

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

TONY CARRUTHERS,

Plaintiff,

v.

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,

Defendants.

Case No: 3:26-cv-00540

CAPITAL CASE

Judge Richardson

EXECUTION SCHEDULED
MAY 21, 2026

**PLAINTIFF'S REPLY TO STATE DEFENDANTS' RESPONSES IN OPPOSITION TO
PLAINTIFF'S EMERGENCY MOTION FOR PRELIMINARY INJUNCTION
AND FOR STAY OF EXECUTION (DKT. 24)**

Pursuant to this Court's Order dated April 28, 2026 (Dkt. 12), Plaintiff Tony Carruthers, by and through undersigned counsel, replies to the State Defendants' Response in Opposition to Plaintiff's Emergency Motion for Preliminary Injunction and Stay of Execution, filed May 5, 2026 (Dkt. 24), and states as follows:¹

¹ State 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 are referenced collectively as the "State Defendants."

PROCEDURAL BACKGROUND

1. Mr. Carruthers' execution is scheduled for May 21, 2026. (*See* Dkt. 1-10.)
2. On April 28, 2026, Mr. Carruthers filed his Complaint in this case (Dkt. 1) as well as an *Emergency Motion for Preliminary Injunction and Stay of Execution* (Dkt. 3, the "**Motion**").
3. On May 4, 2026, Defendant Heidi Kuhn filed a response to the Motion (Dkt. 20). Kuhn does not substantively oppose the relief sought in the Motion; therefore, Mr. Carruthers did not file a reply.
4. On May 5, 2026, the State Defendants filed their response to the Motion (Dkt. 24.).
5. The same day, Defendant Dr. Scott Collier also responded to the Motion (Dkt. 25). Dr. Collier does not substantively oppose the relief sought in the Motion; therefore, Mr. Carruthers did not file a reply.

DISCUSSION

State Defendants' opposition fails at every turn. Their arguments mischaracterize the nature of Mr. Carruthers' claims, misapply jurisdictional doctrines, and ignore the equitable principles that compel a stay. Mr. Carruthers addresses each argument in turn.

I. A stay of execution is necessary to preserve this Court's jurisdiction and prevent Mr. Carruthers' claims from becoming moot.

State Defendants argue that a stay is "unmoored" from Mr. Carruthers' claims. (Dkt. 24 at 9–11.) This misapprehends equitable relief. A preliminary injunction preserves the Court's ability to grant meaningful final relief; if Mr. Carruthers is executed, his § 1983 claim becomes moot. In *Skinner v. Switzer*, 562 U.S. 521, 525 (2011), the Supreme Court held that § 1983 is the appropriate vehicle for challenging state evidence-access procedures, implicitly recognizing that a stay may be necessary to prevent mootness in capital cases. And in *Gutierrez v. Saenz*, 606 U.S. 305, 314 (2025), the Court recognized the liberty interest at stake in post-conviction testing claims. That

interest would be rendered illusory if courts cannot stay an execution to permit adjudication of such claims, making *Skinner* and *Gutierrez* dead letters. In fact, the U.S. Supreme Court *issued a stay of execution* in *Gutierrez* to “consider Gutierrez’s standing to bring his § 1983 claim.” *Id.* at 313.

The State Defendants’ argument fails. This Court can and should issue a stay of execution to allow this litigation to proceed in due course.

II. The Rooker-Feldman doctrine does not bar Mr. Carruthers’ claims.

State Defendants invoke the *Rooker-Feldman* doctrine to argue this Court lacks subject-matter jurisdiction. (Dkt. 24 at 20–23.) But the Supreme Court has drawn the line clearly, and Mr. Carruthers’ claims fall on the permissible side. In *Skinner*, the Court held that the *Rooker-Feldman* doctrine does not bar a § 1983 challenge to a state’s post-conviction testing statute: the plaintiff did not challenge the adverse state-court decisions themselves but, instead, targeted as unconstitutional the Texas statute they authoritatively construed. 562 U.S. at 532. The Court reiterated this principle in *Reed v. Goertz*, 598 U.S. 230, 235 (2023), explaining that “even though a ‘state-court decision is not reviewable by lower federal courts,’ a ‘statute or rule governing the decision may be challenged in a federal action.’” *Id.* (quoting *Skinner*, 562 U.S. at 532).

That is precisely what Mr. Carruthers does here. He does not ask this Court to reverse the denial of his request for forensic testing on state-law grounds. Rather, he challenges whether Tennessee’s Post-Conviction Fingerprint Analysis Act, “*as authoritatively construed*,” comports with fundamental fairness under the Due Process Clause. *Skinner*, 562 U.S. at 532.² This is the exact claim *Skinner* held is cognizable under § 1983 and not barred by Rooker-Feldman. *Id.*

² Mr. Carruthers’ Amended Complaint filed simultaneously herewith adds additional claims raising similar issues related to Tennessee’s Post-Conviction DNA Analysis Act.

