

CAPITAL CASE

EXECUTION SCHEDULED SEPTEMBER 30, 2026 at 10:00 a.m. (Central)

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: CHRISTA GAIL PIKE

APPLICATION FOR A STAY OF EXECUTION

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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:

The Petitioner, Christa Gail Pike, is scheduled to be executed on **September 30, at 10:00 a.m. Central Daylight Time**. She respectfully requests a stay of her execution pending this Court's disposition of her petition for a writ of certiorari and pending the resolution of her litigation regarding the State of Tennessee's violation of her Eighth and Fourteenth Amendment rights and the constitutionality of carrying out her execution by lethal injection. Christa applies to this Court for an order staying her execution pursuant to Rule 23 of the Rules of the Supreme Court of the United States and the Eighth and Fourteenth Amendments to the United States Constitution. Pursuant to Supreme Court Rules 23.1, 23.2, 28 U.S.C. § 2101(f) and 28 U.S.C. § 1651, the stay may lawfully be granted.

She offers the following Brief of Law in Support of this application.

JURISDICTION

The Tennessee Supreme Court denied The Petitioner's Rule 12(4)(E) Motion on September 23, 2026. (Cert. Pet. App. at 001544). Contemporaneous with this application, Christa is seeking certiorari from that same denial. As such, this Court has jurisdiction to entertain the petition for certiorari and application for stay of execution under 28 U.S.C. § 1257. In addition, "[i]n any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court." 28 U.S.C. § 2101(f).

BACKGROUND

I. Factual Background

On January 8, 2025, the Tennessee Department of Correction provided Christa Pike with a redacted copy of its new lethal injection protocol. On September 30, 2025, the Tennessee Supreme Court set Christa's execution date for September 30, 2026.

As relevant here, on December 5, 2025, the Tennessee Supreme Court amended Rule 12 of its Rules in a way that restricted the fundamental right of prisoners to challenge the State's method of execution. Specifically, the rule provides that "[a]fter a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court." It also provides that "[i]f the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53." The rule leaves open many questions about how prisoners will access Tennessee state courts to challenge the State's method of execution. For Christa, the rule operated as a complete denial of Due Process.

On January 8, 2026, Christa filed a complaint in the Chancery Court for Davidson County challenging Tennessee's lethal injection protocol as it would be applied to her. (Cert. Pet. App. at 000001). She did not ask for a stay of execution—or need one at the time—because her execution was set for eight months later and there was ample time for her claims to be heard and for her lawsuit to be resolved. After the Chancery Court found it lacked jurisdiction under the amendment to

Tennessee Supreme Court Rule 12, it transferred the case to the Tennessee Supreme Court, which subsequently dismissed the complaint without prejudice subject to filing a Rule 12(4)(E) motion, which she did on June 12, 2026. (Cert. Pet. App. at 000359).

One month later, the Tennessee Supreme Court appointed a special master to “conduct an evidentiary hearing and any other additional hearings the special master deems appropriate on the matters specifically referred by this order.” (Cert. Pet. at 000777a-77b). The Court referred five issues to the special master for factual development:

- (1) Given Ms. Pike’s diagnosis of thrombocytosis, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it “*sure or very likely*” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering,” *see Baze v. Rees*, 553 U.S. 35, 50 (2008) (plurality opinion) (quoting *Helling v. McKinney*, 509 U.S. 25, 33 (1993));
- (2) Given Ms. Pike’s cited history of sexual assault and asserted diagnosis of Post Traumatic Stress Disorder (PTSD), whether the movement of Ms. Pike to Riverbend Maximum Security Prison before the execution, where she would be observed by male prison officials for two weeks prior to the execution, would make it “sure or very likely” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering”;
- (3) Given Ms. Pike’s allegedly small and compromised veins, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it “sure or very likely” that the challenged protocol will “cause [Ms. Pike] serious illness and needless suffering,”;
- (4) whether Ms. Pike’s proposed alternative methods of execution would significantly reduce a substantial risk of severe pain.; and
- (5) whether TDOC is required to or would permit a spiritual advisor to be present in the execution chamber during Ms. Pike's execution.

