

In the Supreme Court of the United States

CAPITAL CASE

EXECUTION SCHEDULED: SEPTEMBER 30, 2026, AT 10:00 AM (CDT)

KENNETH NELSEN, WARDEN,
APPLICANT

v.

CHRISTA PIKE,
RESPONDENT

**REPLY IN SUPPORT OF APPLICATION TO VACATE
STAY OF EXECUTION OF DEATH SENTENCE**

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REPLY BRIEF

For the reasons explained in the State’s application to vacate, this Court should vacate the Sixth Circuit’s stay. Pike’s response fails to establish otherwise.

First, Pike fails to establish that she is likely to prevail on the issue pending before the Sixth Circuit—whether her Rule 60(b) motion is a second or successive habeas petition. As the State explained in its application, and Judge Griffin explained in his dissent, it “clearly” is. Order, No. 26-5864 (6th Cir. Sept. 30, 2026) (Griffin, J., dissenting). By Pike’s “own account, the State’s remarks allegedly challenge [the Sixth Circuit’s] deference to the court’s postconviction determinations. This brings a ‘claim.’” *Id.* That triggers AEDPA’s limitations on second or successive petitions. The district court thus correctly transferred Pike’s Rule 60(b) motion to the Sixth Circuit. And because the mitigation-related ineffective-assistance claim Pike brings has already been raised, AEDPA bars her from bringing it again. *Id.*

Pike’s response is to repeat her argument that the State purported to switch positions on Pike’s credibility and the veracity of her reported history as a survivor of sexual abuse. But again, that all goes to the merits evaluation of her prior habeas claim. And again, that is not the proper subject of a Rule 60(b) motion. “When a movant asserts . . . that a previous ruling which precluded a merits determination was in error[,] he is making a habeas corpus claim.” *Gonzalez v. Crosby*, 545 U.S. 524, 532 n.4 (2005). That is what Pike asserts. And that is why she is not likely to succeed on the merits of her argument that she brought a proper Rule 60(b) motion.

Second, even putting that aside, Pike’s argument rests on a faulty premise. Pike is wrong that any credibility finding regarding Pike’s reports of childhood abuse impacted the post-conviction decision to deny relief on her mitigation-related ineffective-assistance claim. (Indeed, the Tennessee Supreme Court denied Pike’s motion to recall the mandate in her post-conviction case based on the same arguments she makes here. *See Order, Pike v. State*, No. E2009-00016-SC-R11-PD (Tenn. Sept. 29, 2026).) The post-conviction court considered counsel’s decision “not putting information in the record related to the petitioner’s traumatic life events such as having been raped.” *Order*, D.9-5, 4475. The court recognized the problematic nature of counsel putting on this evidence when Pike’s family members did not believe Pike’s reports of these events, which “could have been a very negative factor for the jury as it relates to the petitioner’s credibility to other information which she had told other witnesses and experts.” *Id.*, 4476. The trial court found counsel’s actions reasonable. *Id.*

Critically, however, the post-conviction court also found no prejudice in view of other, cumulative mitigation evidence presented and the overwhelming evidence supporting the aggravating circumstances. *Id.*, 4476-77. “*Even assuming that all the evidence had been presented to the jury that had been presented [on post-conviction review], this court cannot find that the jury’s sentencing verdict would have been different.*” *Id.*, 4477 (emphasis added). And when resolving this issue, the trial court did not rely on any credibility finding about Pike’s underlying reports of childhood abuse.

Despite Pike’s argument to the contrary, this analysis simply cannot be fairly characterized as an “expression of skepticism about the possible impact of the evidence” based upon “the State’s arguments.” Response, p. 2. The trial court’s “expression of skepticism” was based upon its reasoned assessment of whether (1) counsel should have acted differently based upon a review of the full post-conviction record, and (2) whether it would have mattered if counsel had. When resolving *those* issues, the trial court took no position on the relative credibility of Pike’s reports themselves. The relative credibility of those reports played no role in this analysis. Consequently, the federal courts’ habeas orders did not rely on a state-court order “tainted” by State evidence and argument about Pike’s history of childhood abuse. *See Pike v. Gross*, 936 F.3d 372, 374-75 (6th Cir. 2019) (“Because we conclude that the state court’s determination that she is unable to establish prejudice on her claims of ineffective assistance of counsel during the penalty phase of her capital trial was not an unreasonable application of clearly established federal law, we affirm.”); *see also id.* at 381 (“[B]ecause the jury heard largely the same narrative as Pike now presents, the Tennessee Court of Criminal Appeals’ conclusion that Pike failed to establish prejudice from Talman’s decision not to call Dr. McCoy at the penalty-phase hearing . . . was not an unreasonable application of federal law under AEDPA.”).

Third, Pike is wrong to say that the State will suffer no irreparable harm because it will only “experience inconvenience.” This callous response gives short shrift to the State’s significant interest in finality and totally ignores May Martinez’s

three-decade nightmare waiting on justice for her brutally murdered nineteen-year-old daughter. It also ignores the tremendous lengths to which Martinez has gone to be present at today's execution. Although a Florida-based victims advocacy organization raised money to cover the cost of Martinez's trip to Tennessee, it wasn't enough for plane tickets. Steven Hale, *Christa Pike's Imminent Execution Attracts Pleas for Mercy, Demands for Justice, and Lurid Interest*, Nashville Banner (Sept. 28, 2026), <https://tinyurl.com/zchh33m9>. Martinez said she and her husband will be making the 600-mile drive to Nashville so they can be at Riverbend for the execution. *Id.* Martinez recently explained that "she needs to witness Pike's death 'so I can remember that she is gone and I don't have to fear that she's going to pop up somewhere.'" *Id.* Martinez is at the prison this very moment waiting for this Court's decision, waiting on justice for her Colleen.

"Only with an assurance of real finality can the State execute its moral judgment in a case" and "the victims of crime move forward knowing the moral judgment will be carried out." *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). Contrary to Pike's response, "[t]o unsettle these expectations is to inflict a profound injury." *Id.*

Fourth, Pike's delay is inexcusable. Her Rule 60(b) motion is premised on statements of counsel made at a hearing on August 13, 2026. Pike could have filed her motion that day, or the next day, or the next day. Instead, she waited *47 days* to seek relief in the district court—less than 24 hours before her scheduled execution. Contrary to Pike's claims, nothing prevented her from pursuing

alternative avenues of relief while she awaited the Tennessee Supreme Court’s decision on her pending stay motion in her protocol suit, or the Governor’s decision on her clemency petition. This is a textbook example of a “last-minute attempt[] to manipulate the judicial process.” *Gomez v. U.S. Dist. Ct. for N. Dist. of California*, 503 U.S. 653, 654 (1992). The “abusive delay” must end—now. *Id.*

CONCLUSION

The Court should grant the application and vacate the stay so that the execution may proceed as planned.

Respectfully submitted,

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PROOF OF SERVICE

I certify that a true and exact copy of the foregoing document was emailed to petitioner's counsel, Stephen Ferrell, at Stephen_Ferrell@fd.org, on September 30, 2026, and a paper copy was also sent by first-class U.S. Mail to Mr. Ferrell, at 800 S. Gay Street, Suite 2400, Knoxville, TN 37929, on September 30, 2026.

s/ John H. Bledsoe
John H. Bledsoe

CERTIFICATE OF WORD COUNT

I certify that the accompanying brief in opposition, which was prepared using Century Schoolbook 12-point typeface, contains 1,386 words, excluding the excepted parts of the document. This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document.

s/ John H. Bledsoe
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