

No.

IN THE
Supreme Court of the United States

TONY VON CARRUTHERS,
Petitioner,

v.

STATE OF TENNESSEE,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE TENNESSEE SUPREME COURT

**APPLICATION FOR A STAY OF EXECUTION
EXECUTION SCHEDULED FOR MAY 21, 2026, AT 10:00 AM.**

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To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Sixth Circuit:

Tony Von Carruthers is scheduled to be executed on **May 21, 2026, at 10:00 AM**. Mr. Carruthers respectfully requests a stay of his execution pending this Court's disposition of his Petition for a Writ of Certiorari.

I. JURISDICTION

The Tennessee Supreme Court entered judgment on May 7, 2026. Mr. Carruthers's Petition for a Writ of Certiorari was filed simultaneously with this application on May 13, 2026. The Tennessee Supreme Court set Mr. Carruthers's execution for May 21, 2026. Pursuant to Supreme Court Rule 23.3, Mr. Carruthers sought a stay of execution from the Tennessee Supreme Court, which denied Mr. Carruthers's request on May 7, 2026. This Court has jurisdiction to entertain Mr. Carruthers's Petition for a Writ of Certiorari and Application for a Stay of Execution under 28 U.S.C. §§ 1257(a) and 1651(a).

II. BACKGROUND

Mr. Carruthers "was forced to represent himself" at trial. *State v. Carruthers*, 35 S.W.3d 516, 552 (Tenn. 2000).¹ He was convicted and sentenced to death for three counts of first-degree murder. *Id.* at 523. On direct appeal, the Tennessee

¹ Mr. Carruthers will be the first person in more than 100 years to be executed after being forced to represent himself. Stephen Hale, *Tennessee Man Could Be The First Person in Nearly A Century To Be Executed After Being Forced To Represent Himself At Trial*, The Appeal (Feb. 18, 2020), <https://theappeal.org/tennessee-death-penalty/>.

Supreme Court affirmed his conviction and sentence but vacated the conviction and death sentence of his co-defendant James Montgomery. *Id.* at 523. The court held that Mr. Carruthers's self-representation was so prejudicial to Mr. Montgomery that Mr. Montgomery did not receive a fair trial. *Id.* Mr. Carruthers was denied relief in state post-conviction. *Carruthers v. State*, No. W2006-00376-CCA-R3PD, 2007 WL 4355481, at *1 (Tenn. Crim. App. Dec. 12, 2007), *perm. app denied* (Tenn. May 27, 2008). Federal courts denied his writ of habeas corpus. *Carruthers v. Mays*, 586 U.S. 1146 (2019); *Carruthers v. Mays*, 889 F.3d 273 (6th Cir. 2018); *Carruthers v. Carpenter*, No. 2:08-cv-02425 (W.D. Tenn. Mar. 31, 2014) (Judgment).

On September 20, 2019, the State of Tennessee moved to set Mr. Carruthers's execution date. *State v. Carruthers*, W1997-00097-SC-DDT-DD (Tenn. Sept. 20, 2019) (State's Motion to Set Execution Date). On December 30, 2019, Mr. Carruthers, through counsel, filed a Response in Opposition to Motion to Set Execution Date. *State v. Carruthers*, W1997-00097-SC-DDT-DD (Tenn. Dec. 30, 2019) (Response in Opposition to Motion to Set Execution Date). Therein, Mr. Carruthers asserted his incompetency to be executed and moved the Tennessee Supreme Court to remand the matter for proceedings pursuant to *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999). On September 30, 2025, the Tennessee Supreme Court ordered that Mr. Carruthers's death sentence be carried out on May 21, 2026, and remanded the matter to the convicting court for consideration of Mr.

Carruthers's competency to be executed claim pursuant to *Van Tran. State v. Carruthers*, W1997-00097-SC-DDT-DD (Tenn. Sept. 30, 2025) (Order).

After a four-day hearing, the trial court entered findings of fact and conclusions of law and denied Mr. Carruthers relief. On automatic appeal to the Tennessee Supreme Court, the court affirmed and denied Mr. Carruthers's application for a stay of execution. *State v. Carruthers*, — S.W.3d —, No. W1997-00097-SC-DDT-DD, 2026 WL 1257769 (Tenn. May 7, 2026).

III. REASONS FOR GRANTING THE STAY

An application for a stay of execution is evaluated under the familiar four factor test that analyzes:

- (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Nken v. Holder, 556 U.S. 418, 434 (2009).

