

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

TONY CARRUTHERS,

Case No: 3:26-cv-00540

Plaintiff,

CAPITAL CASE

v.

Judge Richardson

JONATHAN SKRMETTI, Attorney General, Tennessee, HEIDI KUHN, Shelby County Clerk of Court, STEVE MULROY, Shelby County District Attorney, CERELYN DAVIS, Chief, Memphis Police Department, DAVID RAUSCH, Director, Tennessee Bureau of Investigation, DR. SCOTT COLLIER, Chief, Shelby County Medical Examiner, FRANK STRADA, Commissioner, Tennessee Department of Correction, and KENNETH NELSON, Warden, Riverbend Maximum Security Institution, each in their official capacity,

**EXECUTION SCHEDULED  
MAY 21, 2026**

Defendants.

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**PLAINTIFF'S EMERGENCY MOTION TO STAY LITIGATION  
AND SECOND EMERGENCY MOTION FOR STAY OF EXECUTION AND  
INCORPORATED MEMORANDUM OF LAW**

**INTRODUCTION**

Plaintiff Tony Carruthers, a prisoner under sentence of death at Riverbend Correctional Facility in Nashville, Tennessee, is scheduled to be executed on May 21, 2026, for crimes he maintains he did not commit. His conviction and death sentence rest entirely on circumstantial evidence—including testimony from a secretly paid government informant, several convicted felons, and a medical examiner who has since disavowed his trial testimony. No physical evidence has ever linked Mr. Carruthers to these crimes. In fact, his codefendant has told investigators that Mr. Carruthers did not commit these crimes.

In this case, which was filed on April 28, 2026 (Dkt. 1), Mr. Carruthers seeks to address Tennessee’s violation of his due process rights by denying forensic testing of evidence that could prove his innocence. *See Skinner v. Switzer*, 562 U.S. 521, 525 (2011) (holding that a convicted person’s challenge to a state’s refusal to release biological evidence for DNA testing may be brought under § 1983).

Mr. Carruthers has tried to obtain forensic testing of evidence from both crime scenes. When Mr. Carruthers filed his Complaint in this case (Dkt. 1), his April 9, 2026 request for DNA testing under Tennessee’s Post-Conviction DNA Analysis Act of 2001 (the “DNA Act”) was still pending at the Tennessee Supreme Court (the “TSC”). On April 30, 2026, the TSC entered a one-page Order denying Mr. Carruthers’ request for DNA testing. A true and correct copy of that Order is attached as **Exhibit A**.

As indicated in the Complaint in this case, Mr. Carruthers intends to amend his Complaint in this case to address the State’s violations of his right to due process in addressing his request for testing under the DNA Act. However, first, due to the vague language in the TSC’s Order and in an effort to obtain relief in the State court, Mr. Carruthers has today filed a request for DNA testing under the DNA Act in the Tennessee Criminal Court.<sup>1</sup> A true and correct copy of that motion is attached here as **Exhibit B**.<sup>2</sup>

Accordingly, Mr. Carruthers asks this Court to enter an Order staying his execution pending the resolution of this litigation, and staying this litigation pending the resolution of his

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<sup>1</sup> Mr. Carruthers maintains that he followed the established procedure under Tennessee law by filing his original request in the TSC. As will be raised in the Amended Complaint, Mr. Carruthers asserts that the TSC’s refusal to consider his DNA Motion was a violation of his right to due process. However, in an abundance of caution, on May 4, 2026, Mr. Carruthers has filed his request for DNA testing in the Criminal Court and has asked for an expedited ruling.

<sup>2</sup> For brevity, the Appendix is not included.

request for DNA testing in the Criminal Court. Without a stay of execution, on May 21, Mr. Carruthers will be permanently deprived of the opportunity to address the State's unconstitutional denial of readily available forensic testing that could establish his innocence in this Court.

### **MOTION TO STAY LITIGATION**

District courts have discretion to stay litigation in their courts where justice requires. *Rhines v. Weber*, 544 U.S. 269, 276 (2005) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *Clinton v. Jones*, 520 U.S. 681, 706 (1997)); *Dunaway v. Purdue Pharma L.P.*, 391 F. Supp. 3d 802, 807 (M.D. Tenn. 2019). This power “is incidental to the power inherent in every court to control the disposition of the causes [on] its docket with economy of time and effort for itself, for counsel and for litigants, and the entry of such an order ordinarily rests with the sound discretion of the District Court.” *Dunaway*, 391 F. Supp. 3d at 807 (quoting *F.T.C. v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 623-27 (6th Cir. 2014)).

Here, the TSC's ruling on Mr. Carruthers' request for DNA testing misinterpreted Tennessee Rule 12(E)(4) and, in doing so, suggested that Mr. Carruthers request for DNA testing should be filed in Criminal Court. (*See Ex. A; see also supra* note 1.) In the interest of judicial economy, to avoid duplicative simultaneous litigation, and to confirm that all avenues for relief in state court have been explored before litigation in this Court proceeds, this Court should stay this case until Mr. Carruthers' pending request for DNA testing in state court is resolved. *See Dunaway*, 391 F. Supp. 3d at 807 (“[T]he district court certainly has discretion to grant a stay in the interests of judicial economy.” (quoting *Glazer v. Whirlpool Corp.*, No. 1:08-CV-1624, 2008 WL 4534133, at \*2 (N.D. Ohio Oct. 6, 2008))).

