

In the Supreme Court of the United States

CHRISTA GAIL PIKE,
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
QUESTIONS PRESENTED**

1. Does this Court lack jurisdiction to review the Tennessee Supreme Court's denial of Christa Gail Pike's interlocutory execution stay request when that denial is not a final judgment?
2. If Pike's Eighth Amendment claim is properly before this Court, is it meritless when the State's execution protocol includes nothing that will superadd mental suffering above that attendant to any execution by any method?
3. Does Tennessee's established procedure for judicial review of end-stage stay requests ensure due process when it invokes the universal review standard for preliminary injunctive relief upon due consideration of a developed evidentiary record?

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INTRODUCTION

On January 12, 1995, Christa Gail Pike beat, tortured, and killed Colleen Slemmer because Pike “just felt mean that day.” *State v. Pike*, 978 S.W.2d 904, 908 (Tenn. 1998). Pike cut Colleen’s throat six times, struck her in the back with a meat cleaver, and crushed her skull with a piece of asphalt. *Id.* at 910-11. A jury convicted Pike of first-degree murder based on overwhelming evidence of guilt, including a detailed confession, and sentenced her to death. *Id.* at 910, 912, 914. On June 8, 2020, Pike completed the three tiers of review of her sentence—direct appeal, state post-conviction, and federal habeas—when this Court denied review of her unsuccessful bid for federal habeas relief. *Pike v. Gross*, 590 U.S. 978 (2020). The Tennessee Supreme Court then set her execution for September 30, 2026.

After three decades of litigation, Pike seeks to further delay her execution. This Court should reject her request. The Eighth Amendment claim Pike presses is meritless, and this Court lacks jurisdiction to review it because the Tennessee Supreme Court’s order is not a final judgment with respect to that claim. Pike’s due process claim is meritless as well in light of the extensive process afforded her by both a judicial fact finder and the Tennessee Supreme Court. The State’s strong interest in finality and the surviving victims’ right to closure require rejection of Pike’s attempt “to interpose unjustified delay.” *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019).

“Last-minute stays should be the extreme exception, not the norm.” *Id.* This case is not the exception.

STATEMENT

A. Legal Background

1. **The U.S. Constitution does not demand avoidance of all risk of suffering in executions.**

The Eighth Amendment to the U.S. Constitution “allows capital punishment.” *Bucklew*, 587 U.S. at 129. That approval reflects the death penalty’s status as an “accepted punishment at the time of the adoption of the Constitution and the Bill of Rights.” *Glossip v. Gross*, 576 U.S. 863, 867-68 (2015).

“[B]ecause it is settled that capital punishment is constitutional, it necessarily follows that there must be a constitutional means of carrying it out.” *Id.* at 869 (quoting *Baze v. Rees*, 553 U.S. 35, 47 (2008) (plurality op.)). That “recognition” has “animated” this Court’s interpretation of the cruel-and-unusual punishment prohibition. *Id.* A few general principles from the precedents are particularly relevant here.

To begin, “the Eighth Amendment does not guarantee a prisoner a painless death—something that, of course, is not guaranteed to many people, including most victims of capital crimes.” *Bucklew*, 587 U.S. at 132-33. After all, “[s]ome risk of pain is inherent in any method of execution—no matter how humane—if only from the prospect of error in following the required procedure.” *Baze*, 553 U.S. at 47. If the Eighth Amendment “demand[ed] the elimination of essentially all risk of pain,” that “would effectively outlaw the death penalty altogether.” *Glossip*, 576 U.S. at 869. So the mere fact that “an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of ‘objectively

intolerable risk of harm’ that qualifies as cruel and unusual.” *Baze*, 553 U.S. at 50 (quoting *Farmer v. Brennan*, 511 U.S. 825, 842, 846, and n.9 (1994)).

Instead, the cruel-and-unusual-punishment provision prohibits only “long disused (unusual) forms of punishment that intensif[y] the sentence of death with a (cruel) superaddition of *terror*, pain, or disgrace.” *Bucklew*, 587 U.S. at 133 (citation omitted) (emphasis added). That emphasis on the State’s “malevolence” reflects Founding-era history. *Baze*, 553 U.S. at 50. As ratified, the cruel-and-unusual-punishment provision draws from the English Bill of Rights “to ensure that the new Nation would never resort” to “certain barbaric punishments” previously practiced. *City of Grants Pass v. Johnson*, 603 U.S. 520, 542 (2024). Among them: “disemboweling, quartering, public dissection, and burning alive,” *id.*, as well as “the use of the rack or the stake,” “breaking on the wheel, flaying alive, rending asunder with horses, maiming, mutilating, and scourging to death,” *Bucklew*, 587 U.S. at 131 (cleaned up). Uniting these off-limits methods is their “unnecessary cruelty”—meaning the method chosen “savored of torture” and reflected the executioners’ “pleas[ure] with hurting others.” *Id.* at 130-31.

To help draw that line, this Courts looks to the modes of execution the Eighth Amendment was understood to forbid with those it was understood to permit. Hanging was the predominant method of execution at the Founding and for decades thereafter. *Glossip*, 576 U.S. at 867. “Many and perhaps most hangings were evidently painful for the condemned person because they caused death slowly.” *Bucklew*, 587 U.S. at 132 (quoting S. Banner, *The Death Penalty: An American*

History 48 (2002) (Banner)). Yet the use of hanging was “virtually never questioned” under the Eighth Amendment. *Id.* (quoting Banner, *supra*, at 48). As this Court observed, the lawful status of hanging presumably reflects that it was not “*intended* to be painful”; instead, the risk of pain involved was considered “unfortunate but inevitable.” *Id.* at 131 (emphasis added) (quoting Banner, *supra*, at 170). The Court has employed similar reasoning to uphold death by firing squad, *Wilkerson v. Utah*, 99 U.S. 130, 134-135 (1879), the electric chair, *In re Kemmler*, 136 U.S. 436 (1890); *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459, 463-464 (1947) (plurality opinion) (upholding electrocution of prisoner despite initial failed attempt), and lethal injection, *Bucklew*, 587 U.S. 119; *Glossip*, 576 U.S. 863; *Baze*, 553 U.S. 35.

