainly no valid death sentence can be executed that was imposed by such a jury.

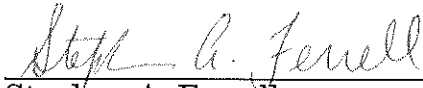
Because of this, this Court must stay Mr. Hall's execution so that it can consider his petition and grant the relief requested, pursuant to Article I, Section 9 of the United States Constitution, Article III of the United States Constitution, the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 2241 *et seq.*, including 28 U.S.C. § 2254. This is particularly important here, where the claim involves a structural error, the service of a demonstrably biased juror. Unless this Court stays this execution, a death sentence procured through the service of a biased juror who concealed the truth about her background will be carried out.

CONCLUSION

Executing Lee Hall pursuant to a death sentence tainted by the service of a biased juror cannot be consistent with our Constitution's requirements for justice. The Sixth, Eighth and Fourteenth Amendments demand better. For the foregoing reasons, and for all of the reasons contained his Petition for Writ of Habeas Corpus, this Court must stay this execution.

Dated: December 4, 2019

Respectfully submitted,



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