No. 15-_____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2015

JOHN WAYNE CONNER,

Petitioner,

-v-

ERIC SELLERS, WARDEN,

Respondent.

THIS IS A CAPITAL CASE
EXECUTION SCHEDULED: JULY 14, 2016 @ 7:00PM

PETITION FOR A WRIT OF CERTIORARI TO THE GEORGIA SUPREME COURT

BRIAN S. KAMMER
MARCIA A. WIDDER
HEIDI REINER
Georgia Resource Center
303 Elizabeth Street, NE
Atlanta, Georgia 30307
(404) 222-9202

COUNSEL FOR PETITIONER

QUESTIONS PRESENTED FOR REVIEW

THIS IS A CAPITAL CASE

(Execution Scheduled for TODAY, July 14, 2016, at 7:00 p.m.)

1. Will it violate the Eighth Amendment if the State of Georgia is permitted to carry out Petitioner's 34-year-old death sentence, imposed for the murder of Petitioner's friend during an alcohol and drug-fueled beating at a time when Georgia systemically failed to provide competent counsel at trial and on appeal, or any representation in post-conviction proceedings, where Petitioner's sentencing jury heard not one iota of readily available mitigating evidence of Petitioner's background and character (including uncontroverted evidence that Petitioner is at best in the borderline range of intellectual functioning and suffered a childhood of abject poverty and unremitting and extreme physical and sexual violence at the hands of a depraved alcoholic father) and Petitioner's 34 years of incarceration on death row have shown him to be a compliant, non-violent and helpful inmate who is remorseful for the crimes he has committed and who poses no threat of future danger to fellow inmates or guards?

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

State Cases

Statutes

Constitutional Provisions

Other Authorities

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PETITION FOR A WRIT OF CERTIORARI TO THE GEORGIA SUPREME COURT

Petitioner, John Wayne Conner, respectfully petitions this Court to issue a Writ of Certiorari to review the judgment of the Supreme Court of Georgia, entered in the above case on July 14, 2016 (Attachment A), denying review of the state habeas court's order denying relief on July 6, 2016 (Attachment B).

INTRODUCTION

The State of Georgia intends to execute Mr. Conner, an undisputedly cognitively impaired man who is "functioning at an age-equivalency of 11 years, 0 months,"[1] tonight, 34 years to the day that he received his death sentence. . By virtue of this extraordinary delay between the imposition of sentence and its implementation, the State of Georgia has already exacted from Mr.

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[1] *See* App. 2 of the state petition, as amended (report of Dr. Barry Crown) at 1.

Conner what amounts to a life sentence under the severe conditions of isolation and privation that characterize incarceration on Georgia's death row. This delay, not attributable to Mr. Conner in any relevant way, renders implementation of the death sentence both excessive, cruel and unusual under the Eighth Amendment and a second punishment for the same offense prohibited by the Double Jeopardy Clause.

Mr. Conner has presented his claims to every available court and each has rejected his claims as procedurally barred or non-cognizable. The State's Board of Pardons and Paroles has rejected his plea for clemency. This Court, truly, is Mr. Conner's last resort to prevent his unconstitutional execution.

Mr. Conner has effectively suffered the punishment of life imprisonment over the course of the 34 years he has waited to be executed, living under the extraordinarily harsh conditions of death row while his appeals were considered by the courts. His case took this extraordinarily long period of time to wend its way through the courts due to no fault of Mr. Conner's. To the contrary, the fault falls entirely on the State of Georgia, through its judiciary and prosecutors.

Mr. Conner's initial state habeas action, filed in 1984, took over 15 years to complete. At the time, the State of Georgia provided Mr. Conner neither counsel nor funding to conduct complicated capital habeas corpus litigation. Instead, Mr. Conner was assisted in state post-conviction proceedings by a young and inexperienced volunteer attorney from out-of-state, Billy Nolas, who repeatedly asked the court for funding for investigative and expert assistance, and was each time denied any funds. At that time, the Georgia Resource Center, a non-profit law office established to assist volunteer attorneys in post-conviction cases, did not exist. Unlike virtually every other death-sentenced prisoner of the modern era, therefore, Mr. Conner did not have the

resources to make a meaningful evidentiary proffer in post-conviction, and Respondent and the Georgia courts affirmatively obstructed his counsel's efforts at every turn, to boot.

After the close of evidence in the initial state habeas proceeding, the case sat in the Butts County Superior Court for approximately 12 years, during which time it was transferred among various judges, who refused Mr. Nolas's several requests to reopen the evidence to present additional claims and proof. *See* Affidavit of Billy H. Nolas, at ¶¶15-17 (attached as App. 15 to Mr. Conner's Petition for Writ of Habeas Corpus, as amended, in *Conner v. Sellers*, Butts Co. Superior Court Case No. 2013-V-162); *see also* the Petition, as amended, at § I(B), incorporated herein. It was not until January 1, 1997, that the state habeas court issued its final order. Thereafter, the Supreme Court of Georgia did not issue a ruling for another three and a half years when, on September 11, 2000, it denied a certificate of probable cause to appeal, after Mr. Nolas had attempted one last time to get the Georgia Supreme Court to remand the case to the habeas court for further evidentiary development, including on a claim of intellectual disability under *Fleming v. Zant*, 259 Ga. 687 (1989).

Following the completion of Mr. Conner's initial state habeas action, Respondent, aided by the state habeas court's rulings, proceeded to delay the development of Mr. Conner's intellectual disability claim for well over a decade. Throughout subsequent state and federal habeas proceedings, for well over a decade, Respondent, with the state court's complicity, aggressively and effectively blocked Mr. Conner's diligent efforts to gain access to mental health experts who could substantiate his claim of intellectual disability or any other mental impairments. Until 2013, because of Respondent's intransigence and the state habeas court's refusal to accord Mr. Conner expert access in order to substantiate his claim, Mr. Conner had *never* been evaluated by independent mental health experts. The Eleventh Circuit Court of Appeals recognized this

injustice and remanded Mr. Conner's case for further evidentiary development. *Conner v. Hall*, 645 F.3d 1277, 1292 (11th Cir. 2011) ("*Conner I*"). That evidentiary development upon remand established without dispute by even Respondent's experts that Mr. Conner is a cognitively impaired individual who was subjected to horrifying, chronic abuse and trauma during his upbringing. The evidence, though it ultimately failed to persuade the District Court that Mr. Conner was intellectually disabled (rather than in the borderline range of functioning), was nonetheless sufficient to establish that intellectual disability was a "permissible view[] of the evidence," *Conner v. GDCP Warden*, 784 F.3d 752, 766 (11th Cir. 2015) ("*Conner II*"), *cert. denied*, 136 S. Ct. 1246 (2016), a finding that, under Georgia law, should have ensured Mr. Conner a jury trial on the issue of his intellectual disability under Georgia law.

