



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.

Theresa A. Barnes 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.