

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

GARCIA GLENN WHITE,
Petitioner,

VS.

THE STATE OF TEXAS,
Respondent

APPLICATION FOR STAY OF EXECUTION

THIS IS A CAPITAL CASE.
EXECUTION IS SET FOR TUESDAY, OCTOBER 1, 2024

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

The State of Texas intends to execute Garcia Glenn White on October 1, 2024. Mr. White respectfully requests a stay of execution pending consideration and disposition of a petition for writ of certiorari that is being filed with this application. In support of this request, Mr. White would show the following:

1. Garcia Glenn White respectfully requests a stay of execution pursuant to 28 U.S.C. § 2101(f) pending consideration of his petition for writ of certiorari. This Court may stay the execution of an individual if the Court needs additional time to resolve issues raised in a petition for certiorari. *Lonchar v. Thomas*, 517 U.S. 314, 320 (1996).

2. To determine whether the Court should grant a stay of execution, the Court considers the prisoner's likelihood of success on the merits, the relative harm to the parties, the extent to which the prisoner has unnecessarily delayed his claims, and the public interest. *Hill v. McDonough*, 547 U.S. 573, 584 (2006).

3. Mr. White is likely to succeed on the merits of his claim. This Court recently granted a stay of execution to another defendant, Ruben Gutierrez in July of 2024. Mr. White's claim on the state writ denied by the Court of Criminal Appeals on September 18, 2024 is strikingly similar to Mr. Gutierrez's claim. The Court of Criminal Appeals interpretation of Texas Code of Criminal Procedure

article 11.073 that it relies on to deny Mr. White the opportunity to present new DNA evidence is the same as its interpretation of Texas Code of Criminal Procedure article 64.04, the statute at the heart of Gutierrez's claim. A federal district court has determined that the Court of Criminal Appeals' interpretation violates the 14th Amendment rights of Gutierrez. Mr. White has asked the Court of Criminal Appeals to reconsider its interpretation, and it has refused as of September 18, 2024.

Mr. White has also presented new evidence that he is intellectually disabled, and thus ineligible for the death penalty under *Atkins v. Virginia*. The Court of Criminal Appeals has rejected this claim without an evidentiary hearing. This evidence became available after the state district court signed an order for execution in June of 2025.

4. If the Court does not grant a stay of execution, Mr. White will be irreparably harmed. He will be put to death by the State of Texas on October 1, 2024.

5. The public interest also weighs in favor of a stay of execution. The issues surrounding Article 11.073 have prompted legislative efforts to change the language of the statute to ensure that defendants may present new scientific evidence that relates only to punishment on state habeas claims. This indicates public support for a more fundamentally fair interpretation of the statute that is more in line with the Court of Criminal Appeals' prior, more liberal posture on habeas claims.

For the foregoing reasons, as well as those set forth in the companion petition for writ of certiorari, Mr. White respectfully requests that his application for a stay of execution be granted.

Respectfully submitted,

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