No.

IN THE
SUPREME COURT OF THE UNITED STATES

TONY VON CARRUTHERS,

Petitioner,

v.

KENNETH NELSEN,

Respondent.

APPLICATION FOR A STAY OF EXECUTION

EXECUTION SCHEDULED FOR MAY 21, 2026, AT 10:00 AM.

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FOR THE MIDDLE DIST. OF TENNESSEE
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**Counsel of Record*

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 disposition of his petition for a writ of habeas corpus.

I. JURISDICTION

This case concerns Mr. Carruthers's competency to be executed claim brought pursuant to *Ford v. Wainwright*, 477 U.S. 399 (1986). After exhausting state remedies and seeking a stay of execution from the Tennessee Supreme Court, Mr. Carruthers filed a petition for a writ of habeas corpus and application for a stay of execution in the United States District Court for the Western District of Tennessee on May 15, 2026. His petition raised a single claim that he was incompetent to be executed under *Ford* and its progeny. On May 21, that court denied Mr. Carruthers's application for stay of execution. The district court has not ruled on Mr. Carruthers's habeas petition.

Hours ago, Mr. Carruthers filed a notice of appeal of the district court's denial of his application for a stay of execution. He then sought a stay of execution from the United States Court of Appeals for the Sixth Circuit. That court denied Mr. Carruthers's application.

This Court has jurisdiction to entertain Mr. Carruthers's application for a stay of execution under 28 U.S.C. §§ 1254, 1651(a), and 2251. *See also F.T.C. v. Dean*

Foods Co., 384 U.S. 597, 603 (1966) ("The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law . . . and extends to the potential jurisdiction of the appellate court where an appeal is not then pending but may be later perfected.").

II. BACKGROUND

A. Mr. Carruthers lacks a rational understanding of his execution as a result of pervasive delusions caused by schizoaffective disorder and brain damage.

Mr. Carruthers suffers from schizoaffective disorder, bipolar type, a form of psychotic mental illness, and brain damage. He suffers from pervasive delusions, paranoia, and perseverative thoughts. The evidence presented in Mr. Carruthers's state court *Ford* hearing showed that Mr. Carruthers believes three interrelated delusions that prevent him from rationally understanding his execution and the reasons for it.

First, Mr. Carruthers believes that his conviction and sentence were orchestrated by a cabal of corrupt prosecutors, judges, and defense attorneys. He believes these individuals are involved in a sinister plot that secured his conviction and sentence through the presentation of the perjured testimony of Alfredo Shaw, a confidential informant who testified before the grand jury that indicted Mr.

Carruthers.[1] He also believes that present counsel have conspired to set his execution date to protect their law licenses and avoid paying damages as parties to this fraud. Accompanying this paranoid delusion is his belief that his confidential telephone calls are monitored by various improbable actors, including Justice Clarence Thomas and Tennessee Governor Bill Lee. At times, Mr. Carruthers believes less fantastical but equally improbable listeners are monitoring his calls, including the FBI and the Tennessee Board of Professional Responsibility. Mr. Carruthers believes that he is entitled to $3.3 million for each purported instance where his calls are "wiretapped."

Mr. Carruthers's second relevant delusion holds that the State is using the threat of execution to attempt to extort him into taking a non-existent *Alford* plea, which Mr. Carruthers believes will erase his claim to millions. In this sense, the State is merely threatening to execute Mr. Carruthers. Mr. Carruthers repeatedly told his habeas counsel that he had no intention of accepting such an offer, as it would erase his claim to damages and leave the fraud perpetrated by Shaw and others unexposed.

Mr. Carruthers's final related delusion is that his release is imminent. Despite repeated losses in court and the setting of an execution date, Mr. Carruthers has "his bags packed" in preparation for release. He has concocted a host of plans for what he will do with his millions in settlement money, including various luxury purchases

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[1] It is not an exaggeration to say that Mr. Carruthers is obsessed with Alfredo Shaw. In nearly all of Mr. Carruthers's rambling and incoherent communications in the record, Mr. Carruthers expresses not only that his conviction was secured by fraud but also that he is entitled to $3.3 million—or occasional $3.3 billion or $3.3 trillion—for the massive wrong that is Shaw's involvement in the case.

and the opening of a Captain D's fast good franchise. In recent weeks, he has instructed his daughter that he will need a place of his own, expressed a need for luxury turquoise pajamas, and stated that his silver bullet legal theories are on the verge of vindication.