To sum up: The U.S. Constitution does not “demand the avoidance of all risk of pain in carrying out executions,” meaning a method is permissible even if pain or suffering occurs by “accident or as an inescapable consequence of death.” *Bucklew*, 587 U.S. at 130, 134. Instead, punishments are constitutionally suspect only when the method “‘superadds’ pain well beyond what’s needed to effectuate a death sentence.” *Id.* at 137. Any other rule would impermissibly coopt “courts to serve as boards of inquiry charged with determining best practices for executions,” “with each ruling supplanted by another round of litigation touting a new and improved methodology.” *Id.* at 134 (citation omitted); *Baze*, 553 U.S. at 101.

2. Method-of-execution claims face an exceedingly high bar to prevail.

This Court “has yet to hold that a State’s method of execution qualifies as cruel and unusual.” *Barr v. Lee*, 591 U.S. 979, 980 (2020) (per curiam) (quoting *Bucklew*,

587 U.S. at 133). “[U]nderstandably so.” *Bucklew*, 587 U.S. at 133. Tennessee and other States, working “through the initiative of the people and their representatives,” have historically endeavored to adopt “less painful modes of execution.” *Id.*

Courts facing method-of-execution claims apply a two-prong test. *See Bucklew*, 587 U.S. at 133-34. Challengers face an “exceedingly high bar” to relief. *Lee*, 591 U.S. at 980. The demanding two-step standard reflects that “the Constitution affords a measure of deference to a State’s choice of execution procedures.” *Bucklew*, 587 U.S. at 134. It also helps prevent “method-of-execution claims from becoming a backdoor means to abolish the death penalty.” *Id.* at 137 (cleaned up).

First, an inmate must establish that a given method “presents a risk that is *sure or very likely* to cause serious illness and needless suffering and give rise to sufficiently imminent dangers.” *Glossip*, 576 U.S. at 877 (cleaned up). That means a “wanton exposure to objectively intolerable risk” and “not simply the possibility of pain.” *Baze*, 553 U.S. at 61-62 (cleaned up).

Second, the inmate must “show a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain and that the State has refused to adopt without a legitimate penological reason.” *Bucklew*, 587 U.S. at 134. “A minor reduction in risk is insufficient; the difference must be clear and considerable.” *Id.* at 143. Further, a challenger must establish that the State “could carry . . . out” the alternative method “relatively easily and reasonably quickly.” *Id.* at 141 (citation omitted).

3. Tennessee uses a mainstay method of execution.

Tennessee adopted lethal injection as a method of execution in 1998, Tenn. Code Ann. § 40-23-114 (Supp. 1998), because it was widely touted as a “more humane” alternative to “electrocution,” *State v. Adkins*, 725 S.W.2d 660, 664 (Tenn. 1987); *see State v. Suttles*, 30 S.W.3d 252, 264 (Tenn. 2000) (citing 1998 Tenn. Pub. Acts ch. 982; 2000 Tenn. Pub. Acts ch. 2000). Two years later, it became the State’s default method of execution and has remained so ever since. Tenn. Code Ann. § 40-23-114 (Supp. 2000); *State v. Morris*, 24 S.W.3d 788, 797 (Tenn. 2000).

In 2013, Tennessee adopted a lethal injection protocol that caused sedation and death through the injection of pentobarbital. *West v. Schofield*, 519 S.W.3d 550, 552 (Tenn. 2017). The State later adopted a three-drug execution protocol, *Abdur’Rahman v. Parker*, 558 S.W.3d 606, 611 (Tenn. 2018), but returned to a single-drug pentobarbital protocol in January 2025. *TDOC Completes Lethal Injection Protocol Review* (Dec. 27, 2024), <https://tinyurl.com/2xftey5t>.

4. Tennessee’s established process for reviewing execution stay requests.

Once the Tennessee Supreme Court issues an order setting a prisoner’s execution date, Tenn. Sup. Ct. R. 12(4)(E) outlines the procedure for that Court to entertain stay requests. The rule has long provided that “the Court will not grant a stay or delay of an execution date pending resolution of collateral litigation in state court unless the prisoner can prove a likelihood of success on the merits in that litigation.” Tenn. Sup. Ct. R. 12(4)(E). As amended on December 5, 2025, 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 [for stay]” in the Tennessee Supreme Court. *In re: Amendment of Tenn. Sup. Ct. R. 12(4)(E)*, No. ADM2025-01930 (Tenn. Dec. 5, 2025). The amended rule further provides that “[i]f the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master” to assist the court in evaluating the stay motion. *Id.* “Any objection to the findings of the special master shall be by motion filed . . . not later than five (5) days after being served with notice of the filing of the report.” *Id.*

The Tennessee Supreme Court has explained that amended Rule 12(4)(E) does not provide an independent avenue for litigating execution challenges. Order at 18, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Sept. 23, 2026) (“Stay Denial”); Order, *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Apr. 30, 2026). Instead, petitioners seeking collateral relief must, as before, pursue original collateral actions in trial courts through available statutory avenues. Rule 12(4)(E) simply provides a mechanism for prisoners who can show a likelihood of success on the merits of those original collateral actions to obtain a stay from the Tennessee Supreme Court “so that the claims may be fully adjudicated on the merits” initially by the trial court with original jurisdiction. Stay Denial at 22.

