

No. 22A425 and 22-6055

IN THE
Supreme Court of the United States

MURRAY HOOPER,

Petitioner,

v.

STATE OF ARIZONA,¹

Respondent.

**On Petition for Writ of Certiorari to the
Arizona Supreme Court**

**COMBINED REPLY IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI AND
APPLICATION FOR STAY OF EXECUTION**

JON M. SANDS
FEDERAL PUBLIC DEFENDER
KELLY CULSHAW*
ASSISTANT FEDERAL
PUBLIC DEFENDER
DISTRICT OF ARIZONA
850 West Adams Street,
Suite 201
Phoenix, AZ 85007
(602) 382-2816

Counsel for Petitioner

November 15, 2022

* Counsel of Record

¹ Petitioner inadvertently listed the incorrect Respondent (David Shinn) on his Petition for Writ of Certiorari and respectfully requests that the Clerk correct the docket.

*****CAPITAL CASE*******EXECUTION SCHEDULED NOVEMBER 16,
2022 10:00AM MST / 12:00PM EST**

Respondent asks this Court to deny the pending petition for writ of certiorari review and allow the State of Arizona to execute Petitioner Murray Hooper because the Court should believe no *Brady* claim exists; it was simply the prosecutor’s “inadvertent misstatement.” Br. Opp. at 16. If this case were one that did not have a known history of egregious state misconduct, then perhaps it would be reasonable to accept the state attorney’s “avowal” as truth. But here, the state *twice* put in writing that Mrs. Redmond had viewed a paper photo lineup and that she did not identify Petitioner. And when Petitioner asked to view the prosecutor’s file, the State and the state supreme court refused to allow him to do so—even though his counsel indicated that they would complete review and provide a proffer to the court within two days. Pet. App. C at 68.

Petitioner is seeking review and a stay from this Court not because he is trying to manipulate the system. Rather, he is attempting, for the last time, to obtain yet another piece of evidence demonstrating that he has been wrongfully convicted and should not be executed for a crime he did not commit. Yet Respondent asks this Court to deny Petitioner's request for a stay, describing his petition for writ of certiorari as "[l]ate-breaking changes in position" and "last-minute claims arising from long-known facts." Resp. to Appl. Stay at 12. However, neither of those statements is accurate. As Petitioner explained in his petition, this is not a change in position—he has claimed since before trial that he did not commit this crime and that police misconduct resulted in his convictions. Pet. at 2. And although he has long known that the prosecution and police committed egregious misconduct in his case, he was never informed that the surviving victim viewed a paper photo lineup until *three weeks* before his execution. Pet. at 2.

Petitioner agrees with Respondent: a stay requires this Court to exercise its equitable authority because justice requires that result. Avowals are not evidence, and this Court should not allow an execution when it is unclear whether the prosecutor made an "inadvertent misstatement" or if another key piece of material exculpatory evidence exists. Petitioner respectfully requests that the Court stay his execution and review his Petition for Writ of Certiorari.

Respectfully submitted,

JON M. SANDS
FEDERAL PUBLIC DEFENDER
KELLY CULSHAW*
ASSISTANT FEDERAL
PUBLIC DEFENDER
DISTRICT OF ARIZONA
850 West Adams Street,
Suite 201
Phoenix, AZ 85007
(602) 382-2816

November 15, 2022 s/Kelly Culshaw
* Counsel of Record