

CV-17-291

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THIS IS A CAPITAL CASE

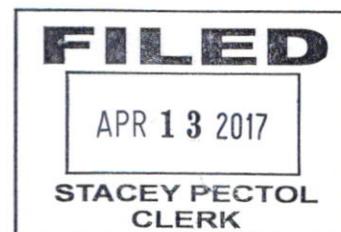
EXECUTION DATE SCHEDULED FOR APRIL 17, 2017

BRUCE WARD,

PETITIONER

v.

WILLIAM ASA HUTCHINSON,
Governor of the State of Arkansas;
WENDY KELLEY, Director, Arkansas
Department of Correction;
MARK CASHION, Warden, Varner
Supermax Unit;
and BENNY MAGNESS, Chairperson,
Arkansas Board of Corrections;



RESPONDENTS.

EMERGENCY PETITION FOR STAY OF EXECUTION

The State of Arkansas intends to execute Petitioner Bruce E. Ward on April 17, 2017, at an undisclosed time. Mr. Ward, a diagnosed schizophrenic, has spent over 25 years in solitary confinement without any treatment for his mental illness. On March 29, 2017, Mr. Ward filed a Complaint in Arkansas's Jefferson County Circuit Court, alleging that he is incompetent to be executed pursuant to *Ford v. Wainwright*, 477 U.S. 399 (1986) and *Panetti v. Quarterman*, 551 U.S. 930, 949 (2007). Though Petitioner made multiple requests for a hearing or conference, it was only today, after he initiated in this Court a mandamus action, that the lower court finally entered a ruling on his Complaint, adopting Respondents' arguments and dismissing for lack of jurisdiction.

Mr. Ward seeks an emergency stay from this Court pursuant to ARK. CODE ANN. §§ 16-90-506(a)-(c) and ARK. CONST. amend. 80, §§ 1, 2(E), & 3, in order to avoid his unconstitutional execution on April 17, 2017, and to permit him time for full briefing and consideration of these important issues in this Court.

Procedural History

On February 27, 2017, Arkansas Governor Asa Hutchinson ordered the execution of eight prisoners to take place between April 17 and April 27, 2017. The governor therein ordered Mr. Ward's execution on April 17.

Amidst the various legal challenges for the foregoing eight men,¹ Petitioner's Arkansas-barred, state court counsel filed a state court action on March 29,

¹ In state court, Mr. Ward has been represented by Scott Braden, the Capital Habeas Unit chief in the Office of the Federal Public Defender for the District of Arkansas. He has been counsel of record for Mr. Ward, and local counsel, since 2007. He is also counsel for three other prisoners sentenced to die over the next two weeks. He has acted to advance their respective interests while carrying out his responsibilities in pending federal district court litigation affecting their rights along with the other men for whom the governor signed execution warrants this month. He has been responsible for preparing their clemency applications and hearings, as well as federal court litigation. *See Lee v. Hutchinson*, 4:17-cv-00194 and *McGehee v. Hutchinson*, 4:17-cv-00179. Both suits have been the subject of

2017, substantiating Mr. Ward's incompetency to be executed under the constitutional authorities of *Ford v. Wainwright*, 477 U.S. 399 (1986), and *Panetti v. Quarterman*, 551 U.S. 930 (2007). In support, he submitted over 600 pages of supporting evidence, including psychological reports, affidavits from current and prior counsel who had represented Mr. Ward for over 27 years, and Arkansas Department of Corrections medical records.

Two days later, on March 31, 2017, at approximately 11:00 a.m., the State filed a motion asking the court to allow its own expert to observe an evaluation by Mr. Ward's expert, scheduled for the following day. Within hours, the court had convened a teleconference on the matter and took argument. By the late afternoon

multi-day hearings in the district court. *Lee v. Hutchinson*, 4:17-cv-00194 (hearing from April 4-6); *McGehee v. Hutchinson*, 4:17-cv-00179 (hearing commenced on April 11, 2017 and continuing as of this filing). The latter suit has generated over 1,000 pages of discovery pertaining to the scheduled executions, most of which had never been accessed by Plaintiffs or their counsel. Both challenges also assert that sentencing multiple clients to death within days of one another result in conflicts of interest, stripping counsel of their ability to competently represent their clients. *McGehee v. Hutchinson*, 4:17-cv-00179, E.D. Ark. Doc. 31