B. Factual Background

“Without question,” Pike’s killing of Colleen Slemmer was “particularly cruel.” *Pike*, 978 S.W.2d at 915. On January 11, 1995, Pike told a friend that she intended to kill Slemmer “because she ‘had just felt mean that day.’” *Id.* at 908. The next day,

armed with a box cutter and a meat cleaver, Pike and two accomplices lured Slemmer to an isolated area. *Id.* at 909. Pike “began hitting Slemmer and banging Slemmer’s head on her knee.” *Id.* She “threw Slemmer to the ground and kicked her repeatedly.” *Id.* When Slemmer threatened to report Pike for her actions, “Pike again repeatedly kicked Slemmer in the face and side.” *Id.* When Slemmer tried to run away, Pike cut her stomach with the box cutter. *Id.* When Slemmer tried to run away again, Pike slashed her across the back. *Id.* As Slemmer begged for her life, Pike repeatedly kicked her in the face and then cut her across the throat several times, and when Slemmer made one final attempt to flee, Pike crushed her skull with a large chunk of asphalt. *Id.* at 910-11.

That evening, Pike told a friend “that she had just killed Slemmer and that she had brought back a piece of [Slemmer’s] skull as a souvenir.” *Id.* at 908. Pike said “that she had cut the victim’s throat six times, beaten her, and thrown asphalt at [her] head.” *Id.* She said “that a pentagram had been carved into [Slemmer’s] head and chest.” *Id.* She danced, smiled, and sang while she recounted these details. *Id.*

C. Procedural Background

1. Pike’s death sentence survived exhaustive review.

In 1996, a jury convicted Pike of first-degree murder and conspiracy to commit first degree murder. *Id.* at 912. The jury sentenced her to death on the conviction for first-degree murder, finding two aggravating circumstances: (1) “the murder was especially heinous, atrocious, or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;” and (2) “the murder was committed

for the purpose of avoiding, interfering with or preventing a lawful arrest or prosecution of the defendant or another.” *Id.* at 913 (cleaned up).

The Tennessee Supreme Court affirmed Pike’s convictions and sentence in 1998. *Id.* at 914. Pike’s bid for state post-conviction relief failed, *Pike v. State*, No. E2009-00016-CCA-R3-PD, 2011 WL 1544207 (Tenn. Crim. App. 2011), as did her federal habeas petition, *Pike v. Gross*, 936 F.3d 372 (6th Cir. 2019), *cert. denied*, 590 U.S. 978 (2020). Pike later filed a motion to reopen her state post-conviction proceeding based on a Tennessee Supreme Court decision regarding life sentences imposed on juvenile homicide offenders, *State v. Booker*, 656 S.W.3d 49 (Tenn. 2022). That motion failed too. *Pike v. State*, No. E2023-01684-CCA-R28-PC (Tenn. Crim. App. May. 17, 2024), *perm. app. denied* (Tenn. Sept. 12, 2024).

In 2004, Pike was convicted of attempted first-degree murder of a fellow inmate after an August 2001 incident in which she choked the victim into unconsciousness with a shoelace. That conviction was also affirmed on direct appeal. *State v. Pike*, No. M2025-00738-CCA-R3-CD, 2006 WL 547997 (Tenn. Crim. App. Mar. 6, 2006), *perm. app. denied* (Tenn. Aug. 21, 2006). Contrary to Pike’s assertion, she was not “kept in solitary confinement for three decades.” Pet’n at 4. To be sure, due to her misconduct, including attempting to kill another inmate, Pike’s access to other inmates has been restricted. But over the years, prison regulations allowed her up to thirty-eight hours per week outside of her cell for exercise, counseling sessions, work as a dorm aide, and crafting sessions. Her confinement did not cut off human

interaction because her security level expressly permitted her to receive contact visits with her family, attorneys, and a spiritual advisor.

2. Pike attacks the State’s execution procedures.

On September 30, 2025, the Tennessee Supreme Court set Pike’s execution date for September 30, 2026. Order, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. Sept. 30, 2025) (“Execution Order”).

On January 8, 2026, Pike filed a complaint for declaratory and injunctive relief in Davidson County Chancery Court. Stay Denial at 1. Among other claims, she brought facial and as-applied Eighth Amendment challenges to Tennessee’s lethal injection protocol. *Id.* On May 6, 2026, the chancery court transferred the case to the Tennessee Supreme Court, citing Tennessee Supreme Court Rule 12(4)(E). *Id.* Because Rule 12(4)(E) does not provide for transfer of cases to the Tennessee Supreme Court, the Tennessee Supreme Court dismissed the transferred case on May 12, 2026, without prejudice to Pike filing a motion that comports with Rule 12(4)(E). *Id.* at 2. The underlying litigation remains pending on the chancery court docket.

On June 12, 2026, Pike filed a motion with the Tennessee Supreme Court, asserting facial and as-applied challenges to Tennessee’s lethal injection protocol and requesting the appointment of a special master “to develop the facts to support these claims.” *Id.* She argued, as relevant here, that Tennessee’s execution protocol violates the Eighth Amendment because her “psychological conditions, including her complex PTSD make it sure or very likely that she will be tortured and disgraced, or decompensate prior to her execution.” Motion at 18, *State v. Pike*, No. M2020-01156-

SC-DPE-DD (Tenn. Jun. 12, 2026) (“Rule 12 Motion”). Citing a history of rape and sexual abuse, Pike argued that placing her, “as the lone female in a vulnerable position surrounded by male corrections officers during the last days of her life will trigger her PTSD and result in a torturous execution or mental decompensation to the point she will be incompetent to be executed.” *Id.* at 18-19. Pike also argued that Rule 12(4)(E) violates the Fourteenth Amendment and the fundamental right of access to the courts because “it eliminates a prisoner’s substantive right to challenge a method of execution in the courts of this state.” *Id.* at 46.

The Tennessee Supreme Court construed Pike’s motion as a motion for stay of execution pursuant to Rule 12(4)(E) and appointed a special master to conduct an evidentiary hearing and make findings of fact and conclusions of law on the following relevant issue, among others:

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[.]

Order at 2, *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. Jul. 10, 2026) (“Special Master Grant”).

