No. 25-7377; 25A1255

In the Supreme Court of the United States

TONY VON CARRUTHERS,
PETITIONER

v.

STATE OF TENNESSEE,
RESPONDENT

ON APPLICATION FOR STAY OF EXECUTION AND ON
PETITION FOR WRIT OF CERTIORARI
TO THE TENNESSEE SUPREME COURT

BRIEF IN OPPOSITION

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CAPITAL CASE
QUESTION PRESENTED

Did the Tennessee Supreme Court correctly determine that Tony Von Carruthers is competent to be executed?

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INTRODUCTION

Over thirty years ago, Tony Von Carruthers and two other men murdered Marcellos "Cello" Anderson, his mother Delois Anderson, and Freddrick Tucker.[1] They shot both men, bound all three victims, and buried them in an empty grave at a Memphis cemetery. The State's expert opined at trial that all three victims were buried alive. Carruthers planned the murders for months and discussed his plans with others. He later confessed the murders to fellow inmate, Alfredo Shaw, who relayed the confession to police. After a trial, the jury sentenced Carruthers to death on three convictions for first-degree murder. *State v. Carruthers*, 35 S.W.3d 516, 524-32 (Tenn. 2000), *cert. denied*, 533 U.S. 953 (2001).

The Tennessee Supreme Court affirmed Carruthers's convictions and death sentence on the strength of several aggravating factors, noting that "[t]hese murders were committed in a particularly cruel manner, and the proof indicates that the victims were maliciously mistreated before they were buried alive." *Id.* at 570, 572. Many years later, Carruthers completed the exhaustive three-tier review process—direct review, state post-conviction review, and federal habeas review—when this Court denied review of his unsuccessful federal habeas bid. *Carruthers v. Mays*, 586 U.S. 1146 (2019).

The Tennessee Supreme Court then set Carruthers's execution date for May 21, 2026, and remanded to the trial court for consideration of his ripened claim that

[1] Throughout the litigation of this case, court records have misspelled Mr. Tucker's first name as "Frederick." Mr. Tucker's family recently provided the State with the correct spelling, which the State now uses in respect of the victim and his family.

he is not competent for execution. *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Sept. 30, 2026) (order setting execution for May 21, 2026). The factual issue embedded with the mixed question of competency for execution is whether Carruthers has "a rational understanding of the reason for [his] execution." *Panetti v. Quarterman*, 551 U.S. 930, 957-58 (2007).

After a four-day hearing with eight witnesses and forty-six exhibits, the trial court denied Carruthers's incompetence claim through a straightforward and correct application of *Panetti*. Pet. Appx. at 34-55. Based in part on Carruthers's own testimony, the court found that Carruthers "has an awareness of and a rational understanding of his conviction" and his "impending execution" as well as a "rational understanding of the relationship between the conviction and the impending execution." Pet. Appx. at 15. The Tennessee Supreme Court affirmed, holding that the trial court "correctly applied the *Panetti* standard to the evidence" and that "the record fully supports and does not preponderate against the trial court's finding that Mr. Carruthers is presently competent to be executed." Pet. Appx. at 32

Carruthers's argument that the state courts somehow misapplied *Panetti* presents no certworthy issue with any likelihood of success on the merits. His petition is nothing more than a claim of erroneous fact finding and misapplication of a properly stated rule of law. There is no split of authority to resolve and no erroneous application of *Panetti* to correct. Carruthers's own testimony shows his rational understanding of the reason for his execution.

This Court should deny certiorari and deny a stay of execution.

STATEMENT

A. Legal Background

"[A]s a matter of constitutional law," *Ford v. Wainwright* "held 'a category of defendants defined by their mental state' incompetent to be executed." *Madison v. Alabama*, 586 U.S. 265, 268 (2019) (quoting *Ford*, 477 U.S. 399, 419 (1986) (plurality opinion)). *Panetti* then left no room for doubt that "sanity as a predicate to lawful execution" involves a question of "fact," specifically, whether a prisoner can "reach a rational understanding of the reason for [his] execution." 551 U.S. at 948-49, 957-58 (quotation omitted). The *Panetti* "standard for competency," *id* at 957, is "utterly indifferent to a prisoner's specific mental illness," *Madison*, 586 U.S. at 278. It concerns . . . not the diagnosis of such illness, but a consequence—to wit, the prisoner's inability to rationally understand his punishment." *Id.* "The critical question is whether a prisoner's mental state is so distorted . . . that he lacks a rational understanding of the State's rationale for his execution." *Id*. at 269. This particular "issue of sanity is properly considered in proximity to the execution." *Herrera v. Collins*, 506 U.S. 390, 406 (1993).