The special master conducted a hearing over two and a half days. As pertinent here, Christa presented evidence that her post traumatic stress disorder would be profoundly triggered before and during the execution process because it will simulate her repeated rapes and sexual abuse as a child. Dr. Bethany Brand, a clinical psychologist, testified that Christa would suffer extreme psychological torture when extracted from her cell and strapped to the execution gurney. Dr. Brand's testimony differentiated the mental suffering of an inmate about to be executed with the superadded pain, terror, and torture that Christa will experience while being strapped to the gurney and killed: "That is likely to precipitate her having a flashback where she will lose all sense of current reality, and as I explained earlier, she'll be transported in her mind back to times when she was being raped, feeling the full emotional and physical force and sensations of that time." (Cert. Pet. App. at 001912).

The special master issued his Findings of Fact and Conclusions of Law one week after the hearing, and recommended that all of the issues referred to him be denied. (Cert. Pet. App. at 001326). He made adverse credibility findings against Christa's witnesses even though the Respondent's witnesses often testified to substantially the same information. And he precluded offers of proof on the evidence he erroneously excluded. He concluded that evidence of the offered by Dr. Bethany Brand was irrelevant because "'mental suffering' alone 'is not material to the Eighth Amendment inquiry under *Baze* and *Glossip*.' '[u]nless accompanied by serious physical pain.'" (Cert. Pet. App. at 001348).

The Tennessee Supreme Court methods of execution “screening rule” forced Christa to litigate her constitutional claims under the duress of a compressed timeline, without the benefit of discovery that would have been available in the state trial court, before a biased special master appointed by the Tennessee Supreme Court. The special master denied even the limited discovery she sought before the hearing, a finding which the Tennessee Supreme Court found “the special master did not abuse its discretion by prohibiting discovery.” (Cert. Pet. App. at 001548). Even though the court did not allow Christa the basic Due Process necessary to develop evidence to support her claims, the Tennessee Supreme Court nevertheless found “Ms. Pike is unlikely to succeed on her facial or as-applied challenges to the lethal injection protocol.” (Cert. Pet. App. at 001565).

Christa Pike’s Petition for Certiorari and this Application for Stay follow.

REASONS FOR GRANTING THE STAY

A stay of execution is warranted where there is a “presence of substantial grounds upon which relief might be granted.” *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). An application for a stay of execution is evaluated under the familiar four factor test that analyzes:

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). In other cases, this Court has considered the diligence of the applicant for the stay in order to deter manipulation of the Court’s

stay power. *Hill v. McDonough*, 547 U.S. 573, 584 (2006).

Where a stay is sought pending a petition for certiorari, the petitioner need only show a “reasonable probability” that this Court will grant certiorari and a “fair prospect” that the decision below will be reversed. *Maryland v. King*, 567 U.S. 1301 (2012). In *Barefoot*, this Court held that a stay may be granted when there is: “a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari . . . a significant possibility of reversal of the lower court's decision; and a likelihood that irreparable harm will result if that decision is not stayed.” *Barefoot*, 463 U.S. at 895. Further, a stay should be granted when necessary to “give non-frivolous claims of constitutional error the careful attention that they deserve” and, when a court cannot “resolve the merits [of a claim] before the scheduled date of execution . . . to permit due consideration of the merits.” *Id.* at 888–89. These factors weigh in favor of a stay in this case

I. Christa Pike has shown a reasonable likelihood of success in establishing the State of Tennessee violated her Eighth Amendment as well as her Due Process Rights.

Christa presents two claims for this Court’s consideration. First, whether the mental suffering and psychological terror she will experience under Tennessee’s lethal injection protocol is cognizable under the Eighth Amendment. Second, whether Tennessee Supreme Court Rule 12(4)(E) unconstitutionally stripped her of her rights to challenge Tennessee’s method of execution. She has shown a reasonable likelihood of success on each.

