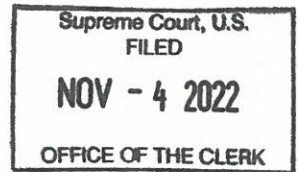


22A 486

APPLICATION FOR A STAY OF EXECUTION



I, Robert Alan Fratta, have an execution date set for January 10th, 2023, which is only 2 months away. (See the enclosed Execution Order). I've been on Texas Death Row since 1996 (over 26 years) and this is my first execution date. I've never seen an Application for a Stay and ask for leniency in this pro se filing.

Following are reasons that warrant a stay of execution:

- 1) I am the Petitioner of a pro se petition for a writ of certiorari with 3 very meritorious Questions currently pending in this Court. (No. 22-5785).
- 2) On 11/2/22 I received a copy of a letter from the counsel for the Respondent - requesting an extension until December 7th to file their brief in opposition to my petition. Being that Deputy Clerk Jordan Bickell immediately granted the requested extension last time under No. 21-6434, I'm assuming Mr. Bickell has also already granted this extension request. From that past experience, combined with the reasons cited in the request now, I could not ethically have opposed the extension anyway. However, a serious problem is now at hand. Even with my timely filing a Reply, my case will likely be set for distribution on December 21st and conferenced by January 6th, which is only 4 days before my execution. I would not be notified of the conference result prior to my execution, and therefore would not be able to notify the trial court if granted, or, file for rehearing if denied.
- 3) Case analyst Clayton Higgins Jr., a government employee of this Court, is entirely responsible for a delay of 37 days in his attempt to prevent me from filing my pending petition. See his 9/14/22 letter to me, the Declaration I enclosed with the remailing of my petition, and all my complaint letters to Clerk Harris and Justice Alito about Higgins and this matter. Had Higgins not caused this delay, even with a 30 day extension - the conference would have been by November 30th, and any rehearing filed by

December 23rd. I should not have to suffer injustice or punishment for the rule-breaking actions of Higgins.

- 4) A pro bono firm (DLA Piper), assisted by my federal attorneys, also have a petition for a writ of certiorari pending in this Court. (No. 22-94).
- 5) Altho I dismissed my State habeas attorney and have been designated as pro se in State proceedings since 8/22/13, I'm now allowing my federal attorneys to file a new subsequent State habeas application on my behalf. Investigation is underway and they told me they'd have it filed by December 9th. If you'd like to speak with them for details, their names are Joshua Freiman and Amy Fly and the telephone number is: 737/207-3007.
- 6) One issue I instructed those attorneys to file in their subsequent application - is that the Texas Court of Criminal Appeals (TCCA) itself denied my Constitutional right to effective assistance of counsel in direct appeal. (See my numerous complaints in direct appeal and the TCCA's denials and ignorings of my meritorious filings). If the TCCA denies their application, I instructed them, and they agreed, to file for certiorari to this Court on that federal Constitutional denial of my right to effective assistance in direct appeal. All this filing will take matters far beyond January 10th and well into mid 2023.
- 7) The trial court will not entertain an application for a stay - as it already heard arguments herein this application by my federal attorneys during a hearing conducted on October 11th. The judge was not persuaded and signed the enclosed execution order. So the only hope I have for justice and a stay will need to come from this Court.

I'm almost 66 years old. Please don't make me wait until the last minute for any stay from this or a lower court. Please grant this application now for all the reasons above and in the interest of justice, fairness, human

compassion and moral decency.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R. Fratta".

Robert Alan Fratta  
Polunsky Unit, #999189  
3872 FM 350 South  
Livingston, TX 77351

Mailed/Filed: 11/4/22

P2

Filed 22 July 13 P1:11  
Marilyn Burgess - District Clerk  
Harris County  
EA001\_1379404  
By: A LEE

CAUSE NO. 1195044

STATE OF TEXAS	§	230 <sup>th</sup> DISTRICT COURT
V.	§	OF
ROBERT ALAN FRATTA	§	HARRIS COUNTY, TEXAS

**EXECUTION ORDER**

This Court, having received the mandate from the Court of Criminal Appeals affirming the Defendant's conviction in the above styled and numbered cause and having received notice that the Court of Criminal Appeals has denied habeas relief in the defendant's initial petition for writ of habeas corpus, cause no. 1195044-A, now enters the following Order:

IT IS HEREBY **ORDERED** that the Defendant, ROBERT ALAN FRATTA, who has been adjudged to be guilty of Capital Murder as charged in the indictment and whose punishment has been assessed at Death by the verdict of the jury and judgment of the Court, shall be kept in custody by the Director of the Texas Department of Criminal Justice – Correctional Institutions Division at Huntsville, Texas until **TUESDAY, THE 10TH DAY OF JANUARY, 2023**, upon which day, at the Texas Department of Criminal Justice – Correctional Institutions Division at Huntsville, Texas, at some time after the hour of 6:00 p.m., in a room designated by the Texas Department of Criminal Justice and arranged for the purpose of execution, the said Director, acting by and through the executioner designated by said Director as provided by law, is hereby commanded, ordered and directed to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause the death of the said ROBERT ALAN FRATTA and until the said ROBERT ALAN FRATTA is dead, such execution procedure to be determined and supervised by the said Director of the Correctional Institutions Division of the Texas Department of Criminal Justice.

IT IS HEREBY **ORDERED** that the Clerk of the Court shall send a paper and electronic copy of the Execution Order and Death Warrant in cause no. 1195044 to the following: Mr. James Rytting; Hilder and Associates, 819 Lovett Boulevard., Houston, Texas 77006, james@hilderlaw.com; Mr. Joshua Freiman, Capital Habeas Unit, Federal Public Defender's Office, Western District of Texas, 919 Congress Avenue, Suite 950, Austin, Texas 78701, Joshua\_Freiman@fd.org; Mr. Joshua Reiss, Assistant District Attorney, Harris County District Attorney, 500 Jefferson Street, Suite 600, Houston, Texas 77002, reiss\_josh@dao.hctx.net; Ms. Farnaz Hutchins, Harris County District Attorney, 500 Jefferson Street, Suite 600, Houston, Texas 77002,

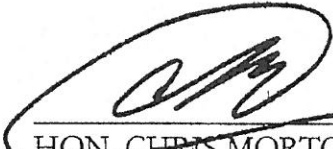


hutchins\_farnaz@dao.hctx.net; Mr. Benjamin Wolff, Office of Capital and Forensic Writs, 1700 N. Congress Ave., Suite 460, Austin, Texas 78701, benjamin.wolff@ocfw.texas.gov; and Ms. Ellen Stewart-Klein, Assistant Attorney General, Criminal Appeals Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711, ellen.stewart-klein@oag.texas.gov.

IT IS FURTHER **ORDERED** that the Clerk of this Court shall issue and deliver to the Sheriff of Harris County, Texas, a Death Warrant in accordance with this Order, directed to the Director of the Texas Department of Criminal Justice – Correctional Institutions Division at Huntsville, Texas, commanding him, the said Director, to put into execution the Judgment of Death against the said ROBERT ALAN FRATTA.

IT IS FURTHER **ORDERED** that the Sheriff of Harris County, upon receipt of said Death Warrant, is to deliver said Death Warrant to the Director of the Texas Department of Criminal Justice – Correctional Institutions Division at Huntsville, Texas and shall take receipt of said Death Warrant and return the receipt to the Clerk of this Court.

SIGNED AND ENTERED this 11<sup>th</sup> day of October, 2022.

  
HON. CHRIS MORTON  
Presiding Judge  
230<sup>th</sup> District Court  
Harris County, Texas