A. **Mr. Carruthers has shown a reasonable likelihood of success on the merits of his claims.**

Under Supreme Court Rule 10, granting a writ of certiorari is appropriate where: (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; (b) a state court of last resort has decided an important

federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals; (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

1. Mr. Carruthers's first question presented squarely meets all three criteria for certiorari.

As is detailed in his petition, Mr. Carruthers has shown that there is a split of authority among state courts of last resort and the federal circuits regarding the proper standard of review for competency claims. His petition shows that some jurisdictions treat competency, including competency to be executed, as a question of fact to be reviewed under a clearly erroneous standard. Other jurisdictions treat competency, including competency to be executed, as a mixed question of law and fact and apply de novo review to questions of law, including the ultimate question of competency, while deferring to trial court factual findings under a deferential clear error standard. These disparate approaches cannot be reconciled, and Mr. Carruthers has conclusively shown there is a split of authority that should be resolved by this Court in this case. Under these circumstances, there is a reasonable likelihood that four members of this Court would vote to grant certiorari. *See, e.g., Barefoot v. Estelle*, 463 U.S. 880, 895 (1983).

2. Mr. Carruthers's second question presented meets the criteria for Supreme Court Rule 10(c) and should be decided by this Court.

Mr. Carruthers's second question presented is an unanswered question of law. Mr. Carruthers, like many severely mentally ill individuals, steadfastly believes that he is not mentally ill. He has refused to engage with any mental health practitioners since 2011, when he was last evaluated and found to be incompetent. He has refused all treatment from prison mental health providers, although providers have noted his paranoia, delusions, and altered reality baseline for years. Mr. Carruthers refused to be evaluated for his state court competency to be executed evidentiary hearing by undersigned counsel's experts and experts from the State of Tennessee. Consequently, evidence of Mr. Carruthers's incompetency was drawn from hundreds of hours of recorded phone calls, Mr. Carruthers's rambling and delusional writings and pleadings, and testimony regarding his delusional belief system from former counsel who interacted with him.²

Mr. Carruthers presented the testimony of Dr. Bhushan Agharkar, the last clinician to conduct an in-person evaluation of Mr. Carruthers. In addition to this assessment, Dr. Agharkar relied on evidence provided by former counsel and by Mr. Carruthers's communications to conclude that Mr. Carruthers did not rationally

² Mr. Carruthers presented evidence of his decades of persistent and debilitating delusions. The evidence also included extremely recent telephone calls and writings, including communications made immediately prior to the petition being submitted.

understand his execution and the reasons for it. The Tennessee Supreme Court denied relief, holding in relevant part, that there was no contemporaneous evidence from a mental health provider documenting Mr. Carruthers's current delusions and the evidence provided was stale. Mr. Carruthers's Petition for a Writ of Certiorari presented the question of whether a severely mentally ill prisoner's refusal to participate in a mental health evaluation, which is the product of his severe mental illness, may preclude a determination that he is currently incompetent to be executed, despite other contemporaneous evidence that he suffers from severe delusions. Thus, the Tennessee Supreme Court "decided an important question of federal law that has not been, but should be, settled by this Court." S. Ct. R. 10(c).

Mr. Carruthers has shown that this question presented squarely meets the criteria for certiorari and that the issue is of great importance, concerning core constitutional protections. As such, certiorari should be granted and a stay should be entered so that this Court may resolve this important question.

3. Mr. Carruthers's third question presented identifies an important question of federal constitutional law that has not, but should be, resolved by this Court.

The uncontested evidence at Mr. Carruthers's evidentiary hearing showed that he has three interrelated delusions that bear directly upon his competency to be executed. First, Mr. Carruthers believes that his privileged telephone calls are simultaneously monitored by various improbable actors including the FBI, the Tennessee Board of Professional Responsibility, Justice Clarence Thomas, and

Tennessee Governor Bill Lee. Mr. Carruthers believes that each purported violation entitles him to \$3.3 million. He also believes that the various “frauds” perpetrated by his defense counsel, the prosecutors, and the judges likewise entitle him to \$3.3 million per violation. This leads directly to Mr. Carruthers’s second primary delusion, which is that the State is merely threatening to execute him to coerce him into accepting a non-existent *Alford* plea that will result in a time served sentence but will erase his massive claims for compensation. Mr. Carruthers also believes that his counsel have been conspiring with the State to secure his execution date so that they can avoid disbarment.

These delusions lead to a third primary delusion, that Mr. Carruthers’s release is imminent. At the evidentiary hearing, evidence showed that Mr. Carruthers believes his release is imminent. Mr. Carruthers demonstrated that he believes the DOJ, TDOC, and various other actors are listening to his legal calls to try and catch him engaging in some wrongdoing so they can avoid releasing and having to pay him. Mr. Carruthers showed that prison mental health officials have documented these beliefs, including placing him on suicide watch because “his bags were packed” in anticipation of his release. In the days prior to his competency to be executed hearing, his communications showed that this belief persists and that he is making elaborate plans for his release, notwithstanding his looming execution.