A. The mental suffering and psychological terror Christa will suffer is superadded pain, terror, or disgrace and is cognizable under the Eighth Amendment to the United States Constitution.

Christa Pike has shown a reasonable likelihood of success on her claim that the mental suffering she will experience under Tennessee's current protocol will violate her Eighth Amendment rights. The State of Tennessee did not dispute that she suffered extreme sexual abuse throughout her childhood. As to her history "of sexual assault and [post-traumatic stress disorder], the State does not dispute the terrible things that Ms. Pike suffered. I think everybody in this courtroom wishes that those things had never happened to Ms. Pike. I think we all wish that we were not here today and that she was not on death row." (Cert. Pet. App. at 002267-68). The State also did not present any evidence to contradict Dr. Bethany Brand's testimony that Christa's experience would be dramatically different from other death row prisoners who did not have her experiences and who do not suffer from her PTSD. According to Dr. Brand, being strapped to a gurney while the IV Team inserts intravenous lines into her body would precipitate a full trauma flashback, including loss of touch with present reality, and would likely activate the involuntary fight/flight/freeze/immobility survival response:

It will be highly triggering for Christa Pike. She will experience being held down and then being tied down, very similar to how she experienced being pinned and trapped and raped. She won't be able to escape like she couldn't escape back then. That is likely to precipitate her having a flashback where she will lose all sense of current reality, and as I explained earlier, she'll be transported in her mind back to times when she was being raped, feeling the full emotional and physical force and sensations of that time.

(Cert. Pet. App. at 1912). In this state, Christa would experience the subjective terror of being actively raped while being physically unable to resist. This is torture, and the State presented no evidence to contradict it.

This Court has never held that mental suffering cannot be considered in relation to Eighth Amendment challenges to methods of execution. Nonetheless, the special master excluded consideration of Dr. Brand's testimony on his belief that, "‘mental suffering’ alone ‘is not material to the Eighth Amendment inquiry under *Baze* and *Glossip*.’ [u]nless accompanied by serious physical pain." (Cert. Pet. App. at 001348).

As the accompanying Petition for Certiorari points out, it is an open question, and lower courts are divided on whether and how an Eighth Amendment violation can be established on the basis of mental suffering alone. (Cert. Pet. at 11). Christa's petition argues that the current case law illustrates both an absence of guidance on whether mental suffering and psychological terror are cognizable under the Eighth Amendment, and what standard applies. This case presents uniquely compelling circumstances where this Court is likely to consider such an important constitutional question.

B. Tennessee Supreme Court Rule 12(4)(E) placed an unconstitutional limitation on Christa's right to challenge Tennessee's method of execution.

Christa has also established a likelihood of success on her claim that Tennessee's new methods of execution "screening" rule violates basic, but well established, principles of Due Process by limiting her rights to challenge Tennessee's

method of execution. Christa was forced to litigate her claims under a system whose exact workings were unclear. In fact, even after the Tennessee Supreme Court opinion purportedly clarifying the mechanisms of the rule, they remain unclear.

Because of Rule 12(4)(E) Christa was forced to prove she could show a likelihood of success on her claims before any part of her lawsuit could go forward, including basic discovery. When she attempted to conduct some basic discovery, she was denied. The screening rule places a higher burden of initial proof on her Eighth Amendment claims than it would be for any other type of claim she could present in any court in the United States.

This uneven application of the rules for death-sentenced litigants is an obvious denial of Due Process. The Tennessee Supreme Court found that “Ms. Pike is unlikely to succeed on her facial or as-applied challenges to the lethal injection protocol.” (Cert. Pet. App. at 001565). The finding of “unlikely to succeed” before a claim may proceed is an additional hurdle unique to death-sentenced prisoners in Tennessee. It was a barrier placed in front of Christa before she left the courthouse doors. She was forced to prove she was likely to prevail on her claims before she could even begin litigating them. The Tennessee Supreme Court’s creation of special rules for capital litigants, and the way that the rule operated here, is an obvious violation of Christa’s Due Process rights. She is likely to prevail on this issue before this Court.

