

No. 26A428
CAPITAL CASE

IN THE
Supreme Court of the United States

KENNETH NELSEN, WARDEN

Movant,

v.

CHRISTA PIKE,

Respondent.

**RESPONSE BRIEF IN OPPOSITION
TO APPLICATION TO VACATE THE STAY**

EXECUTION SCHEDULED SEPTEMBER 30, 2026 AT 10:00 A.M. (Central)

FEDERAL DEFENDER
SERVICES OF EASTERN
TENNESSEE, INC.
800 S. Gay Street, Suite 2400
Knoxville, TN 37929
Phone: 865-637-7979
Fax: 865-637-7999
Email: Luke_Ihnen@fd.org

Luke P. Ihnen, TN BPR No. 035190 *
Stephen Ferrell, TN BPR No. 025170

**Counsel of Record*

TABLE OF CONTENTS

Table of Authorities	ii
Introduction	1
Background	1
Argument	3
I. The Movant is unlikely to succeed on the merits	3
II. The Movant will not suffer irreparable harm if there motion to vacate is denied.	6
III. The Movant cannot show that maintaining the stay of execution will substantially injure other parties to the proceedings.	6
IV. The public interest lies with denying the Warden’s motion to vacate that the Sixth Circuit Court of Appeals may finish its work.	7
V. Ms. Pike did not delay in filing her motion.....	8
Conclusion	8

TABLE OF AUTHORITIES

Cases:

<i>Cf. Bennett v. Roper</i> , 904 F. 3d 623 (8 th Cir. 2018)	5
<i>Gonzalez v. Crosby</i> , 545 U.S. 524 (2005)	3, 5
<i>Gonzalez v. Sec’y for Dep’t of Corr.</i> , 366 F.3d 1253 (11th Cir. 2004)	5
<i>Hazel-Atlas Glass Co. v. Hartford-Empire Co.</i> , 322 U.S. 238 (1944)	4
<i>Johnson v. Bell</i> , 605 F.3d 333 (6th Cir. 2010)	4
<i>Klapprott v. United States</i> , 335 U.S. 601 (1949)	4
<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	3, 6
<i>Pike v. Freeman</i> , No. 1:12-CV-35, 2016 WL 1050717 (E.D. Tenn. Mar. 11, 2016).	2
<i>Pike v. Gross</i> , 936 F.3d 372 (6th Cir. 2019)	2
<i>Pike v. State</i> , No. E2009-00016-CCA-R3-PD, 2011 WL 1544207 (Tenn. Crim. App. Apr. 25, 2011)	2
<i>Plaut v. Spendthrift Farm, Inc.</i> , 514 U.S. 211 (1995)	4
<i>Rodwell v. Pepe</i> , 324 F.3d 66 (1st Cir. 2003)	5

<i>Tanner v. Yukins</i> , 776 F.3d 434 (6th Cir. 2015)	4
<i>Tennessee v. Pike</i> , No. M2020-01156-SC-DPE-DD (Tenn. Aug. 13, 2026)	1

INTRODUCTION

The Warden (Movant) seeks to vacate a stay of execution entered by the Sixth Circuit Court of Appeals in a case raising grave concerns about the execution of a teenaged survivor of child sexual abuse and rape based on a record whose integrity was tainted by specious arguments and evidence the State now disavows. Now, a panel of the Sixth Circuit Court of Appeals has issued a stay of Ms. Pike’s execution to weigh whether the federal court should consider Ms. Pike’s motion under Fed. R. Civ. P. 60(b)(6). This Court should not intervene.

BACKGROUND

Last month, the State of Tennessee conceded—for the first time—that Christa Pike was a teenaged survivor of child sexual abuse and rape who was struggling with unmedicated bipolar disorder and PTSD at the time of her crime.¹ This was no offhand remark in the courthouse hallway. It was an on-the-record, explicit concession before a court of law that the state “does not dispute” what happened to Ms. Pike.

The importance of that concession cannot be understated. During Ms. Pike’s state court post-conviction proceedings, the court discredited Ms. Pike’s history of repeated, severe child sexual abuse and rape after the State repeatedly called Ms. Pike a “pathological liar” and suggested that she was making up her history of sexual

¹ The transcript reads: “The State does not dispute the terrible things that Ms. Pike suffered. I think everybody in this courtroom wishes that those things had never happened to Ms. Pike. I think we all wish that we were not here today and that she was not on death row.... And so it’s certainly not the State’s intention to try to minimize the suffering that Ms. Pike has experienced.” (Aug. 13 Tr. at 82–83) *Tennessee v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. Aug. 13, 2026).

abuse and rape. The Tennessee Court of Criminal Appeals affirmed the denial of state post-conviction relief, *Pike v. State*, No. E2009-00016-CCA-R3-PD, 2011 WL 1544207, at *1 (Tenn. Crim. App. Apr. 25, 2011), based on the post-conviction court's findings.

