

****THIS IS A CAPITAL CASE – EXECUTION SET FOR SEPTEMBER 23, 2026****
No.

In the Supreme Court of the United States

KER'SEAN O. RAMEY,

Applicant,

v.

TEXAS,

Respondent.

EMERGENCY APPLICATION FOR STAY OF EXECUTION

Ronald A. McIntire

Counsel of Record

Alisha C. Burgin

ASHURST PERKINS COIE US LLP

1999 Avenue of the Stars, Suite 1000

Los Angeles, California 90067-6022

(310) 788-9900

Ronald.McIntire@ashurstperkins.com

September 21, 2026

Counsel for Applicant Ker'Sean O. Ramey

EMERGENCY APPLICATION FOR STAY OF EXECUTION

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

The State of Texas has scheduled the execution of Ker'Sean Olajuwa Ramey for September 23, 2026. Mr. Ramey respectfully requests that this Court stay his execution pending the disposition of his concurrently filed Petition for a Writ of Certiorari ("Petition"). Mr. Ramey's Petition challenges the September 21, 2026 order of the Texas Court of Criminal Appeals ("TCCA") finding an abuse of the writ and dismissing Mr. Ramey's First Subsequent Application for Post-Conviction Writ of Habeas Corpus Pursuant to Texas Code of Criminal Procedure Article 11.071 ("Subsequent Application") without reviewing the merits of his claims.

Specifically, Mr. Ramey seeks emergency relief from the Court based on (1) the State's violation of Mr. Ramey's right to equal protection under *Batson v. Kentucky*, 476 U.S. 79 (1986) (as informed by this Court's recent decision in *Pitchford v. Cain*, 146 S. Ct. 1345 (2026)) by its exclusion of jurors based on race; and (2) the constitutionally ineffective "assistance" of Mr. Ramey's trial counsel, in particular during the punishment phase of his trial.

PROCEDURAL BACKGROUND

On May 7, 2026, by order of the 24th District Court of Victoria County, Mr. Ramey's execution was set for September 23, 2026. On September 9, 2026, Mr. Ramey submitted his Subsequent Application in which he raised five claims: (i) a *Batson* claim based on the State's exclusion of certain jurors based on their race, which was not properly decided, as the trial court did not afford Mr. Ramey's counsel an opportunity to rebut the State's proffered race-neutral reasons, as *Pitchford* explains is required; (ii) ineffective assistance of counsel at the guilt/innocence phase of Mr. Ramey's trial; (iii) ineffective assistance of counsel at the punishment phase of Mr. Ramey's trial; (iv) constitutional violations arising from the State's knowing and unknowing presentation of false evidence; and (v) constitutional

violations arising from the State’s presentation of mutually inconsistent theories of culpability at Mr. Ramey’s and his co-defendant’s respective trials.

On September 15, 2026, the State filed a Motion to Dismiss Mr. Ramey’s Subsequent Application. The State did not serve Mr. Ramey’s counsel with this and other papers, such that the undersigned counsel learned of the State’s Motion the following day, during a routine review of the Court of Criminal Appeal’s docket. Regardless, Mr. Ramey opposed the State’s Motion on September 18, 2026.

On September 21, 2026, the TCCA dismissed Mr. Ramey’s Subsequent Application without reviewing the merits of his claims—two days before his scheduled execution.

REASONS FOR GRANTING A STAY

A stay of execution is appropriate where there is a “presence of substantial grounds upon which relief might be granted.” *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). In determining whether to issue a stay pending the consideration of a petition for writ of certiorari, there “must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious.” *Id.* (citation omitted). In so doing, the petitioner must demonstrate 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.” *Id.* Mr. Ramey satisfies each of these factors here. As this Court has warned, courts should not “fail to give non-frivolous claims of constitutional error the careful attention that they deserve.” *Id.* at 888.

I. There is a reasonable prospect that Mr. Ramey’s petition will succeed.

The reasons for Mr. Ramey’s likelihood of success on the merits are set forth in detail in his concurrently filed Petition, which provides substantive detail on the State’s *Batson* violation, and the egregiously constitutionally ineffective “assistance” provided by Mr. Ramey’s trial counsel, Joseph Rutheford Willie, II, a full-time dentist who dabbled in the law on the side. Moreover, the TCCA’s determination that there was an abuse of the

writ and its holding that it was not reviewing the merits of the claims is founded on constitutional analysis because subsequent applications may be authorized where (1) “the current claims and issues have not been and could not have been presented previously in a timely initial application or in a previously considered application . . . because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application”; or (2) there is “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)(1), (3). As the Fifth Circuit has recognized, when the TCCA reviews a claim under § 5(a), that review is not independent of the federal question. *Busby v. Davis*, 925 F.3d 699, 706–10 (5th Cir. 2019).