The Tennessee Supreme Court appointed Senior Judge W. Mark Ward as the special master. *Id.* at 1-2. The Court had previously appointed Judge Ward as a senior judge for a term of four years, effective June 1, 2023. *Judge Ward Appointed Senior Judge*, Tennessee Courts (May 18, 2023), <https://tinyurl.com/59x4hy4x>. Judge Ward served as a state criminal court judge in Memphis from 2004 to 2022. *Id.*

Before that, he served as an assistant public defender in Memphis from 1983 to 2004. *Id.* He is the author of Tennessee Criminal Trial Practice, a longtime publication by West Publishing Company that is used by Tennessee judges, prosecutors, and defense attorneys and is regarded as the authoritative treatise on criminal trial practice in Tennessee. *Id.* Judge Ward also teaches criminal procedure at the University of Memphis Cecil C. Humphreys School of Law, and students have selected him as Adjunct Professor of the Year multiple times. *Id.*

The special master conducted an evidentiary hearing from August 11-13, 2026. Stay Denial at 3. The parties agreed at the hearing that, pursuant to the execution protocol, an inmate is transferred from their existing facility to Riverbend forty-eight hours before the scheduled execution, not two weeks as the referred question had suggested. *Id.* at 8. The special master noted that the State had made accommodations for Pike's scheduled execution that further altered the referred question. *Id.* Specifically, the State represented that female corrections officers would transport Pike to Riverbend no earlier than twenty-four hours before her execution; that Pike will be the only inmate in the capital punishment unit at Riverbend her entire time there; that the State would make every effort to assign only female staff to observe Pike while she is at Riverbend; and that a privacy screen will be available to Pike when she is using the restroom or showering. *Id.* Given these accommodations, the special master found that Pike would not be observed by male guards at Riverbend for two weeks before her execution and instead would be observed by female guards at Riverbend for less than twenty-four hours. *Id.*

The special master issued his final report on August 20, 2026. *Id.* at 3. He concluded that Pike “failed to prove by a preponderance of evidence that her . . . history of sexual assault and diagnosis of Post Traumatic Stress Disorder (“PTSD”) . . . would make it sure or very likely that Tennessee’s lethal injection protocol would cause her serious illness and needless suffering.” *Id.* He found that Pike’s accommodations minimized the potential for her to experience significant triggering or anxiety. *Id.* at 8-9.

For two reasons, the special master discounted Dr. Bethany Brand’s testimony that strapping Pike to a gurney or inserting an IV near her chest or groin would be highly triggering due to her history of abuse. *Id.* at 8. *First*, the special master explained that “there d[id] not appear to be any scenario by which Dr. Brand believes Ms. Pike would avoid mental suffering, absent no execution at all.” *Id.* *Second*, Dr. Brand had not spoken to Pike since 2023 and indicated in her report from that time that Pike had “the tools to control her emotions and deal with life’s stressors.” *Id.* Thus, the special master concluded that it was speculative whether Pike would suffer any mental harm under the State’s protocol substantially greater than the harm posed by execution through any method. *Id.* at 9.

The special master also held that Pike failed to establish by a preponderance of the evidence that her proposed alternative methods of execution—placement of a central IV line or hanging—would significantly reduce a substantial risk of harm. *Id.* at 3. He rejected the central line as an alternative because it is not a distinct method of execution such as hanging or use of a firing squad and because this Court has never

held that carrying out a prescribed method of execution with slightly different equipment or procedures can suffice as an alternative method of execution. *Id.* at 12. Because Pike did not offer a specific hanging protocol for comparison, the special master found it difficult to determine what psychological harm, if any, hanging would cause Pike and how that harm would compare to that potentially caused by lethal injection. *Id.* at 14. But the special master assumed that under any hanging protocol it would be necessary to forcibly remove Pike from her cell, restrain her, force her to the execution chamber, force her up to the gallows, and restrain her movement. *Id.* Based on these assumptions, the special master concluded that any hanging protocol would be at least as mentally stressful as lethal injection. *Id.*

Per Rule 12(4)(E)'s allowance, Pike filed objections to the special master's report, and the parties submitted additional briefing on Pike's constitutional challenge to Rule 12(4)(E). *Id.* at 4. On review of the evidentiary record, the special master's findings of fact and conclusions of law, and the parties' extensive briefing, the Tennessee Supreme Court denied Pike's stay request and her challenge to Rule 12(4)(E). *Id.* at 22.

The Court agreed in total with the special master's findings of fact and conclusions of law on Pike's Eighth Amendment claim of mental suffering. *Id.* at 9-10. "To the extent that Ms. Pike's claim is premised on allegations that being strapped to a gurney during the execution process will trigger memories of her sexual assaults," the Court explained, "she has likewise failed to establish that this aspect of the protocol would 'superadd[]' pain in a manner that violates the Eighth

Amendment.” *Id.* at 10 n.6 (quoting *Bucklew*, 587 U.S. at 136–37). Regarding Pike’s central line proposal, the Court held that entertaining such a minor variation in the existing protocol would transform the Court into a “board[] of inquiry charged with determining best practices for executions”—a form of judicial intrusion the Constitution does not permit. *Id.* at 12 (quoting *Bucklew*, 587 U.S. 119, 120). Regarding Pike’s hanging proposal, the Court agreed with the special master that Pike failed to establish that this alternative would substantially reduce the risk of harm compared to lethal injection. *Id.* at 14.

The Court also rejected Pike’s claim that Rule 12(4)(E) eliminates her substantive right to challenge a method execution in state court. *Id.* at 19. This claim, the Court explained, is premised on Pike’s erroneous view that the rule permits the Court to exercise original jurisdiction over state collateral claims. *Id.* at 14. The Court reiterated, as it had in other cases preceding Pike’s stay motion, that Rule 12(4)(E) “neither created a new procedural avenue” for litigating execution challenges “nor granted this Court original jurisdiction” to entertain any such claims. *Id.* at 18 (quoting Order, *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Tenn. Apr. 30, 2026)). Rule 12(4)(E), the Court explained, “applies narrowly to ‘state court collateral litigation that would potentially affect the method or timing of execution’ after this Court has set a date of execution.” *Id.* (quoting Tenn. Sup. Ct. R. 12(4)(E)). “It requires that such litigation ‘commence with the filing of a motion in this Court’ so that this Court can determine whether to ‘grant a stay or delay of [the] execution date pending resolution of [that] collateral litigation.’” *Id.* “And ‘[i]f the collateral

litigation may involve fact-finding,' it allows this Court to appoint a special master to assist with that determination, which requires consideration of the prisoner's likelihood of success on the merits." *Id.*

REASONS FOR DENYING A STAY AND THE WRIT

For four reasons, Pike does not meet the high standard for a stay, which requires showing “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).

