

No. \_\_\_\_\_

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**In the**  
**SUPREME COURT OF THE UNITED STATES**  
OCTOBER TERM, 2023

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ANTHONY CASTILLO SANCHEZ, *Petitioner*

v.

CHRISTIE QUICK, *Respondent*

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On Petition for a Writ of Certiorari  
To the Federal Court of Appeals for the Tenth Circuit

**THIS IS A CAPITAL CASE**  
**EXECUTION IS SET FOR SEPTEMBER 21, 2023**

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**APPLICATION FOR A STAY OF EXECUTION**

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To the Honorable Neil Gorsuch, Associate Justice of the Supreme Court  
of the United States and Circuit Justice for the Tenth Circuit:

The State of Oklahoma has scheduled the execution of Petitioner, Anthony Sanchez, for September 21, 2023, at 10:30 A.M. The Western District Court of Oklahoma denied relief on September 13, 2023. The Tenth Circuit Court of Appeals denied a request for stay on September 19, 2023. Sanchez respectfully requests that this Court stay his execution, pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), pending consideration of his concurrently filed petition for a writ of certiorari.

#### **STANDARDS FOR A STAY OF EXECUTION**

The standards for granting a stay of execution are well-established. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). There “must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; there must be a significant possibility of reversal of the lower court's decision; and there must be a likelihood that irreparable harm will result if that decision is not stayed.” *Id.* (internal quotations omitted)

#### **PETITIONER SHOULD BE GRANTED A STAY OF EXECUTION**

In this case, Petitioner’s prior counsel filed a motion to determine what should be done with the files in this matter. *R.80 Motion of appointed attorneys to determine disposition of files and brief in support*. They further asked to withdraw, only a brief time prior to the execution. The court did not dispose of this motion

until August 7, 2023. In that order the court determined that counsel could keep the files from their client. *R. 89, Order*. The basis of this motion is that there is confidential information in the boxes that should be kept from the Petitioner. Petitioner has new counsel who does not have access to these documents. Investigator David Ballard had sought to take possession of these boxes last spring and when he appeared at the offices of the attorneys was told he could not have them. The court then orders that the lawyers have no obligation to turn over the Petitioner's file to anyone. This includes current counsel, working pro bono for Petitioner. The court then decides that David Ballard cannot pick up the files. So current counsel must impose upon another attorney to take possession of the files and place them in his conference room. Current counsel then must drop all his other responsibilities and go to Oklahoma City to attempt to review what he can while he is finishing writing documents prior to the scheduled execution. Had the District Court allowed the substitution this could have been done in a timely and measured manner. The court refused and then prior counsel left the case with weeks left to go prior to execution.

Clemency<sup>1</sup> or post-conviction Counsel under the standards provided by the ABA Guidelines must investigate claims. *See ABA guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 2003, Rule 10.15.1; Rule 10.15.2*. This cannot be done. Counsel only took possession of the file last Friday. It contains fifty boxes full of paperwork. Counsel attempted to review the

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<sup>1</sup> Counsel is aware Petitioner has waived his clemency proceedings, but the duty to determine claims and options for success still exists.

files and write the documents needed for the appeal. Again, there simply is not enough time to carefully review all the documents in the time provided by the District Court.

Mr. Sanchez has diligently pursued relief for the alleged Constitutional violations every step of the way in the District Court for the Western District of Oklahoma, in the Tenth Circuit, and in the United States Supreme Court, only to be stymied by his own counsel when they refused to provide Mr. Sanchez's own file to him. What is more, any delays in resolving this litigation fall solely on that same counsel when they failed to visit or communicate with him for years.

Absent a stay, Mr. Sanchez could be executed even though there is a significant chance his death sentences were obtained in violation of his Constitutional rights. When considered in the full context of Mr. Sanchez's blindness approaching the end of his litigation, the harm to Mr. Sanchez far outweighs the harm to the Respondent.

There is no public interest in an unjust execution. Moreover, a stay would vindicate the public's interest in making sure an execution is just and only following full and fair judicial review. Mr. Sanchez seeks a meaningful opportunity to have this Court consider the merits of his claims, and a delay in the execution for this purpose would not disserve the public interest. *See Cooney v. Taft*, 430 F. Supp. 2d 702, 708 (S.D. Ohio 2006) (“[T]he public interest only is served by enforcing constitutional rights and by the prompt and accurate resolution of disputes concerning those constitutional rights. By comparison, the

public interest has never been and could never be served by rushing to judgment at the expense of a condemned inmate's constitutional rights"). Here, the public interest would not be served by rushing to judgment where such extraordinary circumstances and equities exist.

The two main impediments to Mr. Sanchez being able to litigate anything are his two former court-appointed attorneys. First, they did not visit or communicate with Mr. Sanchez for years. This abandonment prevented Mr. Sanchez from participating in his defense and reviewing his files. Additionally, counsel refused and, indeed, continue to refuse to provide Mr. Sanchez with his file. Attorneys Barrett and Coyne stayed on Mr. Sanchez's case until July 7, 2023. After inquiries, this Court issued an Order on August 7, 2023, ruling that court-appointed counsel should not provide Mr. Sanchez's files to him – not even his trial transcripts that counsel offered to provide. Later, on August 22, 2023, undersigned counsel entered his appearance. Following the filing of a motion to expedite was filed. Twenty days later this motion was filed.

Under these circumstances and this timeline, Mr. Sanchez did not unnecessarily delay this litigation. The District Court and the Circuit Court both denied applications for a stay. The boxes of information have not been reviewed in total and the questions remains, is Petitioner guilty of killing the victim in this case.

## **CONCLUSION**

Mr. Sanchez has demonstrated that all the relevant factors weigh heavily in favor of this Court issuing a stay of execution so that Mr. Sanchez may receive his files and have his attorneys review those files to litigate remaining issues.

Respectfully submitted,

**/s/ Eric J. Allen**

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