

No. 24-5993

**In the
Supreme Court of the United States**

CAREY DALE GRAYSON,
Petitioner,

v.

JOHN Q. HAMM, COMMISSIONER,
TERRY RAYBON, WARDEN
Respondents.

On Petition for Writ of Certiorari to
the United States Court of Appeals
for the Eleventh Circuit

REPLY BRIEF FOR PETITIONER

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EXECUTION SET FOR NOVEMBER 21, 2024, AT 6:00 P.M. CENTRAL

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REPLY IN SUPPORT OF CERTIORARI

Respondents assert Mr. Grayson “flagrantly flouts Rule 23” because “an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below or from a judge or judges thereof.” BIO at 35 (quoting Sup. Ct. R. 23.3). They ask this Court “to apply the Court’s ordinary procedural rules to deny the application” to protect future “[c]ondemned prisoners” who “need to know the ground rules, especially in fast-paced eleventh-hour litigation.” *Id.* at 36. Respondents’ position is due for rejection.

First, Congress has granted this Court authority to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a) (All Writs Act). “This provision appeared in the very first Judiciary Act, 1 Stat. 73, 81-82.” *Scripps-Howard Radio v. F.C.C.*, 316 U.S. 4, 10 n.4. (1942). In enacting the All Writs Act, the first Congress employed their authority to “regulat[e]” this Court’s “appellate Jurisdiction.” U.S. Const. art. III, § 2.

Second, as noted in his stay application, Mr. Grayson invokes this Court’s power under Rule 23, the All Writs Act, and 28 U.S.C. § 2101(f). Stay App. at 1 & 1 n.1. Section 2101(f), in relevant part, provides:

In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court[.]

Mr. Grayson’s *certiorari* petition is from a final judgment or decree subject to review by this Court. 28 U.S.C. § 1291.

Third, Mr. Grayson did not need a stay in the Eleventh Circuit. He needed that court to reverse and remand for review of his preliminary injunction motion under the correct legal standard. And, in this Court, he seeks *certiorari* to resolve a circuit split on an issue of national importance. If this Court requires additional time to decide whether to grant *certiorari* before Mr. Grayson is executed, it has the authority to do so under two federal statutes. Mr. Grayson’s stay application recognized that authority and explained why this Court should issue a stay. The request—and this Court acting on it—is not unprecedented or unusual. *See, e.g., Indiana State Police Pension Trust v. Chrysler LLC*, 556 U.S. 960, 960 (2009) (per curiam) (“In determining whether to grant a stay, we consider instead whether the applicant has demonstrated ‘(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari or to note probable jurisdiction; (2) a fair prospect that a majority of the Court will conclude that the decision below was erroneous; and (3) a likelihood that irreparable harm will result from the denial of a stay.’”) (quoting *Conkright v. Frommert*, 556 U.S. 1401, 1402 (2009) (Ginsburg, J., in chambers)).

CONCLUSION

This petition for a writ of *certiorari* should be granted.

Respectfully submitted,

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