

CAPITAL CASE

**Execution Scheduled for May 11, 2016
During a Twenty-Four Hour Period Beginning at 6:00 p.m. CDT**

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

**EARL FORREST,
*Petitioner,***

vs.

**CINDY GRIFFITH,
*Respondent.***

**TO: The Honorable Samuel Alito, Associate Justice of the United States
Supreme Court and Circuit Justice for the Eighth Circuit**

**APPLICATION FOR STAY OF EXECUTION PENDING
DISPOSITION OF PETITION FOR A WRIT OF CERTIORARI**

Petitioner Earl Forrest, respectfully requests that the Justice Alito in his capacity as Circuit Justice for the Eighth Circuit, pursuant to 28 U.S.C. § 2101(f), stay his execution pending this Court's disposition of petitioner's petition for a writ of certiorari filed contemporaneously with this motion. In support of this application, petitioner states the following grounds.

1. Petitioner is a Missouri death row inmate who is challenging his sentence of death in a certiorari petition that seeks review of the Missouri Supreme Court's judgment denying his petition for a writ of habeas corpus. The procedural history of the case is set forth in the underlying petition for a writ of certiorari. The Missouri Supreme Court recently set petitioner's execution for May 17, 2016 during a twenty-four hour period beginning at 6:00 p.m. CDT.

2. Kent E. Gipson and Lance D. Sandage currently represent Mr. Forrest. Both counsel serve by appointment of the United States District Court for the Eastern District of Missouri.

3. As is more fully set forth in the accompanying certiorari petition, petitioner believes that the issues presented here are substantial and would warrant this Court's discretionary review. At the very least, a stay of execution should be granted pending the resolution of this petition.

4. The test for granting a stay of execution in a capital case is governed by the familiar standard set forth by this Court in *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). In the present context of a pending petition for a writ of certiorari, petitioner is entitled to a stay of execution if there is a reasonable probability that four members of the Court would consider the underlying issues sufficiently meritorious to grant discretionary review. *Id.* The questions raised in Mr. Forrest's

petition for a writ of certiorari are substantial and meritorious. It also goes without saying that petitioner would suffer irreparable harm if his life is forfeited before this Court can review the claims in the underlying petition in a reasoned and thorough manner.

5. The question raised in this petition alleges that the death penalty, in all cases, violates the Eighth and Fourteenth Amendments.

6. The question presented in the petition arose in the context of a state habeas corpus petition that was filed by petitioner before the Missouri Supreme Court issued an execution warrant.

WHEREFORE, for all the foregoing reasons, petitioner respectfully requests that Justice Alito stay his scheduled execution pending this Court's disposition of his petition for a writ of certiorari in the above-captioned cause of action.

Respectfully submitted,

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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that I am a member in good standing of the bar of this Court and that two true and correct copies of Petitioner's Application for Stay of Execution Pending Disposition of Petition for a Writ of Certiorari in the case of *Forrest v. Griffith* were forwarded pursuant to Supreme Court Rule 29.5(b), postage prepaid, this _____ day of April, 2016 to:

Steven Hawke
Assistant Attorney General
P. O. Box 899
Jefferson City, MO 65102

One copy in PDF format was electronically mailed to the Clerk of the Supreme Court and, one copy of Petitioner's Application for Stay of Execution Pending Disposition of Petition for a Writ of Certiorari were mailed, postage prepaid, to:

Scott Harris, Clerk
United States Supreme Court
One First Street N.E.
Washington, DC 20543

and

Danny Bickell
dbickell@supremecourt.gov

pursuant to Supreme Court Rule 39.5, this _____ day of April, 2016.

Kent E. Gipson, #34524
Counsel for Petitioner