## SECOND MOTION TO STAY EXECUTION

“[A] stay of execution is an equitable remedy.” *Hartman v. Bobby*, 319 Fed. App’x 370, 370 (6th Cir. 2009) (quoting *Hill v. McDonough*, 547 U.S. 573, 584 (2006)). In determining whether to grant a stay of execution, the Court must consider four factors: “1) whether there is a likelihood he will succeed on the merits of the appeal; 2) whether there is a likelihood he will suffer irreparable harm absent a stay; 3) whether the stay will cause substantial harm to others; and 4) whether the injunction would serve the public interest.” *Id.* (quoting *Workman v. Bell*, 484 F.3d 837, 839 (6th Cir. 2007)). The standard is the same for seeking a preliminary injunction in this situation. *See Hill v. McDonough*, 547 U.S. 53, 584 (2006); *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983); *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). The Court should also consider “the extent to which the inmate has delayed unnecessarily in bringing the claim.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004).

The U.S. Supreme Court has long recognized that “death is different.” *Gregg v. Georgia*, 428 U.S. 153, 188 (1976). It is the only irreversible punishment in the American criminal justice system. *See Woodson v. North Carolina*, 428 U.S. 280, 305 (1976). “Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment . . . .” *Id.* Here, Mr. Carruthers seeks just that—forensic testing that he has been unconstitutionally denied and that will determine whether his death sentence and execution are reliable.

In this case, Mr. Carruthers seeks to address Tennessee’s violation of his right to due process by denying forensic testing of evidence that could prove his innocence. *See Skinner*, 562 U.S. at 525 (2011). Without full access to this Court to litigate his claims in this case, Mr.

Carruthers will again be denied due process in seeking to exonerate himself before his execution. Accordingly, and for the reasons discussed in Mr. Carruthers' prior, pending emergency motion to stay execution (Dkt. 3), which is incorporated here by reference, Mr. Carruthers has established the four prongs for a stay of execution.

Further, and to be sure, Mr. Carruthers' DNA claims are not filed for the purpose of delay. Within two weeks of the undersigned counsel (ACLU) being retained by Mr. Carruthers, on April 9, 2026, counsel filed the original motion for testing under the DNA Act in the TSC. (*See* Dkt. 1-3.) Had the State agreed to the DNA testing, it would have been completed in approximately two weeks. (*See* Keel Aff. (Dkt. 1-4, at Ex. 6), at 8.) Instead, the State opposed Mr. Carruthers' request, and it took the TSC *three* weeks to issue a one-page Order denying Mr. Carruthers' request. Within two business days of receiving the TSC's Order, the undersigned filed Mr. Carruthers' request for DNA testing in the Criminal Court. (*See generally* Ex. B.) Rather than delay, Mr. Carruthers continues to diligently seek forensic testing to prove his innocence before he is executed—testing which he has been unconstitutionally denied.

**WHEREFORE**, Plaintiff Tony Carruthers respectfully requests that this Court enter an order (1) granting this motion, (2) staying this litigation pending resolution of his pending request for DNA testing in the Criminal Court, (3) staying his execution currently scheduled for May 21, 2026, pending resolution of this litigation, and (4) granting all other relief the Court deems appropriate.

Dated: May 4, 2026

Respectfully submitted,

/s/ Lucas Cameron-Vaughn  
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*Counsel for Plaintiff Tony Carruthers*

### **CERTIFICATE OF CONFERRAL**

Pursuant to Local Rule 7.01(a), the undersigned counsel certifies that, prior to filing this Motion, counsel for Plaintiff conferred with Cody N. Brandon, Esq. (counsel for Defendants, Tennessee Attorney General and Reporter Jonathan Skrmetti, 30th Judicial District Attorney General Steve Mulroy, Tennessee Bureau of Investigation Director David Rausch, Tennessee Department of Correction Commissioner Frank Strada, and Riverbend Maximum Security Institution Warden Kenneth Nelsen (collectively, the “**State Defendants**”)), E. Lee Whitwell, Esq. (counsel for Defendant Heidi Kuhn, Shelby County Clerk of Court), and Michael Fitzgerald, Jr., Esq. (counsel for Dr. Scott Collier, Shelby County Medical Examiner) regarding the relief sought herein via email. Counsel for Defendant Heidi Kuhn, Shelby County Clerk of Court indicated that his client takes no position as to the relief requested in this Motion. Counsel for the State Defendants indicated that they oppose the relief sought herein. Counsel for Dr. Scott Collier, Shelby County Medical Examiner, did not respond by the time requested.

/s/ Lucas Cameron-Vaughn

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**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that on May 4, 2026 I electronically filed the foregoing document with the Clerk of the Court by using CM/ECF, which will deliver a Notice of Electronic Filing along with a hyperlink to this document to all counsel of record.

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