The Tennessee Supreme Court's opinion in *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999), governs the procedure for deciding Tennessee prisoners' competency to be executed. *See* Tenn. Sup. Ct. R. 12(4)(A) (citing *Van Tran* in reference to proceedings on competency for execution). Under that procedure, a prisoner may assert incompetence in response to the State's motion to set an execution date. *Van Tran*, 6 S.W.3d at 267. Upon setting an execution date, the Tennessee Supreme Court remands to the trial court to adjudicate the competency claim. *Id*.

On remand, the prisoner must file a petition that "clearly set[s] forth the facts alleged to support the claim that execution should be stayed due to present mental incompetence." *Id.* To get an evidentiary hearing, the prisoner must make a "threshold showing" of incompetency. *Id.* at 269. That is, the prisoner must submit "affidavits, depositions, medical reports, or other credible evidence sufficient to demonstrate that there exists a genuine question regarding petitioner's present competency." *Id.* Generally, this evidence "should be from psychiatrists, psychologists, or other mental health professionals." *Id.* "[T]he unsupported conclusory assertions of a family member of the prisoner or an attorney representing the prisoner will ordinarily be insufficient." *Id.* And "the proof required to meet the threshold showing must relate to present incompetency," so "at least some of the evidence submitted must be the result of recent mental evaluations or observations of the prisoner." *Id.* The threshold showing "cannot be satisfied if the only evidence offered is stale in the sense that it relates to the prisoner's distant past competency or incompetency." *Id.*

Even if a prisoner makes the threshold showing necessary to hold a hearing, he is presumed competent. *State v. Irick*, 320 S.W.3d 284, 292 (Tenn. 2010). To prevail, the prisoner must overcome this presumption by a preponderance of the evidence relating to present incompetence. *Id.*

The Tennessee Supreme Court "automatically review[s] decisions of the trial court in competency proceedings arising out of [an] order setting an execution date." *Van Tran*, 6 S.W.3d at 271-72. Questions of law, like "[p]rocedural issues," receive

de novo review. *Id*. at 272. The trial court's finding on the issue of competency is "reviewed as a question of fact and presumed correct, unless the evidence in the record preponderates against the finding." *Id*. (citing Tenn. R. App. P. 13(d)).

B. Factual Background

In late February 1994, Tony Carruthers and two other men murdered Marcellos "Cello" Anderson, his mother Delois Anderson, and Freddrick Tucker. *Carruthers*, 35 S.W.3d at 524. The men shot Mr. Anderson and Mr. Tucker, beat and strangled Ms. Anderson, and buried all three victims with their hands bound behind their backs in an empty grave at a Memphis cemetery. *Id*. at 527. The State's expert opined that the victims were buried alive. *Id*. at 528. Their bodies were discovered in early March 1994. *Id*. at 527-28.

While incarcerated during the summer of 1993, Carruthers began broadcasting his plans to kidnap, rob, and murder Mr. Anderson. *Id*. at 524. He wrote a letter to Jimmy Lee Maze describing a "master plan" that was a "winner." *Id*. He intended to "make those streets pay" him and told Maze that "everything I do from now on will be well organized and extremely violent." *Id*. That fall, while on a work detail assisting with a cemetery burial, Carruthers told fellow inmate Charles Ray Smith that this "would be a good way, you know, to bury somebody, if you're going to kill them." *Id*. He explained, "[I]f you ain't got no body, you don't have a case." *Id*. Smith also heard Carruthers and his co-defendant, James Montgomery[2], discussing their plans to rob Mr. Anderson because he had a lot of money through dealing drugs. *Id*.

[2] Because co-defendants James and Jonathan Montgomery share a surname, the State uses their first names.

A month after Carruthers's release from jail in November 1993, he told co-defendant Jonathan Montgomery that when James was released from prison, "it would be the best time to kidnap Marcellos." *Id*. at 525. James left prison in January 1994, and Carruthers executed his plan in February. *Id*.