II. If the execution is not stayed, Mr. Ramey will suffer irreparable harm.

As this Court has recognized, “execution is the most irremediable and unfathomable of penalties.” *Ford v. Wainwright*, 477 U.S. 399, 411 (1986). Absent a stay, Mr. Ramey will suffer the ultimate harm: he will be put to death. Death is permanent. Justice requires that Mr. Ramey not suffer this irreversible harm, especially before this Court completes its merits review of his claims.

III. The balance of the equities and public interest support a stay.

In stark contrast to the permanent harm Mr. Ramey faces, the State faces no meaningful prejudice if the Court imposes a stay of execution that is sufficient to permit due judicial consideration. Any interest the State has in finality is subordinate to ensuring that an execution is carried out in accordance with due process and the Constitution. That is the very purpose of the stay mechanism. *Scripps-Howard Radio v. F.C.C.*, 316 U.S. 4, 9–10 (1942) (a stay is part of a federal court’s “traditional equipment for the administration of justice,” allowing courts to hold proceedings in abeyance to “prevent irreparable injury. . . resulting from the premature enforcement of a determination which may later be found to

have been wrong”). Indeed, as this Court has long recognized, “[t]he choice for a reviewing court should not be between justice on the fly or participation in what may be an ‘idle ceremony.’” *Nken v. Holder*, 556 U.S. 418, 427 (2009).

While of course, the State and victims of a crime have an important interest in the timely enforcement of a sentence, such a sentence cannot be considered just if it does not comport with the Constitution’s requirements. Moreover, the public has a strong interest in the integrity of the criminal justice system.

The issues raised in Mr. Ramey’s Petition (and in previous filings) seriously call into question the integrity of his trial and of the criminal justice system. As this Court has consistently recognized, including, most recently in *Pitchford*, the “Constitution forbids striking even a single prospective juror for a discriminatory purpose.” *Snyder v. Louisiana*, 552 U.S. 472, 478 (2008) (citation omitted). Indeed, this Court has refused to uphold a death sentence imposed by a jury where even one veniremember had been improperly excluded. *Davis v. Georgia*, 429 U.S. 122, 123 (1976) (“[I]f a venireman is improperly excluded . . . any subsequently imposed death penalty cannot stand.”); *see also Snyder*, 552 U.S. 472 (setting aside conviction and death sentence for race-based peremptory strike). Here, the State systematically excluded every Black veniremember from Mr. Ramey’s jury, and the trial court ruled on Mr. Ramey’s ensuing *Batson* challenge without affording Mr. Ramey’s trial counsel an opportunity to rebut the State’s (facially discriminatory) reasons for the challenged peremptory strike. Allowing the State to carry out Mr. Ramey’s execution is effectively an invitation for unscrupulous prosecutors to engage in discriminatory jury selection practices, prioritizing the “win” over justice. This is both an unjust result, and it critically undermines public confidence in, and the integrity of the criminal justice system.

The same is true of Mr. Ramey’s ineffective assistance of counsel claim. The criminal justice system only works when there is robust advocacy on both sides. Dr. Willie’s utter abdication of his duties allowed a cascade of constitutional violations to go unchecked, resulting in Mr. Ramey’s wholly unreliable conviction and sentence. Indeed, a Texas

appellate judge recently recognized Dr. Willie's incompetence, outlining instances where Dr. Willie failed to effectively represent civil and criminal clients, which resulted in professional misconduct findings. *See Ex parte Marceaux*, No. WR-97,305-01, 2026 WL 2436060 (Tex. Crim. App. Aug. 20, 2026) (Finley, J., dissenting). Essentially, Mr. Ramey was left to stand alone against the machinery of the State, on a playing field that is far from level. The Sixth Amendment requires more.

At bottom, Mr. Ramey's was a capital case rife with constitutional errors, which allowed *the jury to sentence him to death in less than 14 minutes*. Justice demands so much more before imposing the ultimate punishment: death.

* * *

Mr. Ramey sought certiorari with all due expediency following the denial of his Subsequent Application, issued on September 21, 2026, just two days before his scheduled execution.

In these circumstances, the balance of equities and the public interest support this Court's issuance of a stay of Mr. Ramey's imminently impending execution.

CONCLUSION

Mr. Ramey's execution should be stayed pending the disposition of his petition for a writ of certiorari.

September 21, 2026

Respectfully submitted,

/s/ Ronald A. McIntire

Ronald A. McIntire (ronald.mcintire@ashurstperkins.com)

Counsel of Record

Alisha C. Burgin (alisha.burgin@ashurstperkins.com)

ASHURST PERKINS COIE US LLP
1999 Avenue of the Stars, Suite 1000
Los Angeles, California 90067-6022
(310) 788-9900
Ronald.McIntire@ashurstperkins.com

Counsel for Applicant Ker'Sean O. Ramey