First, this Court lacks jurisdiction to review Pike’s Eighth Amendment claim. With respect to state court decisions, this Court may review only “[f]inal judgments or decrees . . . by the highest court of a State.” 28 U.S.C. § 1257(a). But the order Pike appeals is not “final as an effective determination of [Pike’s underlying] litigation,” which remains pending in the state trial court, *Mkt. St. R. Co. v. R.R. Comm’n of Cal.*, 324 U.S. 548, 551 (1945).

Second, Pike’s meritless Eighth Amendment claim is not certworthy because there is no unsettled question for this Court to resolve, and the Court below rejected her claim through a faithful application of this Court’s settled precedent.

Third, Pike’s meritless attack on a state procedural rule is not certworthy. Rule 12(4)(E)’s accommodation for judicial review of end-stage stay requests ensures due process by applying a universal review standard for preliminary injunctive relief upon due consideration of a developed evidentiary record.

Fourth, beyond a lack of jurisdiction or certworthy issue, equity also weighs heavily against a stay given Pike’s egregious delay in seeking redress from this Court

just five days before her execution and given the grave finality interest shared by the State and Pike’s victims.

I. This Court Lacks Jurisdiction over Pike’s Eighth Amendment Claim.

For two reasons, this Court lacks jurisdiction over Pike’s Eighth Amendment claim. *First*, the Tennessee Supreme Court did not resolve the Eighth Amendment question Pike asks this Court to review. *Second*, the Tennessee Supreme Court did not issue a final judgment on Pike’s Eighth Amendment claim.

A. Pike asks this Court to resolve whether “her claim of mental suffering and psychological terror [is] cognizable under the Eighth Amendment to the United States Constitution.” Pet’n at i. But the Tennessee Supreme Court did not resolve this question alone, let alone resolve it adversely to Pike. The Court has no jurisdiction to render an advisory opinion on a federal question that was not resolved adversely to Pike and that cannot affect the decision below.

This Court’s “only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights.” *Herb v. Pitcairn*, 324 U.S. 117, 125–26 (1945). That is, the Court’s “power is to correct wrong judgments, not to revise opinions.” *Id.* “[I]f the same judgment would be rendered by the state court after [this Court] corrected its views of federal laws, . . . review could amount to nothing more than an advisory opinion.” *Id.* And the Court is “not permitted to render an advisory opinion.” *Id.* In short, “[w]hen this Court reviews a state court decision on direct review pursuant to 28 U.S.C. § 1257, it is reviewing the judgment; if resolution

of a federal question cannot affect the judgment, there is nothing for the Court to do.” *Coleman v. Thompson*, 501 U.S. 722, 730 (1991).

These principles foreclose jurisdiction here. Pike asks this Court to resolve whether “her claim of mental suffering and psychological terror [is] cognizable under the Eighth Amendment to the United States Constitution,” Pet’n at i, but the Tennessee Supreme Court expressly “assum[ed] that psychological pain alone can support an Eighth Amendment claim.” Stay Denial at 9. Resolution of Pike’s question presented thus will not affect the decision below. A holding that psychological pain can support an Eighth Amendment claim will not affect the Tennessee Supreme Court’s decision that Pike is unlikely to succeed on such a claim. Nor will a holding that psychological pain cannot support an Eighth Amendment claim alter that decision. Thus, “there is nothing for the Court to do” and no jurisdiction to review a question that the decision below assumed in Pike’s favor. *Coleman*, 501 U.S. at 730 (1991).

B. But even had the Tennessee Supreme Court resolved whether Pike’s claim is cognizable, this Court still lacks jurisdiction. The Tennessee Supreme Court resolved only Pike’s request for interlocutory injunctive relief—a stay of execution. Stay Denial at 22. It did not issue any final judgment on the mental suffering claim in Pike’s underlying method-of-execution suit, which remains pending in the trial court. With no final state court judgment to review, this Court lacks jurisdiction.

“Under 28 U.S.C. § 1257(a), Supreme Court review of state court decisions is available only with respect to ‘[f]inal judgments or decrees rendered by the highest

court of a State in which a decision [on a federal question] could be had.” S. Shapiro, K. Geller, T. Bishop, E. Hartnett, & D. Himmelfarb, *Supreme Court Practice* § 3.4, 154 (10th ed. 2013). Section 1257(a) “establishes a firm final judgment rule.” *Jefferson v. City of Tarrant*, 522 U.S. 75, 81 (1997).

To be reviewable by this Court, a state-court judgment must be final “in two senses: it must be subject to no further review or correction in any other state tribunal; it must also be final as an effective determination of the litigation and not of merely interlocutory or intermediate steps therein.” *Market Street R. Co. v. Railroad Comm’n of Cal.*, 324 U.S. 548, 551 (1945). “It must be the final word of a final court.” *Id.*

This Court has consistently held that it lacks jurisdiction under 28 U.S.C. § 1257(a) to review a state court’s denial of interlocutory injunctive relief when that denial does not constitute a final judgment. *Board of Commissioners v. Lucas* illustrates. 93 U.S. 108 (1876). There, this Court held that a judgment of a state supreme court simply reversing an interlocutory order granting a preliminary injunction—without directing dismissal of the complaint—is not final and not reviewable by this Court. *Id.* at 113-14.