Multiple witnesses saw Carruthers and James with Mr. Anderson and Mr. Tucker on the evening of February 23. *Id*. at 526. Nakeita Shaw told police that she saw Carruthers and James lead Mr. Anderson and Mr. Tucker to a Jeep with their hands tied behind their backs. *Id*. Mr. Anderson had recently borrowed a Jeep, which was later found destroyed by fire on February 25. *Id*.

On the evening of February 24, Jonathan told Chris Hines that they had stolen $200,000 and had killed "Cello and them" "out at the cemetery on Elvis Presley." *Id*. Jonathan repeatedly told Hines that "they had to kill some people." *Id*. at 527.

On March 3, 1994, Jonathan led police to a grave in the Rose Hill Cemetery on Elvis Presley Boulevard in Memphis where they found the three victims' bodies buried under a casket *Id*. at 527 n.5. Though Mr. Anderson was known to wear "expensive jewelry . . . [and] carr[y] large sums of money on his person," no money or jewelry was found with his body. *Id*. at 524.

After seeing a news report about the killings, Alfredo Shaw called a police tip line and later testified before the grand jury that "he had been on a three-way call with Carruthers" and another man and that "during this call, Carruthers had asked [Mr. Shaw] to participate in these murders, saying he had a 'sweet plan' and that they would each earn $100,000 and a kilogram of cocaine." *Id*. at 528-29.

Before trial, Mr. Shaw told media that he had lied to the grand jury about Carruthers's involvement in the murders. *Id.* at 528. But when Carruthers called Mr. Shaw as a trial witness, Mr. Shaw testified that he lied to the media because Carruthers had threatened him and his family. *Id.* at 528-29. Mr. Shaw further testified that Carruthers confessed to the murders while they were jailed together before Carruthers's trial. *Id.* at 529. Carruthers told Mr. Shaw that he used Ms. Anderson to lure Mr. Anderson and Mr. Tucker home. *Id.* Carruthers said he then shot two of the victims, burned the Jeep, stole a car to return to Memphis, and buried the victims alive. *Id.* According to Carruthers, Ms. Anderson began screaming as Mr. Anderson and Mr. Tucker were forced into the grave, and so Carruthers or a co-defendant pushed her into the grave too. *Id.* Carruthers lamented to Mr. Shaw that the bodies would never have been found if "'the boy wouldn't have went and told them folks.'" *Id.*

C. Procedural Background

1. The Tennessee Supreme Court sets Carruthers's execution after his death sentence survives exhaustive review.

The Tennessee Supreme Court affirmed Carruthers's three first-degree murder convictions and death sentences on direct appeal in 2000. *Id.* at 572. For many years, Carruthers challenged his convictions and death sentences in state and federal courts. His petition under the Tennessee Post-Conviction Procedure Act failed. *Carruthers v. State*, No. W2006-00376-CCA-R3-PD, 2007 WL 4355481, at *1 (Tenn. Crim. App. Dec. 12, 2007), *perm. app. denied* (Tenn. May 27, 2008). So did his

petition for federal habeas corpus relief. *Carruthers v. Mays*, 889 F.3d 273 (6th Cir. 2018), *cert. denied*, *Carruthers v. May*, 586 U.S. 1146 (2019).

After that exhaustive review, the State moved the Tennessee Supreme Court to set Carruthers's execution date. *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Sept. 20, 2019) (motion to set execution). Carruthers responded that he was presently incompetent to be executed. *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Dec. 30, 2019) (response in opposition to motion to set). On September 30, 2025, the Tennessee Supreme Court set Carruthers's execution for May 21, 2026, and remanded for the trial court to decide his incompetence claim. *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Sept. 30, 2025) (order).

2. The trial court finds Carruthers competent for execution.

On remand, Carruthers filed a petition reasserting his incompetence for execution. He alleged he suffers from delusions due to brain damage and schizoaffective disorder, bipolar type that interferes with his ability to rationally understand the execution and the reasons for it. Pet. Appx. at 13. His petition attached a February 2026 report from Dr. Bhushan Agharkar, a psychiatrist who evaluated and diagnosed Carruthers with schizoaffective disorder, bipolar type, in 2011 and then again in 2026, despite the fact that he was unable to conduct an in-person evaluation in 2026. Pet. Appx. at 13. Dr. Agharkar's report concluded "that Mr. Carruthers is not competent to be executed under the *Panetti* standard" due to his paranoia about evaluation, his "continued conviction that he will be released imminently, his paranoia regarding his attorneys, and his fixation on entitlement to

payments for illogical and delusional claims to the exclusion of concern regarding his execution." Pet. Appx. at 13.

