

No. _____

IN THE
Supreme Court of the United States

LEJAMES NORMAN,
Petitioner,
v.
TEXAS,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE COURT OF CRIMINAL APPEALS OF TEXAS

APPLICATION FOR STAY OF EXECUTION

LeJames Norman's execution is scheduled for September 16, 2026

To the Honorable Samuel Alito, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

LeJames Norman respectfully requests that this Court stay his execution pending the disposition of his petition for writ of certiorari. His petition raises an important question that implicates this Court's long-held understanding that due process is violated when the State obtains a death sentence based on false evidence and argument. *See Mooney v. Holohan*, 294 U.S. 103, 112 (1935); *Napue v. Illinois*, 360 U.S. 264, 265, 269 (1959). When a prosecutor presents evidence and argument

that he knows to be false based on his prior involvement in the trial of a co-defendant, solely to obtain a death verdict, any resulting death sentence fails that standard. Yet, that is what occurred at Norman's penalty phase trial.

I. Requirements for a stay of execution.

A stay of execution is justified pending the disposition of a petition for writ of certiorari. *See Barefoot v. Estelle*, 463 U.S. 880, 889 (1983) ("Approving the execution of a defendant before his appeal is decided on the merits would clearly be improper."). The standards governing when a stay should issue are well-settled. A stay of execution "is an equitable remedy" and "is not available as a matter of right." *Hill v. McDonough*, 547 U.S. 573, 584 (2006). Courts consider:

(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) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

II. Norman's petition is likely to succeed on the merits.

Norman has shown a likelihood of success on the merits for the reasons explained in his petition for writ of certiorari. In short, although the Court of Criminal Appeals of Texas ("TCCA") found an abuse of the writ and held that it was not reviewing the merits of the claim, that determination is necessarily founded on a constitutional analysis, since a subsequent application may be authorized when the applicant shows that "by clear and convincing evidence, but for a violation of the

United States Constitution no rational juror would have answered in the state's favor one or more of the special issues that were submitted to the jury in the applicant's trial." Tex. Code Crim. Proc. art. 11.071 § 5(a)(3). As discussed in the petition for writ of certiorari, the Fifth Circuit has recognized that when the TCCA reviews a claim under Article 11.071, § 5(a)(3), that review is not independent of the federal question. *Busby v. Davis*, 925 F.3d 699, 706–10 (5th Cir. 2019). As to the merits, proof of the prosecutor's mendacity and misconduct is amply documented due largely to its presence in the transcribed earlier proceedings of Norman's co-defendant. It presents a stark and compelling picture of the State's duplicity and fabrication to bring about a death sentence.

III. LeJames Norman will be irreparably injured absent a stay.

Norman's impending execution is plainly an irreparable injury. In a capital case, this factor "weighs heavily in the movant's favor" based on the "irreversible nature of the death penalty." *O'Bryan v. Estelle*, 691 F.2d 706, 708 (5th Cir. 1982). Obviously, once his execution occurs the injury (Norman's death) can never be repaired.

IV. Harm to other parties or the public is minimized.

Norman recognizes that "the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Hill*, 547 U.S. at 584. However, any injury to other parties by staying Norman's execution must be balanced against the serious constitutional question that this case presents. If the State is permitted to carry out Norman's execution, it has the practical effect of encouraging prosecutors

to present false and inconsistent evidence and arguments during capital murder trials. Such a result would be both unjust and encourage subsequent misconduct by the prosecutors. It supports the public interest to remind prosecutors of this Court's time-honored admonishment that while the prosecutor "may strike hard blows, he is not at liberty to strike foul ones." *Berger v. United States*, 295 U.S. 78, 88 (1935).

CONCLUSION

This Court should stay Norman's execution pending the disposition of his petition for writ of certiorari.

Respectfully submitted,

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