Likewise here, the Tennessee Supreme Court’s denial of Pike’s Rule 12(4)(E) stay motion is not a final judgment. The decision is tantamount to an interlocutory order denying a preliminary injunction. And it did not resolve Pike’s still-pending complaint in the trial court. As the Tennessee Supreme Court explained, Rule 12(4)(E) “merely provides a procedure for th[e] Court to determine whether a stay is

warranted *so that the claims may be fully adjudicated on the merits.*” Stay Denial at 22 (emphasis added). In other words, Rule 12(4)(E) provides only for a temporary stay of execution to “facilitate[] existing state collateral proceedings.” Order, *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Feb. 17, 2026). The rule “neither created a new procedural avenue nor granted th[e] [Tennessee Supreme] Court original jurisdiction to adjudicate an[y]. . . claim.” Order, *State v. Carruthers*, No. W1997-00097-SC-DDT-DD (Apr. 30, 2026). Pike’s claim accordingly remains pending.

Without a final state court judgment or final adjudication of any Eighth Amendment claim, this Court lacks jurisdiction to review Pike’s first question presented.

II. Pike’s Meritless Eighth Amendment Claim Is Not Certworthy.

Pike’s underlying Eighth Amendment claim of mental suffering does not tee up any “compelling reason[]” for this Court’s review. Sup. Ct. R. 10. She attempts to gin up a circuit split on whether mental suffering and psychological terror are cognizable in a method of execution challenge under the Eighth Amendment. Pet’n at i. But again, the Tennessee Supreme Court did not resolve this question against her. And Pike admits that this Court has never resolved it either. *Id.* At base, Pike seeks error correction—with no apparent error—on a factbound application of this Court’s established precedent. That is “not among the ‘compelling reasons’” to grant review. *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)).

Given Tennessee’s “mainstay” pentobarbital execution method, Pike faces an “exceedingly high bar” to relief on her claim. *Lee*, 591 U.S. at 980. The Tennessee Supreme Court’s rejection of her claim rests on a clear and correct application this Court’s established precedent. And Pike offers no compelling argument (at 11-17) to the contrary.

The Tennessee Supreme Court’s decision rests on a straightforward application of this Court’s precedent. Taking cue from this Court’s recognition that the Eighth Amendment prohibits forms of punishment involving the “superaddition of *terror*, pain, or disgrace,” *Bucklew*, 587 U.S. at 133 (emphasis added), the Tennessee Supreme Court simply “assum[ed] that psychological pain alone can support an Eighth Amendment claim.” Stay Denial at 9. The Court then agreed in total with the special master’s fact findings and legal conclusions on Pike’s Eighth Amendment claim to hold it had no likelihood of success on the merits. *Id.* at 9-10. This holding is correct.

First, the Tennessee Supreme Court did not err in holding that “[t]o the extent that Ms. Pike’s claim is premised on allegations that being strapped to a gurney during the execution process will trigger memories of her sexual assaults,” she “failed to establish that this aspect of the protocol would ‘superadd[]’ pain in a manner that violates the Eighth Amendment.” *Id.* at 10 n.6 (quoting *Bucklew*, 587 U.S. at 136–37). That holding has plenty of record support. Female corrections officers will transport Pike to Riverbend no earlier than twenty-four hours before her execution; Pike will be the only inmate in the capital punishment unit at Riverbend her entire

time there; the State will make every effort to assign only female staff to observe Pike while she is at Riverbend; and a privacy screen will be available to Pike when she is using the restroom or showering. *Id.* at 8. These accommodations, the special master reasonably found, minimize the potential for Pike to experience significant triggering or anxiety during her execution. *Id.* at 8-9.

Pike's contrary proof did not hold up to scrutiny by the special master, who, contrary to Pike's accusation of bias (at 9, 20), is a highly distinguished trial judge, adored law school professor, renowned criminal law scholar, and highly experienced former public defender. *Judge Ward Appointed Senior Judge*, Tennessee Courts (May 18, 2023), <https://tinyurl.com/59x4hy4x>. As the special master noted, "there d[id] not appear to be any scenario by which [Pike's expert] Dr. Brand believes Ms. Pike would avoid mental suffering, absent no execution at all." Stay Denial at 8. The special master further discounted Dr. Brand's testimony because the two had not spoken since 2023, and Dr. Brand reported then that Pike had "the tools to control her emotions and deal with life's stressors." *Id.* These reasonable assessments of Dr. Brand's testimony present no certworthy issue because they are not "clearly erroneous." *Hernandez v. New York*, 500 U.S. 352, 369 (1991) (acknowledging the "clearly erroneous" standard for direct review of factual findings by state trial courts).

And the Tennessee Supreme Court's agreement with the special master's legal conclusions closely tracks this Court's established precedent. Dr. Brand's stance that Pike can avoid unconstitutional suffering only by avoiding execution altogether runs contrary to this Court's recognition that "there must be a constitutional means of

carrying . . . out” a death sentence “because it is settled that capital punishment is constitutional.” *Glossip*, 576 U.S. at 869. And this Court’s opinion in *Resweber* only further supports the rejection of Pike’s claim that her mental health conditions stemming from prior sexual abuse combined with execution restraint and IV-setting procedures will result in intolerable anguish. 329 U.S. 459. In *Resweber*, this Court rejected the contention that the Eighth Amendment prohibited Louisiana from subjecting a prisoner to a second attempt at electrocution after a first failed attempt in which “[t]he executioner threw the switch but, presumably because of some mechanical difficulty, death did not result.” *Id.* at 460. During the first failed attempt, the prisoner’s “lips puffed out and his body squirmed and tensed and he jumped so that the chair rocked on the floor.” *Id.* at 480 n.2 (Burton, J., dissenting). Nonetheless, this Court held that “the fact that petitioner ha[d] already been subjected to a current of electricity [did] not make his subsequent execution any more cruel in the constitutional sense than any other execution.” *Id.* at 463. Absent “malevolence” or a “purpose to inflict unnecessary pain,” the Court concluded that the Constitution did not prohibit Louisiana from subjecting the prisoner to those same risks a second time in order to carry out his death sentence. *Id.* (emphasis added)

The State has extended every conceivable accommodation to Pike to minimize her mental suffering. And the execution protocol certainly includes nothing “malevolen[t]” or with a “purpose to inflict unnecessary [suffering].” *Id.* Like *Resweber*’s first failed execution attempt, Pike’s prior abuse and mental struggles are tragic to say the least. But they are no cause to insulate her from a lawfully imposed

and exhaustively reviewed death sentence that a jury of her peers imposed purely because of her own horrific conduct. There is nothing certworthy about the Tennessee Supreme Court’s conclusion that Pike is unlikely to succeed on the merits of her contention that Tennessee’s execution protocol “superadds” pain in violation of the Eighth Amendment.