After a four-day hearing with eight witnesses (including Carruthers) and forty-six exhibits, the trial court entered a twenty-two-page order finding Carruthers competent though a straightforward application of *Panetti*. Pet. Appx. at 34-55. The court found that Carruthers "has an awareness of and a rational understanding of his conviction and his impending execution" as well as a "rational understanding of the relationship between the conviction and the impending execution." Pet. Appx. at 48. Tracking *Madison*, the court reasoned that it need not determine Carruthers's diagnosis but must instead "decide whether the *effect* of any diagnosis and/or mental illness prevents Mr. Carruthers from understanding why, and the reasons that, the State intends to execute him." Pet. Appx. at 50. The court found that "no such diagnosis and/or mental illness prevents Mr. Carruthers from understanding why, and the reasons that, the State intends to execute him." Pet. Appx. at 50.

In support of these conclusions, the trial court found that Dr. Agharkar's opinion about Carruthers's incompetence "was not well reasoned, was speculative, and was based on inferences not fully supported by the proof." Pet. Appx. at 51. Carruthers, the court found, has acknowledged his pending execution date on his tablet and on the telephone. Pet. Appx. at 51. And since the Tennessee Supreme Court set his execution, Carruthers "has filed pro se motions seeking relief from his convictions and has attempted to promote a social media campaign via hashtags to seek assistance with his [innocence] claims." Pet. Appx. at 51. The trial court found

that Carruthers knows he is being executed for the murder convictions; he simply claims it is because he was wrongfully convicted. Pet. Appx. at 51. The trial court also relied on its observations of Carruthers's demeanor in court, noting that he appeared to be alert and interested in the hearing, did not appear to be in a manic state, conducted himself appropriately all four days of the hearing, addressed the court respectfully, was clear and articulate, and communicated with counsel. Pet. Appx. at 52.

3. The Tennessee Supreme Court affirms the finding that Carruthers is competent for execution.

In affirming the trial court's competency finding, the Tennessee Supreme Court held that the proof established that, although he professes his innocence, Carruthers "has a rational understanding that he was convicted on three counts of first degree murder and that the jury sentenced him to death on each conviction." Pet. Appx. at 30. The Court further held that Carruthers has a "rational understanding that his execution is scheduled for May 21, 2026," and a "rational understanding of the reason the State is going to execute him." Pet. Appx. at 30.

The Court first noted the dearth of evidence on Carruthers's *present* competency. Pet. Appx. at 29. "Dr. Agharkar relied on his original [2011] diagnosis, on the declarations and testimony of prior counsel (and a paralegal), and on various records and audio recordings provided to him by counsel." Pet. Appx. at 29. But prior counsel last communicated with Carruthers in 2023 and 2025, months before the competency hearing. Pet. Appx. at 29. Given that lack of recent contact, the Court found that former counsel "arguably could not offer informed testimony on the

ultimate question of whether Mr. Carruthers meets the *Panetti* standard." Pet. Appx. at 29.

The Court also acknowledged Dr. Agharkar's conclusion that Carruthers is not competent to be executed under *Panetti*, but noted that Dr. Agharkar admitted that he lacked evidence to support his conclusion that Carruthers believes he will be executed to prevent him from getting money and that Dr. Agharkar had not included that conclusion in his expert report. Pet. Appx. at 31. And the Court pointed out that Dr. Agharkar's other conclusions turned on an attorney declaration about Carruthers's beliefs, but Dr. Agharkar did not know when Carruthers had expressed those beliefs and the attorney in question had not represented Carruthers since 2023. Pet. Appx. at 31. The Court ultimately concluded that "[t]he weight, if any, given to Dr. Agharkar's report and hearing testimony was solely within the purview of the trial court." Pet. Appx. at 31.

The Court further emphasized Carruthers's testimony undermining his own witnesses' credibility. Pet. Appx. at 31. Carruthers testified that his witnesses gave "their words," not "his words." Pet. Appx. at 31. Carruthers also denied believing that his conviction was a "sham" as suggested by prior counsel who testified and repeated by Dr. Agharkar. Pet. Appx. at 31.