Mr. Conner, on the other hand, has not delayed this case in any fashion. He has simply initiated and pursued legitimate legal proceedings in an effort to vindicate his constitutional rights and to comply with the strictures imposed by federal habeas law. Indeed, but for the delays occasioned by the Georgia habeas court's lackadaisical approach and Respondent's obstructive tactics, there is a more than reasonable likelihood that Mr. Conner would have obtained a jury trial on the issue of his intellectual disability and that the case would have been resolved in a way that removed the death sentence, as has happened to almost every similarly situated individual whose case has been resolved following a remand under *Fleming*. *See*, *e.g.*, *Conner I*, 645 F. 3d at 1290-91. Instead, the state courts, at Respondent's behest, refused to allow Mr. Conner access to the very evidence needed to prove his claim and then, after denying relief for lack of proof, ruled he had defaulted the claim when he later returned to court with the necessary evidence he had finally obtained.

This case highlights a paradox that renders the death penalty fundamentally flawed, particularly in extraordinary cases such as Mr. Conner's: In order to attempt to ensure that a condemned inmate is not executed despite prejudicial errors in his prosecution and sentencing, the courts must undertake a thorough and painstaking review of the proceedings that resulted in the death sentence. *See*, *e.g.*, *Monge v. California*, 524 U.S. 721, 732 (1998) (recognizing the "acute need for reliability in capital sentencing proceedings"). In this case, the State through its courts failed to invest in that commitment to reliability at the outset by leaving Mr. Conner in the inexperienced hands of fledgling, un-resourced counsel at both trial and initial habeas proceedings, and Respondent contributed to the damage and delay caused by that baseline lack of resources by actively obstructing even the kind of minimal court action which could have greatly enhanced the reliability of proceedings and accelerated the disposition of the case. To hold these systemic failures and the extraordinary amount of time that the required judicial review has taken as a result against Mr. Conner would be the height of arbitrariness and unfairness.

On these unique facts, it would violate the Eighth and Fourteenth Amendments to execute Mr. Conner after so lengthy a time on death row (particularly given his blamelessness and the State's culpability in causing the delay, and the degree to which he has been harmed by delay). Such execution would inflict needless pain and suffering on an undisputedly cognitively impaired man and further no legitimate penological interest on Mr. Conner after he has already received 34 years of exceptionally harsh punishment on death row.

OPINIONS BELOW

The decision of the Supreme Court of Georgia, entered July 14, 2016, in *Conner v. Sellers*, *Warden*, Georgia Supreme Court Case No. S16W1789, denying Petitioner's application for a

Certificate of Probable Cause to Appeal from the denial of habeas corpus relief, is unreported and attached as Attachment A. The underlying Superior Court decision in *Conner v. Sellers, Warden*, Butts Co. Superior Court Case No. 2013-V-162, dated July 6, 2016, is unreported and attached hereto as Attachment B.

JURISDICTION

This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1257. This Court's certiorari jurisdiction is invoked to review the judgment of the Supreme Court of Georgia, entered July 14, 2016 (Attachment A), denying Petitioner's appeal from the denial of habeas relief in the Butts County Superior Court on July 6, 2016 (Attachment B), as Petitioner asserts a deprivation of rights secured by the Constitution of the United States.

CONSTITUTIONAL PROVISIONS INVOLVED

This petition involves the Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.

The Fourteenth Amendment provides in pertinent part that "[n]o state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law . . . ." U.S. Const. amend. XIV § 1.

STATEMENT OF THE CASE

A. Statement of Facts

In recent years, thanks to the intervention of the federal courts, critical information about John Wayne Conner has emerged which his jury never heard before it sentenced him to death in 1982. What we know today about Mr. Conner, as well as about the broken system that put him on death row, makes the fact that he has spent 34 years awaiting execution even more of a grotesque blot on Georgia's criminal justice system.

Mr. Conner, an undisputedly mentally impaired man, was raised in horrific, chaotic and impoverished circumstances in which he, his siblings and his mother were exposed to chronic domestic violence, in which they were routinely beaten, stabbed and shot at by Mr. Conner's violent, alcoholic father, who also sexually assaulted Mr. Conner's sisters and possibly the boys. Mr. Conner and his siblings regularly ran away from home, attempting to escape the violence. Mr. Conner, himself, not only endured chronic beatings and blows to the head but, notably, as a young boy sustained a severe blow to his head with an axe, leaving a plainly visible indentation and scar to this day. Unsurprisingly, Mr. Conner developed debilitating addictions to drugs and alcohol starting in childhood and manifested symptoms of intellectual impairment, severe depression, suicidality and mental illness throughout childhood and into early adulthood -- symptoms that were clearly evident when, at the age of 25, he was arrested and jailed for the murder of J.T. White during a drug- and alcohol-fueled beating provoked by the victim's statement that he wanted to have sex with Mr. Conner's girlfriend.

Mr. Conner's intellectual impairments manifested early in his childhood as evidenced by his dismal school performance. His teachers recognized that Mr. Conner was impaired, and he

was retained in several grades, ultimately leaving school altogether while in the sixth grade. At the time, he was 15 years old and tested at a third grade academic achievement level.

The jury heard none of this evidence as a result of attorney performance that is uniquely disturbing, even among cases of the era to which he belongs. Mr. Conner was represented at his trial by a 26-year old solo practitioner, Dennis Mullis, barred less than three years with no previous death penalty experience who put up *no* evidence at either trial phase, began preparations for the penalty phase in the 15-minute recess after Mr. Conner was found guilty, and delivered a penalty phase argument in defense of his client's life covering three transcript pages. TT 450-53. That short argument, presumably intended to show that Mr. Conner deserved to live, was spent informing the jury that if not given a death sentence, Mr. Conner would be parole-eligible in exactly seven (7) years – information so harmful that it would constitute automatic reversible error if uttered by any other trial participant than the defendant's own defense attorney.[2] The only personal information delivered to the jury about Mr. Conner was that counsel "[did not] think that Mr. Conner has exactly had a pleasant life" and that Mr. Conner shared the birthday month and year of trial counsel. TT 452.