II. Without a Stay of Execution, Christa Pike will be irreparably injured.

There can be no dispute that without a stay of execution, Christa faces irreparable injury. *See Wainwright v. Booker*, 473 U.S. 935, 935 n.1 (1985) (mem.)

(Powell, J., concurring) (a prisoner facing execution will suffer irreparable injury if the stay is not granted). When, upon review of a motion for injunctive relief, it is found that a constitutional right is being threatened or impaired, “a finding of irreparable injury is mandated,” and “a successful showing on the first factor mandates a successful showing on the second factor—whether the plaintiff will suffer irreparable harm.” *Bonnell v. Lorenzo*, 241F.3d 800, 809 (6th Cir. 2001) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). There is no doubt that failure to grant a stay of execution would cause Christa irreparable injury since the State of Tennessee will execute—or at least attempt to execute—her before this Court can give her case meaningful consideration.

III. The public interest lies in favor of granting a stay and the issuance of a stay will not substantially prejudice the State.

“[I]t is always in the public interest to prevent the violation of a party's constitutional rights.” *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994) (citing *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 383 (1979)); *see also In re Morris*, 328 F.3d 739, 741 (5th Cir. 2003) (the public interest is served when an applicant for a stay makes a showing of a likelihood of success on the merits). In particular, the Eighth Amendment issues at stake in this case directly affect society's interest that Cruel and Unusual punishments not be imposed. While the public may have an interest in seeing judgments carried out, it also has an interest that its citizens not be tortured to death in the name of the people. *See Whitmore v. Arkansas*, 495 U.S. 149, 173 (1990) (Marshall, J., dissenting) (“Certainly a defendant's consent to being drawn and quartered or burned at the stake would not

license the State to exact such punishments.”). This interest “cannot be overridden by a [capital] defendant's purported waiver.” *Lenhard v. Wolf*, 444 U.S. 807, 811 (1979) (Marshall, J., dissenting). “[T]he consent of a convicted defendant in a criminal case does not privilege a State to impose a punishment otherwise forbidden by the Eighth Amendment.” *Gilmore v. Utah*, 429 U.S. 1012, 1018 (1976) (White, J., joined by Brennan and Marshall, JJ., dissenting).

Likewise, a State suffers no substantial harm when, as in this case, an execution is delayed so the Court can determine whether the execution would be unconstitutional. *In re Holladay*, 331 F.3d 1169, 1177 (11th Cir. 2003). And “if the plaintiff shows a substantial likelihood that the challenged law is unconstitutional, no substantial harm to others can be said to in here in its enjoinder.” *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville & Davidson Cty., Tennessee*, 274 F.3d 377, 400 (6th Cir. 2001).

Christa seeks a stay of execution to allow this Court to resolve the important question of whether severe psychological torture violates the Eighth Amendment. She also seeks a stay so that this Court can resolve important questions about how a State may restrict access to the courts when petitioners seek to bring claims that a particular execution protocol is sure or very likely to cause superadded torture.

This Court must issue a Stay of Execution so that it can resolve these issues.

CONCLUSION AND PRAYER FOR RELIEF

As recounted more fully in the pending Petition for Certiorari, Christa Pike is likely to suffer superadded pain, terror, or disgrace under Tennessee's current lethal injection protocol. In addition, Tennessee Supreme Court Rule 12(4)(E) has created confusion and limited her constitutional right to seek relief in the Tennessee courts. She presented meritorious constitutional issues to the Tennessee Supreme Court regarding the use of Tennessee's protocol as it would apply to her. She also presented meritorious claims that the court's new requirement that she seek a stay of execution to adjudicate her Eighth Amendment claims unconstitutionally abridged her Due Process rights by denying her right to discovery and placing her under a higher burden of proof before she ever began litigating her claims. The remaining equities of this case weigh in favor of the application of a stay, and there is a grievous risk of executing an individual in violation of the constitution. Christa Pike respectfully requests that the Court grant this application, stay her execution, and grant any other relief that the Court may find just.

Respectfully submitted,

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