The Court also cited Carruthers's extensive efforts at exoneration to support the conclusion that "the evidence in the record fully supports and does not preponderate against the trial court's finding that Mr. Carruthers is presently competent to be executed." Pet. Appx. at 31. For example, "[a]fter his execution date

was set, Carruthers filed pro se pleadings seeking relief from his conviction, and he has asked others to promote certain hashtags on social media to bring public awareness to his plight." Pet. Appx. at 31. And he "gave no real indication he believes he is going to be released from prison unless he is exonerated." Pet. Appx. at 31.

Finally, the Court rejected Carruthers's argument that "the trial court misapplied the competency standard enunciated in *Panetti v. Quarterman*." Pet. Appx. at 31. The Court explained that the trial court "cited the appropriate competency standard and repeatedly mentioned the *Panetti* prong at issue—whether Mr. Carruthers has a rational understanding of the connection or the reason the State intends to execute him." Pet. Appx. at 32. The trial court simply "made credibility determinations and assigned its desired weight and value to the evidence presented, and then it correctly applied the *Panetti* standard to the evidence." Pet. Appx. at 32.

REASONS FOR DENYING THE WRIT AND A STAY

This case is not certworthy. The petition identifies no compelling reason for review; it seeks simple error correction in the familiar and fact-bound *Panetti*-competency context. But this Court, of course, rarely grants review for error-correction. And in any event, the Tennessee Supreme Court's decision contains no error. It did not misapply the well-established *Panetti* standard when denying Carruthers's competency claim.

After thirty-two years, justice has waited long enough. It must not be further delayed on account of Carruthers's patently meritless claim.

I. The Petition Presents No Certworthy Issue.

Carruthers's petition presents an unremarkable attack on Tennessee's straightforward application of this Court's established execution-competency standard. Nothing about the questions presented warrants this Court's review.

A. The second and third questions presented merely request error correction. But this Court grants a writ of certiorari "only for compelling reasons." Sup. Ct. R. 10. It "rarely" grants certiorari "when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law." *Id*. Many of this Court's members—both past and present—have emphasized that "[e]rror correction is outside the mainstream of the Court's functions and not among the 'compelling reasons' that govern the grant of certiorari." *Tolan v. Cotton*, 572 U.S. 650, 661 (2014) (Alito, J., joined by Scalia, J., concurring in the judgment) (quoting S. Shapiro, K. Geller, T. Bishop, E. Hartnett, & D. Himmelfarb, Supreme Court Practice

§ 5.12(c)(3), 352 (10th ed. 2013)) (cleaned up). That is exactly what Carruthers's petition presents—a fact-bound plea about the adequacy of his meager proof (at 23-27) and a half-hearted gripe about an "unreasonably limit[ed]" misapplication of *Panetti* (at 28-29). Carruthers's transparent request for error correction is reason enough to deny his petition.

B. The first question presented—involving a claimed split of authority—likewise does not present a certworthy issue.

First, Carruthers does not even attempt to identify any federal question underlying his complaint about Tennessee's appellate standard of review for execution competency. That is likely because there isn't one.

This Court has established through a long and consistent line of precedent that the Constitution does not compel state appellate courts to employ any particular standard of review on appeal. Starting with *McKane v. Durston*, 153 U.S. 684 (1894) and extending through modern decisions, this Court has repeatedly held that appellate review is not a constitutionally mandated right, and that States therefore enjoy broad discretion to structure their appellate systems and adopt whatever standards of review they deem appropriate. The Due Process Clause of the Fourteenth Amendment—though not invoked by Carruthers—does not change this analysis. "[I]f a full and fair trial on the merits is provided, the Due Process Clause of the Fourteenth Amendment does not require a State to provide appellate review." *Lindsey v. Normet*, 405 U.S. 56, 77 (1972). "[E]ven in criminal cases, due process does

not require a state to provide an appellate system." *Ortwein v. Schwab*, 410 U.S. 656, 660 (1973).

In *Greene v. Georgia*, this Court held that a federal habeas standard of review was not "controlling authority" on a state appellate court and that the state court was "free to adopt [its own] rule . . . for review of trial court findings." 519 U.S. 145, 146-47 (1996). This holding makes clear that federal standards of review—even those that implicate federal constitutional concerns—do not compel state appellate courts to employ those same standards in their own review.