Trial counsel did not possess even a rudimentary understanding of the elements of a meaningful capital case defense. After his arrest in 1982, Mr. Conner was evaluated at Central

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[2] *See*, *e.g.*, *Ward v. Hall*, 592 F.3d 1144 (11th Cir. 2010) (reversing death sentence where bailiff told jury that a defendant could be paroled after seven years under a "life" sentence); *Turpin v. Todd*, 271 Ga. 386 (1999); (same); O.C.G.A. § 17-8-76 (providing that "[n]o attorney at law in a criminal chase shall argue to or in the presence of the jury that a defendant, if convicted, may not be required to suffer the full penalty imposed by the court or jury because pardon, parole, or clemency of any nature may be granted by the Governor, the State Board of Pardons and Paroles, or other proper authority vested with the right to grant clemency" and providing for an automatic mistrial upon request).

State Hospital ("CSH") following a jailhouse suicide attempt. The evaluation revealed a suicidal man with a "history of mental illness" exhibiting symptoms of schizophrenia, autism, "psychomotor retardation" and severe drug and alcohol dependence. *See* App. 11 (CSH records). Although in receipt of this evaluation, his appointed counsel Dennis Mullis, wholly inexperienced in capital defense, declined to investigate Mr. Conner's mental health further because he did not believe he could support an insanity defense at the guilt-innocence phase of trial. *See* June 30, 1982 Pre-Trial Hearing (*Conner v. Zant*, Butts Co. Superior Court Case No. 6335) at 6; Sept. 24, 1984 HT (Case No. 6335) at 32; Jan. 6, 1997 Final Order (Case No. 6335) at 37, 46. Mr. Mullis made no meaningful efforts to investigate Mr. Conner's background and presented no evidence at either phase of trial.

Counsel ultimately did not even present the insubstantial evidence that his meager investigation had unearthed. Following the guilty verdict, there was a 15-minute recess and Mr. Conner apparently told his lawyer he did not want his family to testify for him at sentencing. TT 446. Prior to this recess, Mr. Conner had never told Mr. Mullis that he did not wish to present mitigation evidence. Mr. Mullis' position was that Mr. Conner should present mitigation evidence (*see* TT 447). Within that same 15-minute recess, Mr. Mullis approached a few family witnesses about testifying in the penalty phase *and* learned for the first time that Mr. Conner did not want to present the testimony of his family members in mitigation *and* tried to convince him otherwise. *See* Sept. 24, 1984 HT (Case No. 6335) at 31, 37; TT 447-48. Counsel did not "recall telling him how important I thought that evidence was going to be, no." Sept. 24, 1984 HT (Case No. 6335) at 100. Following this 15 minutes, counsel stated on the record that Mr. Conner wished to waive penalty phase evidence, and the court acquiesced after a colloquy with Mr. Conner that occupied

eight lines of the transcript and elicited three words from Mr. Conner: "Yeah," and "That's right." *See* TT 447-48.

Counsel made no effort to apprise the trial court of any of the mental health related issues documented within the CSH records that might have impacted Mr. Conner's thinking. Nor did counsel attempt to proffer any mitigation evidence that Mr. Conner was purportedly obstructing. Mr. Conner, a depressed and suicidal young man, was permitted to make a life-or-death "decision" in a matter of minutes, uninformed about the contours of the potential mitigation case that was available and possible.

That trial counsel provided constitutionally inadequate representation at the sentencing phase was litigated and lost in Mr. Conner's initial habeas proceedings. But, as previously discussed in filings below, during Mr. Conner's initial state habeas proceedings in the early 1980s, *pro bono* habeas counsel lacked resources to develop mental health and other mitigating evidence in order to substantiate Mr. Conner's ineffective assistance of counsel claims, despite his repeated requests– for funds for investigation and a mental health evaluation (to include expert access to Mr. Conner).

Substantial evidence, previously unavailable due to the severe resource restrictions on *pro bono* counsel, was finally developed after the recent remand to the federal district court below facilitated expert evaluations of Mr. Conner and an evidentiary hearing, at which Mr. Conner was able to adduce substantial evidence of significant intellectual impairment, intellectual disability, and the deleterious psychological impact (corroborated by the 1982 CSH records) of an upbringing marred by chronic violence and trauma. *See*, *e.g.*, App. 1-6, 12 (reports of Drs. Beck, Greenspan, Crown, Agharkar, Carbonell); App. 16-17 (testimony of all but Carbonell); App. 7-10 (Telfair School Records and teacher affidavits). This evidence, credited by both parties' experts,

substantiates Mr. Conner's claims that he is cognitively impaired at least to the point of having borderline intellectual functioning and that his trial counsel rendered abysmal performance in failing to investigate and present mitigating evidence at the penalty phase of his capital trial. *See* extensive discussion in the state Petition below, as amended, at § II (B-D).

Today, it is virtually certain that a defendant with Mr. Conner's profile, were he even to be prosecuted for capital murder at all, would find himself serving a sentence less than death in light of the vastly improved quality of defense assistance available today in Georgia -- a time of diminishingly few death sentences. However, had Mr. Conner's prior habeas counsel, Billy Nolas, been provided minimal resources, it is clear that he probably would have been able, in the 1980s, to develop the kind of evidence Mr. Conner belatedly was able to present in federal habeas proceedings and would have secured relief long ago.

Instead, Mr. Conner did not get the resources that virtually every other similarly situated prisoner has received in post-conviction proceedings. As detailed below, that is because Respondent and the state courts actively obstructed, at every turn, Mr. Conner's efforts to obtain resources and obtain critical discovery. Since Mr. Conner has finally been able to get the evidence he had been seeking for decades -- only because the federal courts recognized the injustice being perpetrated on Mr. Conner -- Respondent and the state courts have, gallingly, blamed him for the delay in obtaining that evidence.

