

IN THE SUPREME COURT OF THE UNITED STATES

(Case No. 24A1099)

RICHARD J. GRAHAM, WARDEN;
ANTHONY G. BROWN, ATTORNEY GENERAL OF MARYLAND,
Applicants,
v.
JEREMIAH ANTOINE SWEENEY,
Respondent.

OPPOSITION TO MARYLAND’S APPLICATION FOR STAY

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ARGUMENT

MARYLAND HAS NOT ESTABLISHED SUFFICIENT GROUNDS TO GRANT A STAY

To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay.

Hollingsworth v. Perry, 558 U.S. 183, 190 (2010). In close cases, the Circuit Justice or the Court will balance the equities and weigh the relative harms to the applicant and to the respondent. Lucas v. Townsend, 486 U.S. 1301, 1304, 108 S.Ct. 1763, 100 L.Ed.2d 589 (1988) (KENNEDY, J., in chambers); Rostker v. Goldberg, 448 U.S. 1306, 1308, 101 S.Ct. 1, 65 L.Ed.2d 1098 (1980) (Brennan, J., in chambers).

There is no reasonable probability that four Justices will grant certiorari because the Fourth Circuit's decision is an unpublished, non-precedential one rooted in Sweeney's particular case. The decision does not address any unresolved issue of federal law that applies beyond Sweeney's case. The Fourth Circuit expressly stated this in its decision on page 3, noting, "The circumstances of this case—hopefully very rare to occur—undermine the essence of a jury trial as well

as the burden of proof in our criminal system.” Maryland itself says this case presents “a straightforward federal habeas dispute regarding whether the state courts reasonably applied Strickland v. Washington” (as stated in Maryland’s motion for stay filed below, which the Fourth Circuit denied). That indicates a disagreement with the Court’s decision in Sweeney’s case here, not a disagreement with some sweeping issue of federal law decided. A petition for writ of certiorari does not have a reasonable probability of review by this Court when the petition seeks to correct the result in a specific case rather than to clarify and resolve a general, critical issue of federal law that impacts many cases.

Nor is there a likelihood that irreparable harm will result from denying a stay. There is no urgent need for a stay whatsoever. Sweeney is not free from the charges against him in this case. The charges remain pending against him; only the result of the particular trial in question has been vacated. Maryland is not obstructed from retrying Sweeney in any manner. Meanwhile, Sweeney has the same rights as any other suspect facing a serious criminal charge, including the right to bail pending trial. This proceeding will move forward as any other indicted defendant facing criminal prosecution in Maryland.

Maryland’s own dilatory actions show there is no urgency or irreparable harm threatened if the Court does not grant an emergent stay. It has been over two months since the Fourth Circuit’s decision, and Maryland still has not even filed a

petition for writ of certiorari seeking this Court's review. Maryland's lack of urgency shows its demand for an immediate stay here is not warranted.

CONCLUSION

Sweeney had been imprisoned for years due to a state court conviction that the Fourth Circuit ruled constitutionally infirm. Maryland has not established a reasonable probability that four Justices will vote to grant certiorari in this case or that there is a likelihood of irreparable harm resulting from the denial of its request for an emergent stay. For these reasons, we respectfully ask the Court to deny Maryland's motion for a stay.

Respectfully submitted,

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Dated: May 15, 2025

**CERTIFICATION OF BAR MEMBERSHIP,
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/s/ *Michael Confusione*

Michael Confusione

Dated: May 15, 2025

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CERTIFICATE OF SERVICE

I certify that today, May 15, 2025, copies of Respondent's accompanying
Opposition to Maryland's Application for Stay were filed with this Court and
served via e-mail on counsel for Maryland:

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