The upshot is that regardless of whether the question of competency is a question of law or fact, the standard of appellate review applied by the Tennessee Supreme Court to Carruthers's incompetence claim is "entirely a question of state procedure, presenting no Federal question for review here." *Rogers v. Peck*, 199 U.S. 425, 435 (1905). Because these "views of the State's highest court with respect to state law are binding on the federal courts," they present no compelling reason for review. *Wainwright v. Goode*, 464 U.S. 78, 84 (1983).

Second, the Tennessee Supreme Court's view that competency is a question of fact, Pet. Appx. at 12, is entirely consistent with this Court's precedent. *Ford* and *Panetti* both confirm that "'sanity as a predicate to lawful execution'" involves a question of "'fact [that] must be determined with [a] high regard for truth.'" *Panetti*, 551 U.S. at 948-49 (quoting *Ford*, 477 U.S. at 411-12). And the central question of fact is whether a prisoner can "reach a rational understanding of the reason for [his] execution." *Id.* at 957-58. Carruthers does not dispute that competency, even as a

mixed question, necessitates fact finding. And no authority cited in his petition doubts this either. Beyond involving no federal question, Carruthers's alleged split of authority is a pure figment.

Third, contrary to Carruthers's suggestion (at iii), the Tennessee Supreme Court did not give "extreme deference" to the trial court's competency finding. Under *Van Tran*, which the Tennessee Supreme Court repeatedly cited, questions of law, like whether the trial court applied an incorrect legal standard, receive de novo review. *Van Tran*, 6 S.W.3d at 272; *Fisher v. Hargett*, 604 S.W.3d 381, 395 (Tenn. 2020). Questions of fact, like whether the prisoner has a rational understanding of the reason for his execution, are "presumed correct, unless the evidence in the record preponderates against the finding." *Id.* (citing Tenn. R. App. P. 13(d)). Such review is hardly extreme, overly deferential, or—more to the point—constitutionally prohibited.

Carruthers's three proposed questions seek mere error correction and prohibited federal review of a binding state law procedural issue. None present any compelling reason to grant certiorari.

II. The Decision Below Is Correct.

Regardless, there is no error to correct.

A. The state court correctly applied *Panetti* and *Madison*.

The state courts properly applied *Panetti* and *Madison* to conclude that Carruthers failed to demonstrate incompetency. Throughout its order, the trial court methodically laid out the three requirements of the *Panetti* test: that Carruthers

(1) was aware and had a rational understanding of his conviction; (2) was aware and had a rational understanding of his death sentence; and (3) has a rational understanding of the relationship between the two. Pet. Appx. at 46. It acknowledged *Panetti*'s reasoning that gross delusions could impede a prisoner's understanding of the purpose of his execution. Pet. Appx. at 47. And it correctly ascertained that it "must decide whether the *effect* of any diagnosis and/or mental illness prevents [Carruthers] from understanding why, and the reasons that, the State intends to execute him." Pet. Appx. at 48.

Further, the trial court considered proof of Carruthers's alleged delusions and found that he still had not proven his present incompetency. A prisoner's gross delusions may be relevant to competency if they negatively affect a prisoner's awareness of the link between crime and punishment. *Panetti*, 551 U.S. at 960. But proof of delusions alone is not sufficient to show a lack of sentence comprehension. *Madison*, 586 U.S. at 279. Instead, the relevant inquiry is whether the delusions interfere with the prisoner's understanding of the punishment's meaning. *Id*.

The trial court acknowledged that Carruthers *could* experience all the delusions detailed in the proof, and it assumed, for the purpose of argument, that he did. Pet. Appx. at 46-48. The court found that Carruthers may believe there was a "vast conspiracy" against him to fabricate Alfredo Shaw's inculpatory testimony, conceal Mr. Shaw's history as a confidential informant, and then pressure Carruthers into an *Alford* plea to cover up the conspiracy and prevent Carruthers from collecting monetary damages. Pet. Appx. at 48-49. But the court also found that those beliefs

did not affect Carruthers's understanding of why the State intends to execute him. Pet. Appx. at 49. The court viewed any delusions in the context of other proof—including Carruthers's own testimony regarding his understanding of his impending execution—to find that Carruthers had a rational understanding of his conviction and sentence and "he understands why the State wants to execute him and the reasons for his execution." Pet. Appx. at 50.