B. Proceedings Below

Mr. Conner was charged with murder and related offenses for killing his friend, J.T. White, during an unplanned, drug and alcohol-fueled beating prompted by the victim's lewd remark about Mr. Conner's girlfriend. A Telfair County, Georgia jury found him guilty of one count of murder,

one count of robbery and one count of vehicle theft on July 14, 1982. Later that same day, the jury sentenced him to death for the murder.

Mr. Conner appealed his convictions and death sentence. On May 24, 1983, the Supreme Court of Georgia affirmed the murder and theft convictions, as well as the death sentence, but vacated the robbery conviction due to lack of evidence. *Conner v. State*, 251 Ga. 113, 115 (1983). A timely-filed motion for reconsideration was denied on June 28, 1983.

Mr. Conner filed a Petition for Writ of Certiorari in this Court, which denied the petition on October 3, 1983. *Conner v. Georgia*, 464 U.S. 865, *rehearing denied*, 464 U.S. 1005 (1983).

Thereafter, Mr. Conner timely filed a petition for writ of habeas corpus in the Superior Court of Butts County on March 23, 1984 (Butts Co. Superior Court Case No. 6335). He was represented by Billy Nolas, a recent law school graduate who had volunteered to represent Mr. Conner *pro bono*, but who had minimal resources with which to investigate and litigate the petition, as the Georgia Resource Center, a non-profit law office which provides assistance to volunteer attorneys, was not yet in existence. Hearings were held in 1984. Although Mr. Nolas on several occasions moved the court for funds to hire mental health experts to investigate, among other issues, "the mitigating significance of petitioner's mental incapacity" (*see* Sept. 13, 1984 Motion (*Conner v. Zant*, Butts Co. Case No. 6335) at 4), such funds for expert assistance were denied and the evidentiary record was closed.

Originally, Judge English presided over the case, but the case was transferred to different judges before it was transferred to Judge Allen B. Keeble, who denied relief in an order entered on January 6, 1997. *See* Final Order of Jan. 6, 1997, in *Conner v. Zant*, Butts Co. Case No. 6335.

Mr. Conner filed a timely Application for Certificate of Probable Cause to Appeal ("CPC") in the Georgia Supreme Court (Case No. S97R1871). In CPC proceedings, Mr. Conner again

raised claims regarding his intellectual impairment and the lack of resources provided to *pro bono* counsel and specifically requested a remand for a jury trial on intellectual disability in light of the Georgia Supreme Court's decision in *Fleming v. Zant*, 259 Ga. 687 (1989), which had issued about five years after the close of proceedings in state habeas court. *See* April 28, 2000 Reply to Response in Opposition to CPC (Case No. S97R1871) at 22.

On September 11, 2000, the Georgia Supreme Court denied Mr. Conner's Application for Certificate of Probable Cause to Appeal, over the dissent of Justice Sears. Mr. Conner filed a timely motion for reconsideration on September 21, 2000. The Georgia Supreme Court denied Petitioner's Motion for Reconsideration on November 14, 2000.

Mr. Conner filed a Petition for Writ of Certiorari with this Court, which was denied on June 25, 2001. *Conner v. Head*, 533 U.S. 932 (2001). Rehearing was denied on August 27, 2001. *Conner v. Head*, 533 U.S. 970 (2001).

On October 3, 2001, Mr. Conner filed a second state habeas petition raising the claim that he is intellectually disabled and seeking a mental health evaluation in order to substantiate a *prima facie* allegation of intellectual disability in support of his request for a jury trial remand under *Fleming*. He supported his claim with *inter alia* the affidavits of teachers and school records documenting early life cognitive impairment. *See Conner v. Head*, Butts Co. Superior Court Case No. 2001-V-692. Although *Fleming* expressly states that "sufficient credible evidence of [intellectual disability" . . . must include at least one expert diagnosis of mental retardation," Judge E. Byron Smith, at Respondent's behest, denied the request for expert access and denied the petition without an evidentiary hearing on October 26, 2001. *See* Oct. 26, 2001 Final Order (Case No. 2001-V-692) at 2. Mr. Conner was thereby precluded from satisfying *Fleming*'s requirement that he provide "at least one expert diagnosis of mental retardation" in order to make out a *prima*

facie case of intellectual disability. Mr. Conner is the only *Fleming* claimant to be denied expert access and a remand for jury trial on a colorable claim of intellectual disability in the Georgia courts.

On January 25, 2002, Mr. Conner filed a CPC application in the Supreme Court of Georgia, which denied CPC on March 25, 2002 (Case No. S02E0706). Reconsideration was denied on April 12, 2002. He filed a Petition for Writ of Certiorari which this Court denied on October 7, 2002. *Conner v. Head*, 537 U.S. 908 (2002).

Mr. Conner filed a timely federal habeas corpus petition under 28 U.S.C. § 2254 on November 13, 2001.

On June 20, 2002, this Court held that the Eighth Amendment to the U.S. Constitution categorically prohibits the execution of intellectually disabled individuals. *Atkins v. Virginia*, 536 U.S. 304 (2002).

On March 31, 2004, Mr. Conner filed a motion for discovery on his intellectual disability claim in his federal habeas action, including a request for expert access for purposes of evaluation. The District Court denied the motion on September 8, 2004, finding that Mr. Conner's claim that he is exempt from the death penalty because he is intellectually disabled was procedurally defaulted per Judge Smith's order in state court in 2001.

The District Court thereafter denied the totality of Mr. Conner's petition for habeas corpus on November 6, 2009, but granted a certificate of appealability on the issues of whether or not Mr. Conner's claim of intellectual disability was procedurally defaulted and whether his trial counsel had rendered ineffective assistance during the mitigation stage of his trial.

Mr. Conner filed a timely appeal before the United States Court of Appeals for the Eleventh Circuit. The Eleventh Circuit panel heard argument in Mr. Conner's case on October 14, 2010,

and, on July 7, 2011, granted a remand of his case to the District Court. Specifically, the Eleventh Circuit held that Georgia's procedural default rule was an inadequate bar to Mr. Conner's intellectual disability claim because virtually every other similarly situated petitioner (*i.e.*, every other *Fleming* claimant raising an intellectual disability claim in a successive petition) in Georgia had obtained permission for expert access and ultimately an intellectual disability remand under *Fleming*. *Conner I*, 645 F.3d at 1290). The court noted that:

> [T]he Georgia Supreme Court held in *Turpin v. Hill*, [269 Ga. 302 (1998)], that a mental retardation claim raised by a capital habeas petitioner in a state habeas petition cannot be procedurally defaulted as a matter of state law.