As a result of these delusions Mr. Carruthers lacks a rational understanding of his impending execution. His "mental state is so distorted by a mental illness that his awareness of the crime and punishment has little or no relation to the understanding of those concepts shared by the community as a whole." *Panetti v. Quarterman*, 551 U.S. 930, 958–59 (2007). Taken collectively, Mr. Carruthers's understanding of his execution and the reasons for it depart radically from that of the community as a whole. As such, he is not competent to be executed under this Court's precedent in *Panetti*. The Tennessee Supreme Court's judgment to the contrary was based upon that court's radical misapplication of *Panetti* that warrants the district court's de novo review.

B. The Tennessee Supreme Court's resolution of Mr. Carruthers's claim was unreasonable.

Central to Mr. Carruthers's habeas claim and his entitlement to a stay of execution is whether AEDPA deference is owed in this case. It is not. The Tennessee Supreme Court unreasonably applied *Panetti*, 551 U.S. 930. *Panetti* held that courts considering a *Ford* claim could not ignore the impact that a petitioner's delusions had on his understanding of the meaning and purpose of his execution. 551 U.S. at 958–59. As the Court observed, "a prisoner's awareness of the state's rationale for an execution is not the same as a rational understanding of it." *Id.* at

959. Scott Panetti's delusions rendered his mental state "so distorted by a mental illness that his awareness of the crime and punishment ha[d] little or no relation to the understanding of those concepts shared by the community as a whole." *Id.* at 958–59; *Panetti v. Lumpkin*, No. A-04-CA-042-RP, 2023 WL 6348877, at *1 (W.D. Tex. Sept. 27, 2023) (finding Mr. Panetti incompetent on remand).

The Tennessee Supreme Court unreasonably applied these clearly established principles. The Tennessee Supreme Court conflated Mr. Carruthers's awareness that the State had scheduled his execution and his awareness of the State's claimed reason for his execution with a rational understanding. *State v. Carruthers*, No. W1997-00097-SC-DDT-DD, 2026 WL 1257769, at *22 (Tenn. May 7, 2026). This is unsurprising in light of the governing law in Tennessee. The Tennessee Supreme Court has reinterpreted the rule in *Panetti* to be: "Stated differently, under *Panetti*, execution is not forbidden so long as the evidence shows that the prisoner does not question the reality of the crime or the reality of his punishment by the State for the crime committed." *State v. Irick*, 320 S.W.3d 284, 295 (Tenn. 2010); *see also Carruthers*, 2026 WL 1257769, at *8 (reciting this as the standard of competency). This statement of law is directly contrary to *Panetti*. Scott Panetti was aware he committed murder and was aware that he would be executed. *Panetti*, 551 U.S. at 956. That was not the end of the inquiry, however. The Tennessee Supreme Court's rule in *Irick* reduces competency to mere awareness, a standard that was directly rejected in *Panetti*. *Id.* at 959.

Irick's rule parrots the rule that was expressly rejected in *Panetti*. In *Panetti*, the court below employed a standard where "competency is determined by whether a prisoner is aware 'that he [is] going to be executed and why he [is] going to be executed,'" *Id.* at 956 (quoting *Panetti v. Dretke*, 448 F.3d 815, 819 (5th Cir. 2006)). This Court rejected this rule: "The principles set forth in *Ford* are put at risk by a rule that deems delusions relevant only with respect to the State's announced reason for a punishment or the fact of an imminent execution . . . as opposed to the real interests the State seeks to vindicate." *Id.* at 959 (internal citation omitted). Thus, *Panetti* was clear that a prisoner's awareness of an "imminent execution" is not the same as a rational understanding of that imminent execution. *Irick*'s "reality of the punishment" standard only requires that a prisoner know he is to be executed and know that death is final. That is simply not the law. The Tennessee Supreme Court's repeated reliance on *Irick* in its opinion in Mr. Carruthers's case underscores that, despite its recitation of the *Panetti* standard, it unreasonably applied that standard—rendering the Tennessee Supreme Court's an unreasonable application of clearly established federal law.