Far from treating Carruthers's "delusions" as irrelevant, the trial court assumed they existed, considered them, and found there was no proof that they affected Carruthers's ability to rationally understand the connection between his convictions and sentence. Therefore, trial court correctly applied the *Panetti* standard. Carruthers simply failed to prove that his alleged delusional beliefs precluded his ability to rationally understand the State's reasons for seeking execution.

Likewise, the Tennessee Supreme Court noted that, under *Panetti*, "a prisoner seeking to establish incompetency may not be foreclosed from offering proof to show that mental illness obstructs his rational understanding of his conviction, his impending execution, and the relationship between the two." Pet. Appx. at 12. But the court also acknowledged that *Madison* requires the judge assessing competency to "look beyond any given diagnosis" to determine how such illness affected the prisoner's understanding of the reasons for his execution. Pet. Appx. at 13. In its own analysis, the court assumed for the purpose of argument that Carruthers suffered from a mental disorder and harbored various delusions. Pet. Appx. at 30.

But as was required by *Panetti* and *Madison*, it looked beyond that diagnosis to examine the "downstream consequences." Pet. Appx. at 30. Like the trial court, the Tennessee Supreme Court concluded that, although Carruthers professed his innocence, he understood that he had been convicted on three counts of first-degree murder and sentenced to death for each. *Id.* He also understood that he was scheduled to be executed on May 21, 2026. *Id.* Further, the proof showed that Carruthers rationally understood the *reasons* for his execution because he knew that the only way he could avoid his fate was if he was exonerated of his crimes and released. Pet. Appx. at 31.

Tennessee courts properly applied the *Panetti* standard for incompetency. Carruthers's claim to the contrary do not present a reason to grant certiorari.

B. Carruthers's contrary arguments fail.

Contrary to Carruthers's argument (at 25), the Tennessee Supreme Court's analysis holding Carruthers to his burden of presenting evidence "related to his *present* incompetency," Pet. Appx. at 28, is entirely consistent with this Court's recognition that the "issue of sanity is properly considered in proximity to the execution." *Herrera*, 506 U.S. at 406. The Tennessee Supreme Court did not hold, as Carruthers suggests (at 27), that he "failed to meet his burden because there was not recent evidence obtained in a forensic evaluation." Nor is that a correct statement of Tennessee law. Under *Van Tran*, inmates have a wide variety of ways to prove their incompetence. They can submit "affidavits, depositions, medical reports, or *other credible evidence*." *Van Tran*, 6 S.W.3d at 269. "In most circumstances," that

evidence "should be from psychiatrists, psychologists, or other mental health professionals." *Id.* But that sort of evidence is not a strict requirement. As the Tennessee Supreme Court expressly stated, "'In considering a prisoner's competency to be executed, the trier of fact may consider both lay and expert testimony.'" Pet. Appx. at 12 (quoting *State v. Flake*, 88 S.W.3d 540, 554 (Tenn. 2002)). The emphasis is on "credible evidence," and so the self-serving and "conclusory assertions of . . . an attorney representing the prisoner will ordinarily be insufficient." *Van Tran*, 6 S.W.3d at 269. Even Carruthers's expert acknowledged that it was his "preference to interview Mr. Carruthers to talk to him about his symptoms," as that would have been the best evidence on his competency. Pet. Appx. at 18.

But the Tennessee Supreme Court's decision does not rest on that lack of best evidence alone. Rather it detailed the evidence supporting the trial court's conclusion that Dr. Agharkar's opinion about Carruthers's incompetence "was not well reasoned, was speculative, and was based on inferences not fully supported by the proof." Pet. Appx. at 51. Dr. Agharkar said that Mr. Carruthers believes the State is playing a "game of chicken" to force him to settle his monetary claims or deprive him of his money. Pet. Appx. at 19. But Dr. Agharkar also admitted that "in his observations of Mr. Carruthers during the competency hearing, Mr. Carruthers did not appear to be in a manic state at this time; did not appear to be psychotic; and showed no signs of psychosis." *Id.* Similarly, the trial court observed that Carruthers appeared alert and interested in court, and he exhibited no signs of psychosis. Pet. Appx. at 28.