Id. at 1289.

On remand, the District Court issued orders permitting expert evaluation at the Georgia Diagnostic Prison regarding Mr. Conner's intellectual disability claim. This allowed Mr. Conner finally to obtain expert evaluations of Mr. Conner's cognitive abilities and his mental health status in general and, at an evidentiary hearing, Mr. Conner was able to adduce substantial, previously unavailable evidence of his significant intellectual impairment, intellectual disability, and the deleterious psychological impact (corroborated by the 1982 records of a court-ordered Central State Hospital evaluation) of an upbringing marred by chronic violence and trauma. *See*, *e.g.*, App. 1-6 to the state habeas petition below (Butts Co. Case No. 2013-V-162) (reports of Drs. Beck, Greenspan, Crown, Agharkar); App. 16-17 (testimony of Drs. Beck, Greenspan, Crown, Agharkar, and Respondent's experts). This and additional evidence, credited by both party's experts, substantiated Mr. Conner's claims that he is cognitively impaired at least to the point of having borderline intellectual functioning and that his trial counsel rendered prejudicially deficient performance in failing to investigate and present mitigating evidence at the penalty phase of his

capital trial. See the extensive discussion in the Mr. Conner's state habeas petition (Case No. 2013-V-162), as amended, at § II (B-D), incorporated herein.

Only after the District Court provided Mr. Conner the opportunity to obtain the expert evaluations of Drs. Beck, Greenspan, Crown, and Agharkar was Mr. Conner able to satisfy Georgia's requirements for a *Fleming* remand for jury trial on intellectual disability by submitting "at least one expert diagnosis of mental retardation." *Fleming*, 259 Ga. at 691. Accordingly, Mr. Conner filed a third state habeas action in Butts County Superior Court (*Conner v. Sellers*, Case No. 2013-V-162) on March 5, 2013, initially raising the single claim that Mr. Conner is intellectually disabled and entitled to a remand under *Fleming* for a jury trial on the issue of intellectual disability.

The Butts County Superior Court, at Respondent's request, ordered the state habeas case held in abeyance pending the completion of the federal habeas proceedings.

The District Court conducted an evidentiary hearing on May 7-8, 2013. On May 10, the Court heard oral arguments and issued a ruling from the bench denying Mr. Conner's intellectual disability claim, after refusing to allow the parties to submit briefing. The court adopted the rationale of the court's neurologist who testified that he "kn[ew] [intellectual disability] when [he] s[aw] it." *See Conner v. Humphrey*, Case No. 3:01-CV-73 (S.D.Ga.), Bench Ruling, at 48. Shortly thereafter, on June 11, 2013, the court entered a brief written order incorporating its bench ruling and denying all relief.

Mr. Conner appealed to the Court of Appeals for the Eleventh Circuit. After briefing and oral argument, that court affirmed the District Court's ruling, stating:

> Because the District Court's finding that Mr. Conner is not intellectually disabled is plausible in light of the entire record, it is not clearly erroneous. "If the district court's account of the evidence is plausible in light of the record viewed in its

> entirety, the court of appeals may not reverse it *even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently*."). Finally, *where, as here*, "*there are two permissible views of the evidence*, the factfinder's choice between them cannot be clearly erroneous."

Conner II), 784 F.3d at 766 (quoting *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985) (emphasis added)).

Mr. Conner filed a Petition for a Writ of Certiorari in this Court on November 20, 2015. The petition was denied on February 29, 2016. *Conner v. Humphrey*, 136 S. Ct. 1246 (2016). Rehearing was denied on April 4, 2016. *Conner v. Humphrey*, 2016 U.S. LEXIS 2289 (2016).

After the federal proceeding was completed, Mr. Conner returned to state court (Butts Co. Case No. 2013-V-162) and, on June 23, 2016, filed an amended petition for writ of habeas corpus, augmenting his intellectual disability claim in light of the factual development that occurred in federal court and seeking to reopen his earlier ineffective assistance of trial counsel claim in light of intervening law and new, previously unavailable facts.

On Friday, June 24, 2016, the State of Georgia obtained a warrant setting an execution window to begin on July 14, 2016 and to end on July 21, 2016. On June 27, 2016, Mr. Conner amended his pending state habeas petition (Case No. 2013-V-162) to add the claims now raised in this petition: that his execution, after serving 34 years under the harsh conditions of Georgia's death row, will constitute excessive and unjustified punishment in violation of the Eighth and Fourteenth Amendments (the *Lackey*[3] claim); and that his execution, after already serving what amounts to a life sentence on Georgia's death row, will violate double jeopardy.

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[3] *Lackey v. Texas*, 514 U.S. 1045 (1995).

On July 6, 2016, the Butts County Superior Court denied the state habeas action (Case No. 2013-V-162) in its entirety, ruling in pertinent part that the *Lackey* and double jeopardy claims "could have [been] raised in [Mr. Conner's] prior petitions, and they are barred as successive under O.C.G.A. § 9-14-51. Insofar as [Mr. Conner] could not have raised these claims previously, they are without merit." Order of July 6, 2016 (*see* Attachment B), at 3-4 (citing *Lackey*; *Hulett v. State*, 296 Ga. 49, 73-74 (2014); *Jones v. State*, 273 Ga. 231, 233 (2000)).

Mr. Conner promptly filed a notice of appeal. On July 14, 2016, the Supreme Court of Georgia denied a Certificate of Probable Cause to Appeal as to the claims raised herein (Case No. S16W1789), Justices Benham and Nahmias dissenting. *See* Attachment A.

REASONS FOR GRANTING THE PETITION

Executing Mr. Conner After He Has Spent 34 Years Under a Death Sentence Constitutes A Violation Of The Eighth Amendment's Prohibition Against Cruel And Unusual Punishment.