Second, there is likewise nothing certworthy about the Tennessee Supreme Court’s rejection of Pike’s proposed alternate execution methods. That Court rightly held that entertaining proposals for minor variations like central line placement would transform the Court into a “board[] of inquiry charged with determining best practices for executions”—a form of judicial intrusion the Constitution does not permit. Order at 12 (quoting *Bucklew*, 587 U.S. 119, 120). Beyond that, Pike offers no argument that this slight variation differs from Tennessee’s protocol such that it “would *significantly* reduce a substantial risk of severe pain” or mental suffering. *Bucklew*, 587 U.S. at 134 (emphasis added). And in any event, central line placement is already a contemplated alternative within the existing protocol, as Pike acknowledges (at 8, 21).

It barely warrants mention that the Tennessee Supreme Court rightly agreed with the special master that Pike failed to establish that hanging would substantially reduce the risk of mental harm compared to lethal injection. Stay Denial at 14. She offered no specific hanging protocol for comparison and never explained how a hanging protocol would eliminate the need for her to be “forcibly remove[d] from her cell, “restrain[ed],” “force[d] . . . to the execution chamber” and “up to the

gallows,” and “restrain[ed].” *Id.* The absurd suggestion that hanging would significantly reduce a substantial risk of severe pain as compared to lethal injection only shows the lengths death-row prisoners will go to obfuscate.

In sum, there is no unsettled question for this Court to resolve about Pike’s meritless Eighth Amendment claim. The Court below assumed the answer to Pike’s question in her favor and rejected her claim through a faithful application of this Court’s settled precedent. That decision presents no compelling basis for certiorari.

III. Pike’s Meritless Challenge to State Procedural Law Is Not Certworthy.

Pike’s claim (at 17) that “Rule 12(4)(E) is an unconstitutional limitation on a prisoner’s right to challenge methods of execution” also presents no certworthy issue. This due-process claim tees up no “compelling reason[]”—from Rule 10 or otherwise—to justify this Court’s review. Pike does not suggest that the decision below “conflict[s] with the decision of a United States court of appeals on the same important matter” or “conflicts with a decision by a state court of last resort.” Sup. Ct. R. 10(a). And she does not argue that the court below “departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court.” *Id.* Instead, she presses the outlandish theory (at 20, 23) that Rule 12(4)(E) deprives access to the courts. But there is no compelling reason to grant review of that argument.

Under the U.S. Constitution, due process is satisfied when a claimant has “the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S.

545, 552 (1965)). Satisfying that capacious standard often does not demand the strictures of a judicial hearing. *See Parham v. J. R.*, 442 U.S. 584, 607-08 (1979). Indeed, this Court has long resisted “imposing upon the States . . . any procedural requirements beyond those demanded by rudimentary due process.” *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).

That is why when “full judicial hearings” take place, they are “considered the gold standard of due process.” *King v. Marion Cir. Ct.*, 868 F.3d 589, 593 (7th Cir. 2017) (Easterbrook, J.) (citing *Marchant v. Pa. R.R.*, 153 U.S. 380, 387 (1894) and *Mathews*, 424 U.S. at 333). Because if “a full and fair hearing” in court followed by appellate review is “not due process of law, then the words can have no definite meaning as used in the Constitution.” *Davidson v. City of New Orleans*, 96 U.S. 97, 105-06 (1877).

That is precisely what Pike received here—the “gold standard of due process.” *King*, 868 F.3d at 593. Three months after the Tennessee Supreme Court set her execution date, and only nine months before that date, Pike filed a trial court complaint requesting declaratory relief on her mental suffering claim for the first time, even though Tennessee first adopted lethal injection as the default method of execution in 2000. With little likelihood that this suit would reach final judgment before her execution, Rule 12(4)(E) offered Pike the chance to seek a stay of execution while her trial court litigation proceeded.

Far from denying her due process or access to the courts, Rule 12(4)(E) enabled Pike to move the Tennessee Supreme Court for a special master so that she could

develop an evidentiary record and receive two tiers of judicial review of her request for a stay. She got a full and fair three-day evidentiary hearing where the special master received testimony from eleven witnesses. Stay Denial at 3. Per Rule 12(4)(E), the special master then entered a thirty-four-page report with detailed findings of fact and conclusions of law. *Id.* Per Rule 12(4)(E), Pike then filed seventy-two pages of objections to that report. *Id.* at 4. And per Rule 12(4)(E) again, the Tennessee Supreme Court afforded a second layer of judicial review upon consideration of Pike’s stay motion, her written objections, the fully developed evidentiary record, and the special master’s report. *Id.* at 2. Again, the Tennessee Supreme Court did not finally deny her claim on the merits. It simply rejected her stay request based on her claim’s unlikelihood of success on the merits. If all this was “not due process of law, then the words can have no definite meaning as used in the Constitution.” *Davidson*, 96 U.S. at 105-06.

None of Pike’s other challenges to Rule 12(4)(E) establish otherwise.

First, contrary to Pike’s suggestion (at 17), the Tennessee Supreme Court’s proper amendment to Rule 12(4)(E) on December 5, 2025, some ten months before Pike’s execution date, surely gave her fair notice of how to properly seek a stay of execution: “the filing of a motion in this Court,” that is, the Tennessee Supreme Court. Tenn. Sup. Ct. R. 12(4)(E).