The Tennessee Supreme Court held that two facts demonstrate that Mr. Carruthers has a rational understanding of his impending execution: "Mr. 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. Mr. Carruthers also has a rational understanding that his execution is scheduled for May 21, 2026." *Carruthers*, 2026 WL 1257769, at *21. What is glaringly absent

from this analysis is *any* analysis of the "link between a crime and its punishment," *Panetti*, 551 U.S. at 960, or *any* analysis of how Mr. Carruthers's delusions impact his understanding. The *Irick* rule, as applied to Mr. Carruthers's case, reduced Mr. Carruthers's competency to the fact he knows he was convicted and knows that his execution is scheduled. The opinion made no effort to analyze whether Mr. Carruthers's "'concept of reality' is 'so impair[ed]' that he cannot grasp the execution's 'meaning and purpose' or the 'link between [his] crime and its punishment.'" *Madison*, 586 U.S. at 269 (quoting *Panetti*, 551 U.S. at 985, 960). Rather, the Tennessee Supreme Court treated Mr. Carruthers's "delusional beliefs as irrelevant" because he "is aware the State has identified the link between his crime and the punishment to be inflicted." *Panetti*, 551 U.S. at 960.

The Tennessee Supreme Court based its bald conclusion on the fact that Mr. Carruthers knows he has been convicted and that he does not hold a bizarre delusion disputing the existence of the conviction. Similarly, because "Mr. Carruthers has acknowledged his pending execution date on his tablet and on the telephone.[,]" he has "a rational understanding of . . . his impending execution." *Id.* at *19. Plainly, that Mr. Carruthers knows that there is a scheduled execution on May 21 says nothing about his understanding of the reasons for his execution.

The Tennessee Supreme Court then concluded Mr. Carruthers has "a rational understanding of the relationship between the conviction and the impending execution, as he understands *why the State wants to execute him* and the reasons for his execution." *Id.* (emphasis added). By focusing on the State's

"announced reason for a punishment" rather than Mr. Carruthers's own understanding of the reasons for his execution, the Tennessee Supreme Court drastically departed from the principles of *Panetti*. *See Panetti*, 551 U.S. at 959. This was a clear misapplication of the operative law. *Panetti* concerns itself not with "[a] prisoner's awareness of the State's rationale," *Panetti*, 551 U.S. at 959, but rather whether his "gross delusions prevent[] him from comprehending the meaning and purpose of the punishment to which he has been sentenced." *Id.* at 960. Equating a prisoner's mere "awareness" to a "rational understanding" is contrary to this Court's holding in *Panetti*. *Id.* at 959 ("A prisoner's awareness of the State's rationale for an execution is not the same as a rational understanding of it.").

Accordingly, the Tennessee Supreme Court's holding in Mr. Carruthers's case was an unreasonable application of clearly established federal law, and, in federal habeas proceedings, the claim should be reviewed *de novo*. *Williams v. Taylor*, 529 U.S. 362, 389 (2000).

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.

The evidence presented in Mr. Carruthers's state court *Ford* proceeding shows that he lacks a rational understanding of his execution and the reasons for it. As importantly, the Tennessee courts' resolution of Mr. Carruthers's claim constitutes an unreasonable application of clearly established law. The Tennessee Supreme Court's competency to be executed jurisprudence has continuously flouted this Court's clear instruction in *Panetti*. Because Mr. Carruthers has shown both that he is incompetent and that the state court's resolution of his competency was unreasonable, he has demonstrated a likelihood of success on the merits of his underlying litigation. As such, a stay is appropriate.

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. 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*, 477 U.S. at 411; *see Carruthers v. Nelsen*, No. 2:08-cv-02425 at 29 (W.D. Tenn. May 20, 2026) (Order) (District Court finding that "Respondent do not dispute that Petitioner's execution would result in irreparable harm.").

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 . . . .").

Here, Mr. Carruthers has shown a likelihood of success on the merits and has demonstrated that this case raises 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, 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*, 551 U.S. at 943 (2007) (noting *Ford* claim not ripe until after the time to file a first habeas petition). This action was filed close in time to Mr. Carruthers's execution pursuant to 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. Soon after seeking a writ of certiorari to this Court to review that judgment, Mr. Carruthers filed his habeas petition on May 15. 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 21th day of May, 2026,

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