Not only that, but the state post-conviction court's own expression of skepticism about the possible impact of the evidence was a reflection of the State's arguments, finding "[t]his lack of credibility with her family members about such serious matters could have been a very negative factor for the jury as it related to [Christa's] credibility to other information which she had told other witnesses and experts." Order Denying Post-Conviction Relief, p. 89–90. For the State to now recognize that the abuse and its impact were very real certainly impugns the integrity of the state court process as well as the habeas court's careful review of the constitutionality of that process.

The federal district court, bound by the AEDPA, also denied relief. *Pike v. Freeman*, No. 1:12-CV-35, 2016 WL 1050717 (E.D. Tenn. Mar. 11, 2016). In adjudicating Ms. Pike's ineffective assistance of counsel claim, that court presumed the correctness of the state court's decision and found that it was neither contrary to nor involved an unreasonable application of federal law. *See Pike v. Freeman*, 2016 WL 1050717 at **9, 15; 28 U.S.C. §§ 2254(d); 2254(e)(1). The Sixth Circuit Court of Appeals affirmed. *Pike v. Gross*, 936 F.3d 372, 374–75 (6th Cir. 2019).

On September 29, 2026, Ms. Pike filed a motion to reopen the federal district court's 2016 judgment pursuant to Fed. R. Civ. P. 60(b)(6). The district court transferred the motion to the Sixth Circuit pursuant to 28 U.S.C. § 2244 to determine

whether Ms. Pike’s motion should be construed as a second or successive habeas petition. The Sixth Circuit issued a temporary stay of execution to consider that question. This Court must allow it to do so.

ARGUMENT

To grant a stay pending appeal, courts must consider the following factors: (1) whether the stay applicant has made a strong showing of the likelihood of success 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, 426 (2009). The party seeking the stay—or, in this case, the party seeking to vacate the stay—bears the burden of establishing each factor, but the first two are “the most critical.” *Id.* at 433–34. In any event, “[t]he whole idea [of a stay] is to hold the matter under review in abeyance” until the appellate court can render “a definitive merits decision.” *Id.* at 432.

At the very least, this Court should allow the Sixth Circuit to issue its decision. Ms. Pike may not ultimately prevail on the merits, but the Respondent has provided no compelling grounds to foreclose the Court of Appeals’ consideration of her motion under prevailing law.

I. The Movant is unlikely to succeed on the merits.

The issue before the Sixth Circuit Court of Appeals is whether Ms. Pike’s 60(b)(6) motion should be construed as a subsequent or successive habeas petition pursuant to 28 U.S.C. § 2244(b). The legal question, under *Gonzalez v. Crosby*, 545

U.S. 524, 532 (2005), is whether Ms. Pike’s 60(b)(6) motion presented a “claim.” AEDPA. 28 U.S.C. § 2244(b).

Rule 60(b) “vests power in courts ... to enable them to vacate judgments whenever such action is appropriate to accomplish justice.” *Klapprott v. United States*, 335 U.S. 601, 615 (1949). *See Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 233-34 (1995) (quoting *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944)); *see also Tanner v. Yukins*, 776 F.3d 434, 438 (6th Cir. 2015) (Rule 60(b) “reflects and confirms the courts’ own inherent and discretionary power, ‘firmly established in English practice long before the foundation of our Republic,’ to set aside a judgment whose enforcement would work inequity.”). *See Johnson v. Bell*, 605 F.3d 333, 336 (6th Cir. 2010) (stating that Rule 60(b) “is inherently equitable in nature,” and “empowers district courts to revise judgments when necessary to ensure their integrity”).

In state post-conviction proceedings, the State presented evidence and argument that Ms. Pike was a pathological liar and that her reported history as a survivor of sexual abuse was fabricated. The trial court relied on that evidence and argument to rule against Ms. Pike, and the federal district court gave deference—as it had to do—to the adverse findings. Now, the State agrees that Ms. Pike is not a “pathological liar.” Rather, it appears, it was the evidence and argument previously presented by the State that was untrue. Now, the State concedes that Ms. Pike was repeatedly raped by multiple men from the time she was a toddler until the year

before she committed her crime.²

This self-evidently describes a defect in the prior proceeding, within the meaning of *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005). At its very foundation, the prior proceeding was tainted by the State’s presentation of evidence and argument that all parties now agree was untrue. This course of events does not describe a “claim” in the sense of a theory as to a particular constitutional right that was violated. Instead, they describe a revelation that everything that came before, and everything on which the conviction, death sentence, and resolution of prior claims stands, no longer exists. The State has now entirely altered its position on the facts of the case that it had previously asserted at all stages in the proceeding. Faced with this undisputed record, the lower court granted a short stay of execution to allow full briefing and measured consideration. And well they should have. *Cf. Bennett v. Roper*, 904 F. 3d 623 (8th Cir. 2018); *Gonzalez v. Sec’y for Dep’t of Corr.*, 366 F.3d 1253, 1297 (11th Cir. 2004) (Tjoflat, J., concurring and dissenting in part) (citing *Rodwell v. Pepe*, 324 F.3d 66 (1st Cir. 2003)).

