

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT EARL BUTTS, JR.,
Petitioner,

v.

STATE OF GEORGIA,
Respondent.

CAPITAL CASE
EXECUTION SET FOR MAY 4, 2018, AT 7:00 P.M. EASTERN TIME

EMERGENCY APPLICATION FOR STAY OF EXECUTION

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Counsel for Petitioner Robert Earl Butts, Jr.

May 4, 2018

EMERGENCY APPLICATION FOR A STAY OF EXECUTION

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Comes now, Petitioner ROBERT BUTTS, JR., by and through undersigned counsel, and prays that an Order be entered staying the execution of his sentence of death until further Order of this Court, and in support of his application, respectfully states as follows:

1. Petitioner filed his Petition for Writ of Certiorari in the instant action on May 4, 2018, requesting that this Court grant review of the order of the Georgia Supreme Court denying Petitioner's petition for a discretionary appeal from the denial of his extraordinary motion for new trial.

2. On April 16, 2018, the Superior Court of Baldwin County, Georgia, set from noon on May 3, 2018 through noon on May 10, 2018 as the period during which Petitioner's execution may be carried out.

3. The State of Georgia initially scheduled Petitioner's execution for May 3, 2018, at 7:00 p.m. At 8:15 p.m. on May 2, 2018, the Georgia Board of Pardons and Paroles entered a stay of ninety (90) days in order "to give further consideration to the substance of the claims" presented regarding clemency. Petitioner's execution was then cancelled, and Petitioner was removed from death watch.

4. At 4:00 p.m. on May 3, 2018—a mere twenty hours later—the Board vacated the ninety-day stay and denied clemency. Within the hour, the Department of Corrections had rescheduled Petitioner's execution for this evening,

May 4, 2018, at 7:00 p.m. Eastern Time. Petitioner requests that the execution be stayed by this Court until the Petition for Writ of Certiorari is considered and finally acted upon.

5. A stay of execution is justified on the grounds that undersigned counsel has filed a Petition for Writ of Certiorari presenting an important constitutional issue—specifically, whether the execution of a person who would not be sentenced to death today would violate the Eighth Amendment.

6. Petitioner is detained at the Georgia Diagnostic Prison at Jackson, Georgia, under a sentence of death. A stay of execution will not prejudice the State of Georgia or interfere with Petitioner’s custodial status.

7. A stay of execution is necessary to ensure that Petitioner is not executed before this Court is able to resolve the matters contained in the Petition for Writ of Certiorari. The execution of Petitioner would obviously inflict irreparable harm.

WHEREFORE, Petitioner respectfully requests an Order staying Petitioner’s execution, pending resolution of the proceedings and further Order of this Court.

This 4th day of May, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Patrick Mulvaney, hereby declare that on May 4, 2018, I served this application on the State of Georgia by electronic mail to the following:

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