The Eighth Amendment declares that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII. "By protecting even those convicted of heinous crimes, the Eighth Amendment reaffirms the duty of the government to respect the dignity of all persons." *Roper v. Simmons*, 543 U.S. 551, 560 (2005). The government's obligations under the Eighth Amendment continually develop, shaped by our nation's ever-evolving sense of morality. *See*, *e.g.*, *Trop v. Dulles*, 356 U.S. 86, 99 (1958) ("[T]he words of the Amendment are not precise, and [] their scope is not static. The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."); *Weems v. United States*, 217 U.S. 349, 378 (1910) (stating that the Eighth Amendment "is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened

by a humane justice"). Accordingly, punishments not compatible with current standards of decency violate the Eighth Amendment prohibition on cruel and unusual punishments. *See*, *e.g.*, *Kennedy v. Louisiana*, 554 U.S. 406 (2008) (categorically prohibiting the execution of person who have not committed murder); *Roper*, 543 U.S. at 578 (categorically prohibiting the execution of individuals who committed murder as juveniles); *Atkins v. Virginia*, 536 U.S. 304, 311 (2002) (categorically prohibiting the execution of person with intellectual disability); *Hutto v. Finney*, 437 U.S. 678, 685 (1978) (limiting the use of solitary confinement).

At its core, the Eighth Amendment is animated by a respect for the inherent dignity of all human beings: "The basic concept underlying the Eighth Amendment is nothing less than the dignity of man." *Trop*, 256 U.S. at 100. *See also Hall v. Florida*, 134 S. Ct. 1986, 1992 (2014) ("The Eighth Amendment's protection of dignity reflects the Nation we have been, the Nation we are, and the Nation we aspire to be."); *Brown v. Plata*, 563 U.S. 493 (2011) ("Prisoners retain the essence of human dignity inherent in all persons. Respect for that dignity animates the Eighth Amendment prohibition against cruel and unusual punishment."). As a result, the Eighth Amendment prohibits punishments which "involve the unnecessary and wanton infliction of pain." *Gregg v. Georgia*, 428 U.S. 153, 173 (1976). This broad proscribed category includes, *inter alia*, punishments which are "totally without penological justification." *Id.* at 183. Punishment, moreover, must be proportionate, based on both the crime and offender. *See*, *e.g.*, *Graham v. Florida*, 560 U.S. 48, 59 (2010) ("The concept of proportionality is central to the Eighth Amendment.").

A. A Delay of 34 Years Between The Imposition of A Death Sentence and Execution Renders Nonexistent Any Arguable Deterrent or Retributive Effect And, To Top The Punishment of Lengthy Incarceration With

Execution Would Inflict Wholly Disproportionate Punishment Under the Eighth Amendment.

Under the Eighth Amendment, "[p]unishment is justified under one or more of three principal rationales: rehabilitation, deterrence, and retribution." *Kennedy*, 554 U.S. at 420. "Rehabilitation, it is evident, is not an applicable rationale for the death penalty." *Hall*, 134 S. Ct. at 1992-93. Rather, the "two principal social purposes" of the death penalty are "retribution and deterrence of capital crimes by prospective offenders," *Gregg*, 428 U.S. at 184 (plurality opinion). In this case, those goals will not be meaningfully furthered by Mr. Conner's execution given the 34-year gap between imposition of Mr. Conner's death sentence and his scheduled execution. To the contrary, implementation of Mr. Conner's death sentence under these circumstances, "'would . . . be the pointless and needless extinction of life with only marginal contributions to any discernible social or public purpose. A penalty with such negligible returns to the State would be patently excessive and cruel and unusual punishment violative of the Eighth Amendment.'" *Lackey*, 514 U.S. at 1046 (memorandum of Stevens, J., respecting denial of certiorari) (quoting *Furman v. Georgia*, 408 U.S. 238, 312 (1972) (White, J., concurring in judgment)).

Mr. Conner's execution after this extraordinary passage of time will serve no retributive or deterrent purpose. Indeed, carrying out a sentence issued 34 years ago would serve only to illustrate what Justices Stevens and Breyer have called "the two underlying evils of intolerable delay":

> First, the delay itself subjects death row inmates to decades of especially severe, dehumanizing conditions of confinement . . . . Second, delaying an execution does not further public purposes of retribution and deterrence but only diminishes whatever possible benefit society might receive from petitioner's death . . . . In other words, the penological justifications for the death penalty diminish as the delay lengthens.

Johnson v. Bredesen, 558 U.S. 1067, 1069 (2009) (Stevens and Breyer, JJ., statement respecting denial of certiorari) (internal citations omitted). Acknowledgement of the role these "evils" play in Mr. Conner's case does not mean that one must "accept the proposition "'that the imposition of the death penalty [always] represents the pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes.'" *Id.* at 1070 (quoting *Baze v. Rees*, 553 U.S. 35, 86 (2008) (Stevens, J., concurring in judgment)). Rather, one need only recognize that in Mr. Conner's case, "the imposition of the death penalty on these extreme facts is without constitutional justification." *Id.*[4]

If Mr. Conner is executed, he will have been facing a death sentence on death row for longer than any other death row inmate executed in Georgia in the modern era.[5] On death row, Mr. Conner, a man with undisputed substantial cognitive impairments which cause him to be "functioning at an age-equivalency of 11 years, 0 months,"[6] has endured the harshness of life under

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[4] Ironically, although rehabilitation is decidedly not a penological goal of the death penalty, Mr. Conner's lengthy incarceration has led his rehabilitation. During his time on death row, Mr. Conner has transformed himself from a depressed and angry substance-abusing young man into a compliant and well-behaved inmate who is remorseful for his crimes and helpful to the guards. Mr. Conner's transformation is yet another reason why execution after so lengthy a period of punitive incarceration violates the Eighth Amendment.

[5] Brandon Jones, executed on February 3, 2016, was convicted and sentenced to death in September 1979. *See Jones v. State*, 249 Ga. 605, 605 (1982). Although executed some 35 years after he was first sentenced to death, his death sentence was vacated in federal habeas proceedings in February 1989, *Jones v. Kemp*, 706 F. Supp. 1534 (N.D.Ga. 1989), and was resentenced to death in September 1997, *Jones v. Ga. Diagnostic & Classification Prison Warden*, 653 F.3d 1171, 1174 (11th Cir. 2014). He was accordingly not under a sentence of death for eight and a half of those years. Mr. Conner, by contrast, will have been under a sentence of death for 34 continuous years if his execution proceeds on July 14, 2016.