Further, Carruthers's own communications and testimony showed that he understood he was being executed for his murder convictions. Pet. Appx. at 51.

And contrary to Carruthers's argument (at 28-29), the Tennessee Supreme Court properly concluded that he understands the reasons for his execution. The court did not conflate Carruthers's awareness of his execution date with his understanding of its purpose. Instead, the court detailed that Carruthers knew he was convicted on three counts of first-degree murder and sentenced to death for each conviction. Pet. Appx. at 30. He believed he was improperly convicted, but he understood that the only way to avoid his sentence was to seek relief from his convictions. Pet. Appx. at 31. Indeed, after his execution date was set, Carruthers continued to seek to overturn his convictions through several avenues, but he "gave no real indication that he believes his is going to be released from prison unless he is exonerated." *Id.* Based on that proof, the court properly concluded that Carruthers had a rational understanding of the reason the State planned to execute him.

Tennessee courts properly applied the *Panetti* and *Madison* standard for incompetency. Carruthers's claim to the contrary does not present a reason to grant certiorari.

III. The Stay Request Lacks a Certworthy Issue or Equitable Basis.

With no certworthy issue, Carruthers's stay request is hollow. And the equities only tip the scales further against a stay.

"[A] stay of execution is an equitable remedy. It is not available as a matter of right, and equity must be sensitive to the State's strong interest in enforcing its

criminal judgments without undue interference from the federal courts." *Hill v. McDonough*, 547 U. S. 573, 584 (2006). An applicant for a stay of execution must satisfy all the traditional stay factors and therefore must show that there is "a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari," that there is "a fair prospect that a majority of the Court will vote to reverse the judgment below," and, in a close case, that the equities favor the granting of relief. *Hollingsworth v. Perry*, 558 U. S. 183, 190 (2010) (per curiam).

For the reasons stated above (at 13-21), there is no reason to grant certiorari or reverse the judgment below. The Tennessee Supreme Court faithfully applied the established competency standard from *Panetti* to affirm the denial of Carruthers's meritless claim of incompetence.

Even setting aside the question of certworthiness, "[l]ast-minute stays should be the extreme exception, not the norm." *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019) (cleaned up). The State and victims have a "powerful and legitimate interest in punishing the guilty." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998) (cleaned up). They also "have an important interest in the timely enforcement of a [death] sentence." *Bucklew*, 587 U.S. at 149 (cleaned up). In Tennessee, crime victims have the constitutional right to "a prompt and final conclusion of the case after the conviction or sentence." Tenn. Const. art I, § 35. Once post-conviction proceedings "have run their course . . . finality acquires an added moral dimension." *Calderon*, 523 U.S. at 556. "Only with an assurance of real finality can the State execute its

moral judgment in a case" and "the victims of crime move forward knowing the moral judgment will be carried out." *Id.* "To unsettle these expectations is to inflict a profound injury." *Id.*

The harm further delay would cause to the family of Carruthers's victims weighs heavily against a stay. After waiting decades for justice, victim Freddrick Tucker's father, Andri Steele, has spoken out publicly about his need for closure. https://tinyurl.com/mss6t8sx. After attending Carruthers's trial and hearing the overwhelming proof against him, Steele is greatly disturbed by the media campaign Carruthers continues to lead from prison. Steele explained, "He can fool the whole public. He can fool everybody. They say free Tony Carruthers. That's what they say on the t-shirt. [T]hey're talking about freeing this murderer. Would you want him on the street to do this to your family?" https://tinyurl.com/mss6t8sx.

Finally, the public interest further tips the balance against a stay. "Nearly [thirty-two] years after [Carruthers's] capital sentence . . . both the state and the public have an interest in finality which, if not deserving of respect yet, may never receive respect." *Workman v. Bell*, 484 F.3d 837, 842 (6th Cir. 2007), *stay denied*, *Workman v. Bell*, 550 U.S. 930 (2007).

The Court should deny a stay because Carruthers's petition is not certworthy and is meritless, and to prevent further trauma to the victims' family, and to protect Tennessee's grave sovereign interest in the execution of its exhaustively reviewed judgment.

CONCLUSION

The application for stay of execution and petition for writ of certiorari should be denied.

Respectfully submitted,

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