State Defendants’ reliance on *Simpson v. Quick*, No. 26-6008, 2026 WL 297077 (10th Cir. Feb. 4, 2026), and *Hooper v. Brnovich*, 56 F.4th 619 (9th Cir. 2022), is misplaced. In both cases, the plaintiffs sought federal review of state-court rulings on state-law grounds. Here, by contrast, Mr. Carruthers’ claims target the constitutional adequacy of Tennessee’s procedures, challenging the imposition of standards not found in the statutory text, the refusal to consider his requests under the statutory provisions, and the improper temporal limitations on eligible evidence. These are challenges to the *procedure* Tennessee affords, not an invitation to second-guess the state court’s application of state law.

III. State Defendants’ standing argument does not defeat the Motion and is without merit.

State Defendants argue Mr. Carruthers lacks standing because no single defendant is responsible for both the injury and the execution. (Dkt. 24 at 17–20.) As an initial matter, standing is a merits defense more appropriately raised in a motion to dismiss, not in opposition to a stay. Regardless, standing is straightforward: the Attorney General has “exclusive control” over fingerprint release under Tenn. Code Ann. § 40-30-114(c)(1), a point State Defendants concede. (Dkt. 24 at 18); *see also Gutierrez*, 606 U.S. at 314–16 (confirming standing to challenge post-conviction testing procedures against the official who controls the evidence).

As to the stay, the Court’s authority does not depend on standing against the Warden; it flows from the Court’s inherent equitable power to preserve its jurisdiction by preventing mootness during litigation, the foundational principle underlying every stay of execution issued in connection with pending claims. If this argument could prevail, then federal courts could never issue a stay of execution to ensure litigants like Mr. Carruthers have an avenue for relief before being executed. As established above, they can. *See supra* Part I. This argument also fails.

IV. Laches does not apply and does not bar relief.

State Defendants' argument that delay warrants denial is disingenuous and meritless. (Dkt. 24 at 23–25.) As outlined in detail in Mr. Carruthers pleadings, Mr. Carruthers filed his fingerprint petition in 2021; it was not resolved until April 16, 2026. That *five-year* delay is not attributable to Mr. Carruthers. This action was filed only twelve days after the State court's April 16 decision.

There has also been no delay in Mr. Carruthers raising his claims under the DNA Act. As outlined in the Amended Complaint, this request was filed within days of the undersigned being retained to represent Mr. Carruthers. It took the Tennessee Supreme Court three weeks to issue a one-page Order denying Mr. Carruthers' Motion—not on the merits. Within days, Mr. Carruthers refiled his motion in the Criminal Court. And the Amended Complaint is being filed just a week after the Tennessee Supreme Court's Order.

In a capital case where a man's life hangs in the balance, procedural timing arguments should not override the merits of claims that could demonstrate his innocence.

V. Mr. Carruthers' claims remain strong on the merits.

As detailed in the Motion (Dkt. 3 at 4–7), Mr. Carruthers' claims are likely to succeed. In denying his claims under the Fingerprint Act, the CCA refused to consider post-trial evidence of innocence (the 2010 Montgomery statement, the paid-informant revelation regarding Alfredo Shaw, and Dr. O.C. Smith's recantation) when evaluating whether fingerprint results would have changed the outcome. State Defendants contend Tennessee's procedures are "fundamentally fair" because the State court presumed exculpatory results and applied the reasonable-probability standard. (Dkt. 24 at 12–16.) But, as outlined in the Complaint and discussed in the Motion, that analysis is hollow when it is artificially confined to trial evidence while the entire evidentiary

landscape has shifted. The same is true for Tennessee’s interpretation of the DNA Act, as outlined in the Amended Complaint.

Further, the State courts wholly failed to consider Mr. Carruthers’ request under the permissive provision of the Fingerprint Act—further indicating that Tennessee’s procedures for obtaining relief under the Fingerprint Act are “fundamentally fair.”

This is precisely the kind of arbitrary, conscience-shocking application that *District Attorney’s Office for Third Judicial District v. Osborne*, 557 U.S. 52, 69 (2009), contemplates as fundamentally unfair. As the Motion explains, when a co-defendant has exonerated the petitioner, that same co-defendant has been a free man for more than a decade based on exculpatory forensic evidence, when the State’s key witness has been revealed as a paid informant, and when the medical examiner has disavowed his trial testimony, evaluating untested fingerprint evidence as though none of that existed, offends fundamental fairness.

State Defendants’ reliance on *Reed v. Goertz*, 136 F.4th 535, 547–48 (5th Cir. 2025), is misplaced for the reasons stated in the Motion. Mr. Carruthers does not seek to augment the state court record; he argues that ignoring dramatic changes in the underlying evidence when assessing materiality renders the process fundamentally unfair, a distinct constitutional question *Reed* did not foreclose.

CONCLUSION

For these reasons and for the reasons discussed in Plaintiff’s Motion, this Court should grant the Motion.

Dated: May 8, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on May 8, 2026, a true and correct copy of the foregoing has been served on counsel for all Defendants via the Court's CM/ECF system to the following:

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