[6] *See* App. 2 of the state petition, as amended (report of Dr. Barry Crown) at 1.

solitary confinement for periods well beyond the delay members of this Court have already identified as constitutionally troubling. Mr. Conner has spent nearly three-and-a-half decades under a sentence of death. The time Mr. Conner has spent under the constant specter of execution outstrips the "astonishingly long" 24-year period in *Knight v. Florida*, 528 U.S. 990, 993 (1999) (Breyer, J., dissenting); the 27 years Justice Breyer called "unusual by any standard" in *Foster v. Florida*, 537 U.S. 990, 992 (2002); and the "extraordinary" 32-year period in *Thompson v. McNeil*, 556 U.S. 1114, 1115 (2009) (Stevens, J., statement respecting the denial of certiorari). Indeed, if Mr. Conner ultimately is executed, he "will have been punished both by death and also by more than a generation spent in death row's twilight." *See Foster*, 537 U.S. at 993 (Breyer, J., dissenting).

The State of Georgia has already exacted a far greater retributive toll upon Mr. Conner than it exacts from most convicted murderers. Any slight retributive effects gleaned from executing an intellectually impaired man more than 34 years after he was sentenced to death are insufficient in this case to prevent the execution from violating the Eighth Amendment's prohibition on excessive punishments. If Mr. Conner's execution proceeds, it will amount to a constitutionally proscribed "pointless and needless extinction of life with only marginal contributions to any discernible social or public purpose." *Furman,* 408 U.S. at 312 (White, J., concurring).

B. Mr. Conner Has Been Subjected to More Than Three "Decades of Especially Severe, Dehumanizing Conditions of Confinement."

As Justice Kennedy has explained, the "usual pattern," followed in Georgia, is for a death row inmate to be held "in a windowless cell no larger than a typical parking spot for 23 hours a day; and in the one hour when he leaves it, he likely is allowed little or no opportunity for conversation or interaction with anyone," for years or decades. *Davis v. Ayala*, 135 S. Ct. 2187,

2208 (2015). This Court has long recognized that solitary confinement aggravates the already serious problems of extended confinement under a death penalty. These conditions have been described as tantamount to torture by a large and growing number of human rights organizations, psychological experts, and international tribunals. *See*, *e.g.*, *Knight*, 528 U.S. at 995 (citing international sources discussing the tortuous role of delay in death penalty and other cases, including, *inter alia*, *Pratt v. Attorney General of Jamaica*, [1994] 2 A.C. 1, 18 (P.C. 1993) (en banc) (acknowledging the lawfulness of the death penalty but calling a delay of 14 years "shocking" and "inhuman or degrading punishment" forbidden by Jamaica's Constitution)). Indeed, both the American Bar Association and the United Nations Special Rapporteur on Torture have sought to limit or ban solitary confinement. *See Glossip v. Gross*, 135 S. Ct. 2726, 2765 (2015) (Breyer and Ginsburg, JJ., dissenting).

As long ago as 1890, this Court described solitary confinement as an "additional punishment of the most important and painful character," *In re Medley*, 134 U.S. 160, 171 (1890), and one which is often incompatible with humane confinement:

> [E]xperience demonstrated that there were serious objections to [solitary confinement]. A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community. It became evident that some changes must be made in the system . . . solitary confinement was found to be too severe."

Id. at 168.

Justice Kennedy recently reaffirmed this understanding, stating that "research still confirms what this Court suggested over a century ago: Years on end of near-total isolation exact a terrible price." *Ayala*, 135 S. Ct. at 2209 (Kennedy, J., concurring). "The human toll wrought

by extended terms of isolation long has been understood, and questioned, by writers and commentators." *Id.* at 2209. Yet, death row prisoners are routinely subjected to this practice – a practice that can lead to a litany of psychological issues, including anxiety, panic, hallucinations, self-harm, and suicide. *See id.* at 2210.

In addition to the harmful effects of physical isolation, the long period of waiting to be given an actual execution date – measured in decades in Mr. Conner's case – is also a source of significant psychological trauma. "The dehumanizing effect of solitary confinement is aggravated by uncertainty as to whether a death sentence will in fact be carried out." *Glossip*, 135 S. Ct. at 2765 (Breyer and Ginsburg, JJ., dissenting). The *Medley* Court similarly recognized long ago that "when a prisoner sentenced by a court to death is confined in the penitentiary awaiting the execution of the sentence, one of the most horrible feelings to which he can be subjected during that time is the uncertainty during the whole of it, which may exist for the period of four weeks, as to the precise time when his execution shall take place." *Medley*, 134 U.S. at 172. If, as the Court acknowledged, a wait of four weeks produces "one of the most horrible feelings," the decades Mr. Conner has waited are surely exponentially more horrible. *See Lackey*, 514 U.S. at 1046 (memorandum of Stevens, J., respecting denial of certiorari) ("If the Court accurately described the effect of uncertainty in *Medley,* which involved a period of four weeks . . . that description should apply with even greater force in the case of delays that last for many years."); *Furman*, 408 U.S. at 288-89 (Brennan, J., concurring) ("[W]e know that mental pain is an inseparable part of our practice of punishing criminals by death, for the prospect of pending execution exacts a frightful toll during the inevitable long wait between the imposition of sentence and the actual infliction of death"); *Solesbee v. Balkcom*, 339 U.S. 9, 14 (1950) (Frankfurter, J.,

dissenting) ("In the history of murder, the onset of insanity while awaiting execution of a death sentence is not a rare phenomenon.").

Due to the extraordinary delay in this case, Mr. Conner has already been subjected, in effect, to a life sentence under exceptionally severe penal conditions. To top this punishment with the permanently harmful indignity of execution would be excessive and disproportionate punishment, prohibited by the Eighth Amendment.

CONCLUSION

This Court should grant the Petition for Writ of Certiorari in order to prevent Georgia from causing yet another blatant miscarriage of justice.

This 14th day of July, 2016.

BRIAN S. KAMMER
MARCIA A. WIDDER
HEIDI REINER
Georgia Resource Center
303 Elizabeth Street, NE
Atlanta, Georgia 30307
(404) 222-9202

COUNSEL FOR MR. CONNER

Attachment A

SUPREME COURT OF GEORGIA
Case No. S16W1789

Atlanta July 14, 2016

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

JOHN WAYNE CONNER v. ERIC SELLERS, WARDEN

Upon consideration of Conner's application for a certificate of probable cause to appeal the dismissal in part and denial in part of his third state habeas corpus petition, it is denied as lacking arguable merit. See Supreme Court Rule 36.

