SUPREME COURT OF GEORGIA
Case No. S20W0419

October 30, 2019

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

RAY JEFFERSON CROMARTIE v. BENJAMIN FORD, WARDEN.

Ordinarily, when an application for a certificate of probable cause to appeal the denial or dismissal of a habeas petition is filed in this Court, we decide the application in due course – usually some months after it is filed. See OCGA § 9-14-52 (b) ("The Supreme Court shall either grant or deny the application within a reasonable time after filing."). But when an application for a certificate of probable cause to appeal is filed in connection with a validly scheduled execution, we generally expedite our consideration of the matter so as not to interfere unnecessarily with the execution. However, in this case, it appears that the pending execution order may be void because it was filed by the trial court while relevant jurisdiction rested in this Court through supersedeas based on the pendency in this Court of the application for discretionary appeal in Cromartie v. State, No. S20D0330 (decided on Oct. 25, 2019).

Upon consideration of Cromartie's motion for a stay of execution, the motion is provisionally granted until further order of this Court to the extent that a stay is necessary at all in the light of the arguable voidness of the pending execution order. The parties are directed to file additional briefs on the motion for a stay in this Court by 8:00 a.m. on Monday, November 4, 2019. The briefs shall address whether the pending execution order is void because it was filed by the trial court while relevant jurisdiction rested in this Court through supersedeas based on the pendency in this Court of the application for discretionary appeal in Cromartie v. State, No. S20D0330 (decided on Oct. 25, 2019). See OCGA §§ 5-6-35 (h), 5-5-41 (c) (2), 5-6-45 (a). See also Ricks v. State,

303 Ga. 567, 568 (814 SE2d 318) (2018). The briefs shall also address whether, if this Court concludes that the pending execution order is void, the provisionally granted motion for a stay should be dismissed as moot. The briefs shall also address whether the motion for a stay and the pending application for a certificate of probable cause to appeal should be finally addressed on an expedited basis.

All the Justices concur, except Warren, J., not participating.

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