Despite overwhelming evidence of these delusions, the Tennessee Supreme Court rejected Mr. Carruthers’s competency claim because unlike the petitioner in

Panetti v. Quarterman, 551 U.S. 930 (2007), Mr. Carruthers does not believe that the State seeks to execute him for a secret, non-judicial reason (as with Mr. Panetti's belief that his execution was to stop his preaching). Rather, Mr. Carruthers's delusions are that the State is working with Mr. Carruthers's counsel and will ultimately *not* execute him because the State *knows* he is innocent and is merely attempting to coerce an *Alford* plea to erase his claim for damages. Accordingly, the Tennessee Supreme Court has imposed a significant limiting principle to the rule announced in *Panetti*. As such, "a state court . . . has decided an important question of federal law that has not been, but should be, settled by this Court." S. Ct. R. 10(c).

Because this case squarely meets the criteria for certiorari and presents an issue of exceeding public importance, Mr. Carruthers has shown a likelihood of success on the merits of his petition.

B. There can be no fairminded disagreement that Mr. Carruthers will suffer irreparable harm absent a stay.

Mr. Carruthers will plainly suffer irreparable harm unless this Court stays his execution pending disposition of his Petition for a Writ of Certiorari. Absent a stay, Mr. Carruthers will be unlawfully executed and, as this Court has made clear, an "execution is the most irremediable and unfathomable of penalties." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986).

C. A stay of execution will not substantially injure the interest of the State of Tennessee and the public interest lies in prohibiting an unconstitutional execution.

When assessing the traditional equitable factors of the harm to the opposing party and the public interest, “[t]hese factors merge when the Government is the opposing party.” *Nken*, 556 U.S. at 435. Undoubtedly, the State of Tennessee has an interest in the enforcement of criminal judgments. *Hill v. McDonough*, 547 U.S. 573, 584 (2006). The State’s interest in executing Mr. Carruthers, however, is premised upon the enforcement of that judgment being lawful. When, as here, a litigant demonstrates that the enforcement of such a judgment would be unconstitutional, the public interest weighs in favor of the party whose constitutional rights will be violated. *United States v. Raines*, 362 U.S. 17, 27 (1960) (“[T]here is the highest public interest in the due observance of all the constitutional guarantees”); *see also Labrador v. Poe by & through Poe*, 144 S. Ct. 921, 923 (2024) (holding a judgment should be enforced in normal course “absent a showing of its unconstitutionality”) (Gorsuch, J., concurring). Likewise, “[n]o substantial harm can be shown in the enjoinder of an unconstitutional policy.” *Chabad of S. Ohio v. City of Cincinnati*, 233 F. Supp. 2d 975, 987 (S.D. Ohio 2002), *aff’d sub nom. Chabad of S. Ohio & Congregation Lubavitch v. City of Cincinnati*, 363 F.3d 427 (6th Cir. 2004).

Here, Mr. Carruthers has shown that the questions presented in this case merit certiorari and raise fundamental questions regarding the integrity of the judgment finding Mr. Carruthers competent to be executed. Because Mr. Carruthers

has shown a high probability that the decision below violates the Eighth Amendment, or at the very least that the decision below merits reconsideration of the case, the equities of this case tip in his favor.

D. Mr. Carruthers has not delayed in bringing his claim.

As this Court has acknowledged, *Ford*-based incompetency claims, are not ripe until execution is imminent. See *Stewart v. Martinez-Villareal*, 523 U.S. 637, 644 (1998); see also *Panetti v. Quarterman*, 551 U.S. 930, 943 (2007) (noting *Ford* claim not ripe until after the time to file a first habeas petition). This action is being filed close in time to Mr. Carruthers's execution because of the procedures outlined in the Tennessee Supreme Court's decision *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999) and its October 2, 2025, order in Mr. Carruthers's case remanding the case for *Ford* proceedings. Under Tennessee state law, these proceedings must occur immediately prior to execution on an extremely short timeline. *Id.* at 266–72 (outlining an extremely rapid timeline that is initiated only once “execution is imminent”). Pursuant to the Tennessee Supreme Court's order, Mr. Carruthers's competency proceedings commenced on February 13, 2026. The trial court concluded proceedings on March 16, 2026, and forwarded the record to the Tennessee Supreme Court on March 31, 2026. The Tennessee Supreme Court denied relief on May 7, 2026. Mr. Carruthers's Petition for a Writ of Certiorari and this Application for a Stay of Execution were filed six days later. Under these circumstances, Mr. Carruthers has

not delayed. *See Dunn v. Ray*, 586 U.S. 1138, 1138 (2019) (noting that the “last-minute nature” of a stay application may weigh against granting a stay).

IV. CONCLUSION AND PRAYER FOR RELIEF

The equities of this case weigh in favor of Mr. Carruthers because his case presents a strong likelihood of success on the merits, there is grievous risk of executing an individual in violation of the constitution, and Mr. Carruthers has not acted with undue delay. Mr. Carruthers respectfully requests that the Court grant this application, stay his execution, and grant any other relief that the Court may find just.

Respectfully submitted this 13th day of May, 2026,

/s/ Amy D. Harwell

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