Conner's motion for a stay of execution is also denied.

All the Justices concur, except Benham and Nahmias, JJ., who dissent.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk 's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk

S16W1789. CONNER v. SELLERS, WARDEN.

NAHMIAS, Justice, dissenting.

Because I believe the issue is one of "arguable merit," Supreme Court Rule 36, I would grant Conner's application for a certificate of probable cause solely to decide whether, under the specific facts and circumstances of this case, his execution more than 34 years after being sentenced to death would qualify as cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. I therefore would also grant Conner's motion for a stay of execution until that question is decided.

I am authorized to state that Justice Benham joins in this dissent.

Attachment B

IN THE SUPERIOR COURT OF BUTTS COUNTY
STATE OF GEORGIA

JOHN WAYNE CONNER, # 384035,	*	CIVIL ACTION NO. 13-V-162
Petitioner,	*	
vs.	*	
ERIC SELLERS[1], WARDEN,	*	HABEAS CORPUS
Respondent.	*	

Filed 7/6/2016 at 1:50 P M.
Morgan Vinelene
Deputy Clerk, Butts Superior Court

ORDER

This is Petitioner's third habeas corpus petition challenging his malice murder conviction and death sentence. Upon consideration of all pleadings and the entire record in this case, the claims in the petition as amended are DISMISSED and DENIED.[2] The Court also denies Petitioner's motion for stay of execution.

1. In Claim I Petitioner seeks relief based on Fleming v. Zant, 259 Ga. 686, 386 S.E.2d 339 (1989), and Atkins v. Virginia, 536 U.S. 304 (2002), asserting that he is intellectually disabled.

[1] On July 1, 2016, Eric Sellers became the Warden of the Georgia Diagnostic and Classification Prison and is hereby substituted as the party Respondent.
[2] On June 30, 2016, the Court vacated its June 29, 2016, order denying and dismissing the petition, so that it could reconsider the petition after receiving Petitioner's response to the Warden's recent submissions. The Court has reconsidered the petition, along with Petitioner's response filed on July 1, 2016, and the Warden's reply filed on July 1, 2016.

Petitioner's claim based on Fleming, alleging he has shown a genuine issue to entitle him to a jury trial on his claim of intellectual disability, was previously raised and dismissed as successive by this Court under O.C.G.A. § 9-14-51 in his second habeas corpus case, Conner v. Head, No. 2001-V-692 (Butts Super. Ct. Oct. 26, 2001) ("Conner II"). The Georgia Supreme Court denied his application for an appeal, and the United States Supreme Court denied certiorari. Conner v. Head, 537 U.S. 908 (2002), reh'g denied, 537 U.S. 1069 (2002). The Fleming claim is dismissed as successive under O.C.G.A. § 9-14-51.

Petitioner's Atkins claim that he intellectually disabled and cannot be executed is without merit. In May 2013, a federal evidentiary hearing was held on this claim. At that hearing, seven expert witnesses testified (a neurologist, two psychiatrists, a neuropsychologist, two psychologists, and a social worker) and documentary evidence was presented. Conner v. Warden, 784 F.3d 752, 762-64 (2015). In finding that Petitioner's intellectual disability claim lacked merit, the district court made extensive oral findings of fact and conclusions of law on the record, and incorporated those findings into its written order of June 11, 2013. Conner, 784 F.3d at 764. The Eleventh Circuit affirmed the district court's denial of relief. Conner, 784 F3d at 761-66. Reviewing the pleadings, the record, the federal courts' findings, Petitioner's IQ scores and Petitioner's lack of significant adaptive deficits,

this Court finds the federal court's findings persuasive and finds that Petitioner's Atkins claim lacks merit.

2. Petitioner urges this Court to revisit his ineffectiveness claim, raised in Claim II, which was decided adversely to him in his original habeas corpus case, Conner v. Zant, No. 6335 (Butts Super. Ct. Jan. 6, 1997) ("Conner I"): counsel was ineffective for failing to do an adequate investigation and present evidence in mitigation at the sentencing phase of trial. (Conner I Order, pp. 33-43, 54-55). The Georgia Supreme Court denied his application for an appeal in 2000, and the United States Supreme Court denied certiorari. Conner v. Head, 533 U.S. 932 (2001). This claim is barred from this Court's review as there has been no intervening change in the facts or the applicable law since relief was denied in Conner I. See Bruce v. Smith, 274 Ga. 432, 434 (2001); Gaither v. Gibby, 267 Ga. 96, 97 (1996).

3. Petitioner alleges in Claims III and IV that carrying out his sentence after his "lengthy incarceration" would violate the double jeopardy clause of the Fifth Amendment and constitutes cruel and unusual punishment under the Eighth Amendment. Petitioner could have raised these claims in his prior petitions, and they are barred as successive under O.C.G.A. § 9-14-51. Insofar as he could not have raised these claims previously, they are without merit. Lackey v. Texas, 514

U.S. 1045 (1995); Hulett v. State, 296 Ga. 49, 73-74 (2014); Jones v. State, 273 Ga. 231, 233 (2000).

4. As this Court is able to determine from the face of the pleadings that the claims in the petition as amended are either barred from this Court's review as successive or are without merit, the petition is dismissed and denied without the necessity of a hearing. See Collier v. State, 290 Ga. 456, 457 (2012).

The Court also denies Petitioner's motion for stay of execution for the same reasons.

SO ORDERED, this 6th day of July, 2016.

WILLIAM A. FEARS
Judge, Superior Courts
Towaliga Judicial Circuit

Prepared by:
Paula K. Smith
Senior Assistant Attorney General
psmith@law.ga.gov
Georgia Department of Law
40 Capitol Square, SW
Atlanta, Georgia 30334
404 656-3351

No. 15-_____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2015

JOHN WAYNE CONNER,

Petitioner,

-v-

ERIC SELLERS, WARDEN,

Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing document this day by U.S. Mail and/or electronic mail on counsel for Respondent at the following address:

Paula K. Smith, Esq.
Senior Assistant Attorney General
psmith@law.ga.gov
132 State Judicial Building
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

This 14th day of July, 2016.

_____
Attorney