In any case, the issue for this Court is not whether the State’s abrupt and complete change of litigation heart amounts to a new claim. The issue is whether the Movant has met its heavy burden to vacate a stay. The standard is by now familiar

² The State’s about-face also demonstrates the impact the presentation of this evidence can have on those who hear it. After hearing Dr. Bethany Brand’s compelling testimony, the State’s attorneys recognized the devastating nature of child sexual abuse and rape—including its impact on Ms. Pike’s mental health. The state post-conviction judge would likely have done the same if the State had not invoked debunked myths about victims of sexual violence to undermine Ms. Pike’s credibility.

and requires, most importantly, “a strong showing of the likelihood of success on the merits” and proof that “the applicant will be irreparably injured” absent vacatur. *Nken v. Holder*, 556 U.S. 418, 426, 433-34 (2009). As noted above, “[t]he whole idea [of a stay] is to hold the matter under review in abeyance” until the appellate court can render “a definitive merits decision.” *Id.* at 432. It intends to do so.

In its application, the Movant presents no case remotely similar to this. Indeed, it presents no cases at all, choosing instead to rely on the dissent below, which likewise cited no apposite cases. The absolute least one can say is that the question about the meaning of the word, “claim” is unsettled. On this record, one can hardly say the Sixth Circuit committed any sort of error, let alone an error sufficient to justify the exceptional remedy of vacating a stay.

II. The Movant will not suffer irreparable harm if their motion to vacate is denied.

The Respondent will not suffer irreparable harm if its motion is denied. At most, Respondent will experience inconvenience. Ms. Pike, by contrast, faces execution. The equities weigh heavily in favor of Ms. Pike.

III. The Movant cannot show that maintaining the stay of execution will substantially injure other parties to the proceedings.

This factor is entitled to less weight under *Nken*. Nevertheless, the question is whether Movant can show “*substantial* injury.” Ms. Pike agrees that a stay of execution is difficult for Ms. Slemmer’s surviving victims. But Ms. Pike’s execution would inflict unimaginable pain on her loved ones. Moreover, allowing her execution

to proceed would send a message to survivors of child sexual abuse and other forms of sexual violence that their experiences are irrelevant to explaining their life choices and actions. It also conveys that parties may invoke debunked myths about the credibility of children and teenaged victims of violence to obtain a death sentence, then may later retreat from those positions when it is convenient.

IV. The public interest lies with denying the Warden's motion to vacate so that the Sixth Circuit Court of Appeals may finish its work.

It is inconceivable that in the 21st century, the criminal justice system is poised to execute a survivor of rape and child sexual abuse whose jury never had the opportunity to consider those facts in weighing the defendant's moral culpability. The public expects that courts will be fair and reasoned, and that death sentences will be carried out only after a process that guarantees that the person facing execution receives effective legal representation and fair consideration of all of the evidence weighing for and against the appropriateness of capital punishment. That did not happen here.

Hundreds of women's rights organizations that have spent decades calling for justice for survivors of sexual violence have decried the injustice of Ms. Pike's death sentence. *See* Appendix 1 (Letters from Advocates for Women). The injustice of Ms. Pike's sentence is compounded by her youth at the time of the crime. Scientific research has proven that the brains of adolescents do not fully develop until their mid-20s. *See* Appendix 2 (Letters from Youth Justice Advocates). Ms. Pike committed her crime on the one-year anniversary of a violent rape, after which she received no therapy or victim support services, at a time when she had the brain of an impulsive

and immature teenager struggling with untreated bipolar disorder and post-traumatic stress disorder. That the courts would allow her execution to proceed without giving full weight to these facts is unfathomable.

Ms. Pike's execution would stain the justice system and undermine the public's confidence in its integrity.

V. Ms. Pike did not delay in filing her motion.

Ms. Pike did not deliberately delay the filing of her 60(b) motion, and it was not filed for the purpose of delaying the execution. The State's change of position on the credibility of Ms. Pike's allegations of sexual abuse occurred during the pendency of her lethal injection litigation before the Tennessee Supreme Court. That court only issued its opinion denying Ms. Pike's motion on September 23, 2026. This Court denied her petition for certiorari on that decision yesterday. She pursued executive clemency that was denied on September 28. She did not delay filing her 60(b) motion.

CONCLUSION

For the above reasons Christa Pike asks that this Court deny the State's Application to Vacate the Stay.

Respectfully submitted,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

By: /s/ Luke P. Ihnen
Luke P. Ihnen, TN BPR No. 035190*
Stephen A. Ferrell, TN BPR No. 025170
800 S. Gay Street, Suite 2400
Knoxville, TN 37929
Phone: (865) 637-7979
Fax: (865) 637-7999
Luke_Ihnen@fd.org
Stephen_Ferrell@fd.org

**Counsel of Record*