

No.

IN THE
Supreme Court of the United States

ANTHONY DARRELL DUGARD HINES,
Petitioner,

v.

STATE OF TENNESSEE,
Respondent.

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

APPLICATION FOR A STAY OF EXECUTION

ELIJAH SWINEY
Research & Writing Specialist

DREW S. BRAZER
KATHERINE M. DIX
MARSHALL A. JENSEN*
Asst. Federal Public Defenders

KIT THOMAS
Deputy Chief, Capital Habeas Unit

Federal Public Defender, Middle
District of Tennessee
164 Rosa L. Parks Blvd
Nashville, TN 37203
Phone: (615) 736-5047
Fax: (615) 736-5265
Email: Marshall.Jensen@fd.org
*Counsel for Petitioner

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

Anthony Darrell Hines is scheduled to be executed on **August 13, 2026, at 10:00 AM**. Mr. Hines respectfully requests a stay of his execution pending this Court's disposition of his Petition for a Writ of Certiorari.

I. JURISDICTION

The Tennessee Supreme Court entered judgment on August 6, 2026. Mr. Hines's Petition for a Writ of Certiorari was filed simultaneously with this application on August 9, 2026. The Tennessee Supreme Court set Mr. Hines's execution for August 13, 2026. Mr. Hines sought a stay of execution from the Tennessee Supreme Court, which denied Mr. Hines's request on August 6, 2026. On August 7, 2026, Mr. Hines sought a stay from the Tennessee Supreme Court pending consideration of his Petition for a Writ of Certiorari. To the knowledge of undersigned, that request remains pending. This Court has jurisdiction to entertain Mr. Hines's Petition for a Writ of Certiorari and Application for a Stay of Execution under 28 U.S.C. §§ 1257(a) and 1651(a).

II. BACKGROUND

As is described in Mr. Hines's Petition for a Writ of Certiorari, Tennessee intends to execute Mr. Hines using an individual identified in litigation as "Physician A." Physician A has been Tennessee's execution physician since at least

early 2025 and served in that capacity during the ultimately aborted May 21, 2026 attempt to execute of Tony Von Carruthers. During that execution, Physician A and his supporting medical personnel spent well over an hour trying to establish intravenous access before the Governor ultimately called an end to the execution.

Mr. Hines has also presented unrebutted evidence that as a result of his age and as a consequence of having suffered ischemic strokes in December 2025 and January 2026, he is likely to experience complications during intravenous catheterization that will require the involvement of an appropriately skilled and qualified execution physician. He has also offered proof of the significant physical and psychological harm that occurs during a botched execution, which undoubtedly superadds suffering beyond what is necessary to cause death. Finally, he has produced unrebutted evidence that Tennessee is likely to continue relying on Physician A for his execution and that Physician A is insufficiently skilled or qualified to perform his duties therein. When Mr. Hines's medical condition, Physician A's lack of appropriate skills or qualifications, and Tennessee's recent checkered history of maladministration are considered, there is an intolerable risk of constitutionally impermissible harm to Mr. Hines.¹ *Baze v. Rees*, 553 U.S. 35, 50 (2008).

¹ It is worth noting that the attempt to execute Mr. Carruthers is the second time in recent years when a Tennessee officials were forced to abort an execution at the last

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. Hines has shown a reasonable likelihood of success on the merits of his claims.**

Mr. Hines is likely to succeed in his Petition for a Writ of Certiorari. *See Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). Mr. Hines has demonstrated that the State intends to execute him utilizing a grossly underqualified physician. This physician has already botched the execution of Tony Von Carruthers, in whom he was unable to obtain intravenous access despite numerous attempts. Mr. Hines has also shown that, due to his medical condition, he is at higher risk for a botched execution. Unlike with many maladministration claims, it is difficult to conclude that Mr. Hines has not shown a high probability that, due to the unique circumstances of his condition and the prior history of maladministration in Tennessee, it is likely that he

second due to errors in execution administration, following the aborted executed of Oscar Smith in 2022.

will be subjected to a torturous ordeal wherein repeated physical and psychological harms will be perpetrated that are far above what is required to execute a prisoner.

B. There can be no fair-minded disagreement that Mr. Hines will suffer irreparable harm absent a stay.

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

C. A stay of execution will not substantially injure the interests 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. Hines, 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 likely be unconstitutional, the public interest weighs in favor of the party whose constitutional rights will be violated. *United States v. Raines*, 362 U.S. 17, 27 (1960) (“[T]here is the highest public interest in the due observance of all the constitutional guarantees”); *see also Labrador v. Poe by & through Poe*, 144 S. Ct. 921, 923

(2024) (holding a judgment should be enforced in normal course “absent a showing of its unconstitutionality”) (Gorsuch, J., concurring). Likewise, “[n]o substantial harm can be shown in the enjoinder of an unconstitutional policy.” *Chabad of S. Ohio v. City of Cincinnati*, 233 F. Supp. 2d 975, 987 (S.D. Ohio 2002), *aff’d sub nom. Chabad of S. Ohio & Congregation Lubavitch v. City of Cincinnati*, 363 F.3d 427 (6th Cir. 2004).

Here, Mr. Hines has shown that the questions presented in this case merit certiorari and raise fundamental questions regarding the constitutionality of his execution.

IV. CONCLUSION AND PRAYER FOR RELIEF

The equities of this case weigh in favor of Mr. Hines 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 the public interest lies in staying his execution to resolve important questions of constitutional law. Mr. Hines 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 9th day of August, 2026,

ELIJAH SWINEY
Research & Writing Specialist

DREW S. BRAZER

KATHERINE M. DIX
MARSHALL A. JENSEN*
Asst. Federal Public Defenders

KIT THOMAS
Deputy Chief, Capital Habeas Unit

Federal Public Defender, Middle District
of Tennessee
164 Rosa L. Parks Blvd.
Nashville, TN 37203
Phone: (615) 736-5047
Fax: (615) 736-5265
Email: Marshall.Jensen@fd.org

/s/ Marshall A. Jensen

**Counsel for Petitioner*