

No. 26A273

In the Supreme Court of the United States

STACEY IAN HUMPHREYS,
PETITIONER,

v.

GEORGIA BOARD OF PARDONS AND PAROLES, ET AL,
RESPONDENTS.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF GEORGIA*

**REPLY IN SUPPORT OF MOTION FOR STAY
OF EXECUTION PENDING CERTIORARI**

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ARGUMENT

A. Mr. Humphreys has shown a likelihood of this Court’s review and success on the merits.

Respondents do not meaningfully dispute that, absent this Court’s intervention, Mr. Humphreys will be the first death row prisoner in modern Georgia history who will be required to persuade three out of four—rather than three of five—Board members to vote in favor of clemency to avoid execution.¹ Instead, Respondents attempt to downplay both the legal and factual significance of that novelty. Neither approach is availing.

First, Respondents assert that there is “nothing remotely unconstitutional” about the State’s unprecedented departure from full-Board review. Response in Opposition to Petitioner’s Motion for a Stay (“Response”) at 1. But as Mr. Humphreys demonstrated in both his Petition for a Writ of Certiorari and his Motion for a Stay, there is extensive (albeit inconsistent) authority supporting his assertion that the State’s arbitrary and disparate treatment of him violates the Constitution. Mr. Humphreys’s petition, in other words, affords this Court a clear opportunity to draw the parameters of due process and equal protection in capital clemency proceedings.

¹ In essence, the conflicted Board member has already voted nay on Mr. Humphreys’s application. Pet. App. E147 (“Q. And so a vote to abstain is effectively the same exact thing as a vote to deny, from Mr. Humphreys’ perspective, correct? A. Correct.”).

Second, Respondents’ characterization of the State’s unbroken historical practice as an “ad hoc” “historical accident” is unpersuasive. Response at 2. Respondents’ argument that “the quorum statute exists” to allow the Board to address clemency applications with less than a full Board is equally unsupported. *Id.* at 3. As of December 2025, the Board itself firmly believed five members to be required and reported as much to counsel for Mr. Humphreys: “A full Board of five members is required to consider the clemency request of an offender sentenced to death.” Pet. App. E210. Moreover, Mr. Humphreys’s case is not “the first time” the issue of full-Board review has presented itself. Response at 3. Indeed, the Board previously *sua sponte* suspended an execution “until a fifth member to the Board [wa]s appointed[.]” Pet. App. E220.

Finally, Mr. Humphreys reiterates that his likelihood of obtaining a grant of certiorari is particularly high here as this Court can alternatively grant, vacate, and remand because Mr. Humphreys was never permitted an opportunity to be heard on the constitutional ruling below. Respondents assert that such an argument is “bizarre” because the lower court’s purported rejection of a federal constitutional argument that was never raised was done “*on Humphreys’s behalf*[.]” Response at 2 (emphasis in original). But the notion that a claim can be raised and denied *sua sponte*—without any opportunity for the litigant to be heard—in order to **help** that litigant is far-fetched, to say the least. Regardless, “[n]o extraordinary circumstances justified the [court’s] takeover” of Mr. Humphreys’s litigation here. *United States v. Sineneng-Smith*, 590 U.S. 371, 379 (2020).

B. The equities favor a stay.

Respondents emphasize that “stay motions are often tools to interpose unjustified delay in executing lawful sentences,” and there is, therefore, “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.” Response at 3 (quotations omitted). But as Mr. Humphreys already demonstrated in his request for a stay, this is plainly *not* such a case.

To begin, the State appointed the clearly-conflicted Board member on the same day it obtained Mr. Humphreys’s initial execution warrant. There is no serious argument that Mr. Humphreys could have raised a challenge to her participation in his clemency hearing any sooner. If any party had a clear opportunity to avoid the present circumstances, it was Respondents.

Next, Respondents forced Mr. Humphreys into litigation by refusing to acknowledge that conflict and then fought Mr. Humphreys every step of the way to keep the conflicted Board member on the case notwithstanding the fact that, as the lower court noted, her conflict of interest “kind of hit[s] you in the face[.]” Pet. App. E31.²

² Respondents’ characterization of Mr. Humphreys’s successful (and contested) effort to remove an obviously biased decisionmaker from the body that will determine whether he lives or dies as a “strategy to forestall [his execution]” is disingenuous bordering on absurd. Response at 5.

Finally, even as this Court was set to consider Mr. Humphreys's pending petition for certiorari in the normal course in just a matter of weeks, Respondents chose to force this case on to the emergency track on the same day they filed their Brief in Opposition. Respondents, not Mr. Humphreys, are the reason this case "requir[es] entry of a stay." *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). This Court should not countenance Respondents' attempt to curtail the ordinary and careful review of constitutional questions in this matter of life and death.

CONCLUSION

This Court should grant Mr. Humphreys a stay of his execution.

Respectfully submitted,

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