Second, contrary to her argument (at 18), Rule 12(4)(E) does not unconstitutionally graft a stay standard at the pleading stage of underlying litigation before a trial court with original jurisdiction. Rule 12(4)(E) contemplates that

collateral litigation will proceed in a court with original jurisdiction. It just requires that stays of execution be sought in the Tennessee Supreme Court, and it invokes the universal federal standard applicable to any request for preliminary injunctive relief—likelihood of success on the merits. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell, AK*, 480 U.S. 531, 546 n.12 (1987); *see also Glossip*, 576 U.S. at 876 (applying the likelihood-of-success standard in the context of a stay request based on a method-of-execution claim); *Lee*, 591 U.S. at 980 (same).

Third, it strains credulity when Pike says (at 19) that Rule 12(4)(E) violates this Court’s precedents requiring courts to engage in fact-finding when federal constitutional claims are “plainly and reasonably made.” Again, Pike received a three-day evidentiary hearing where the special master received testimony from eleven witnesses. Stay Denial at 3. The special master entered a thirty-four-page report with findings of fact and conclusions of law on the same claim Pike presents this Court. *Id.* That Pike was not able to present every piece of evidence she desired does not run afoul of this Court’s precedents; due process does not require States to abandon their evidentiary rules when constitutional claims are present. At bottom, the extensive record of full and fair proceedings enabled by Rule 12(4)(E) belies Pike’s empty attack on Tennessee’s established and straightforward procedure for judicial review of end-stage stay requests.

Finally, Pike’s contentions (at 22-24) that Rule 12(4)(E) runs afoul of Tennessee law are meritless, Stay Denial at 18-20, irrelevant to her due process challenge, *Gryger v. Burke*, 334 U.S. 728, 731 (1948), and outside this Court’s

jurisdiction. Beyond Pike’s federal due-process challenge to Rule 12(4)(E), the Tennessee Supreme Court’s application of that rule is “entirely a question of state procedure, presenting no Federal question for review here.” *Rogers v. Peck*, 199 U.S. 425, 435 (1905).

There is no compelling reason to grant review of Pike’s meritless attacks on Tennessee’s established procedure for judicial review of end-stage stay requests when that procedure ensures due process by invoking a universal review standard for preliminary injunctive relief upon due consideration of a developed evidentiary record. This Court has denied stays of execution and certiorari when faced with similar challenges to Rule 12(4)(E) by other Tennessee capital inmates. *Black v. Strada*, 146 S. Ct. 59 (2025). The same result should follow here.

IV. Equity Weighs Heavily Against a Stay.

Pike’s meritless claims are jurisdictionally barred and uncertworthy. Equity only further weighs against a stay.

To start, Pike’s abusive, tactical delay is reason enough to deny a stay. “[T]he last-minute nature of an application that could have been brought earlier, or an applicant’s attempt at manipulation, may be grounds for denial of a stay.” *Bucklew*, 587 U.S. at 150 (cleaned up). “[A] stay of execution is an equitable remedy,” 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).

It is well known that “capital petitioners might deliberately engage in dilatory tactics to prolong their incarceration and avoid execution of a sentence of death.” *Rhines v. Weber*, 544 U.S. 269, 277-78 (2005). “[I]t is the same strategy adopted by many death-row inmates with an impending execution: bring last-minute claims that will delay the execution, no matter how groundless.” *Price v. Dunn*, 587 U.S. 999, 1008 (2019) (Thomas, J., concurring in denial of certiorari). Federal courts accordingly apply “a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004).

That presumption should foreclose Pike’s stay request just five days before her execution. Tennessee adopted lethal injection in 1998 and pentobarbital in 2013—yet Pike did not file her suit until 2026.¹ She could have immediately requested a stay then. Yet she waited until just three months before her execution to seek a stay from the Tennessee Supreme Court. And after that Court denied a stay, Pike waited another two days to seek relief from this Court—leaving the State even less time to respond. In the eleventh hour, Pike hopes to further delay justice. But “[t]he proper response to this maneuvering is to deny [her] meritless request[] expeditiously.” *Price*, 587 U.S. at 1008.

The harm a stay would cause Colleen Slemmer’s family weighs heavily against a stay. The State and crime victims have a “powerful and legitimate interest in

¹ Even measuring from the adoption of Tennessee’s latest execution protocol, Pike waited a year to file her method-of-execution challenge.

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); see Tenn. Const. art. I, §35 (providing constitutional right to crime victims). “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.” *Calderon*, 523 U.S. at 556. “To unsettle these expectations is to inflict a profound injury.” *Id.*

That injury is very real for Colleen’s family. For her mother, May Martinez, “Pike’s conviction and sentencing were only the beginning of a decades-long nightmare.” Steven Hale, *Tennessee Prepares to Execute Christa Pike for the Murder of Colleen Slemmer*, Nashville Banner (Sept. 14, 2026). Martinez recently explained that “she hoped witnessing the execution herself would quiet a fear of Pike that has stayed with her for decades.” *Id.* After thirty years, it is long past time for Martinez to receive the “peace” she seeks. *Id.*

The public interest further tips the balance against a stay. Thirty-one “years after [Pike’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).

The Court should deny a stay to avoid rewarding Pike’s abusive delay tactics, to prevent further trauma to Colleen’s 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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CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing document was emailed to petitioner's counsel, Luke Parker Ihnen, at Luke_Ihnen@fd.org, on September 28, 2026, and a paper copy was also sent by first class mail to Mr. Ihnen, at 800 S. Gay Street, Suite 2400, Knoxville, TN 37929, on September 28, 2026.

s/ Nicholas W. Spangler
Nicholas W. Spangler
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CERTIFICATE OF WORD COUNT

I certify that the accompanying brief in opposition, which was prepared using Century Schoolbook 12-point typeface, contains 8,415 words, excluding the excepted parts of the document. This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document.

s/ Nicholas W. Spangler
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